



Everett City Council Preliminary Agenda
6:30 p.m., Wednesday, May 8, 2024
City Council Chambers

Roll Call

Pledge Of Allegiance

Land Acknowledgment

Approval Of Minutes: May 1, 2024

Mayor's Comments

Public Comment

Council Comments/Liaison Reports

Administration Update

City Attorney

CONSENT ITEMS:

(1) Adopt Resolution Authorizing Claims Against The City Of Everett In The Amount Of \$2,531,804.29 For The Period Ending April 20, 2024 Through April 26, 2024.

Documents:

[RES CLAIMS PAYABLE APR 20, 2024 - APR 26, 2024.PDF](#)

(2) Adopt Resolution Authorizing Payroll Claims Against The City Of Everett In The Amount Of \$5,423,385.50 For The Period Of April 20, 2024.

Documents:

[2024 RESOLUTION FOR PAYROLL PAY PERIOD 09.PDF](#)

(3) Authorize A Call For Bids For The Completion Of The 20th Street Sewer Rehabilitation Project.

Documents:

[20TH STREET SEWER REHAB-CALL FOR BIDS.PDF](#)

(4) Award The Construction Contract For The Water Main Replacement "Y", Phase 1 Project To Earthworks Solutions In The Amount Of \$3,300,935.68.

Documents:

[EARTHWORKS SOLUTIONS-WATERMAIN Y-AWARD BID.PDF](#)

(5) Adopt A Resolution Declaring A 2000 John Deere 310SE Backhoe (H0025) Surplus And Authorizing Sale At Public Auction.

Documents:

[H0025 2000 JOHN DEERE.PDF](#)

(6) Award Construction Contract For The 2024 Pavement Maintenance Overlay Project To Lakeside Industries, Inc. Of Monroe WA, In The Amount Of \$2,540,916.30.

Documents:

[LAKESIDE INDUSTRIES-2024 PAVEMENT MAINT OVERLAY-AWARD.PDF](#)

(7) Approve The Seattle Outboard Association Application To Hold A Boating Regatta On Silver Lake On June 1 And 2, 2024.

Documents:

[SEATTLE OUTBOARD ASSOCIATION BOATING REGATTA.PDF](#)

(8) Authorize The Mayor To Sign A Professional Service Agreement With Reid Middleton To Provide Design, Engineering, And Construction Administration Services For The Thornton A. Sullivan Park Floating Dock Repairs Project.

Documents:

[THORNTON A. SULLIVAN PARK DOCK REPAIRS PSA.PDF](#)

PROPOSED ACTION ITEMS:

(9) CB 2404-01 – 2nd Reading – Adopt An Ordinance Relating To Amendments To City's Procurement Policy, Amending Ordinance 3781-20. (3rd & Final Reading 5/15/24)

Documents:

[CB 2404-01.PDF](#)

(10) CB 2404-02 – 1st Reading - Adopt An Ordinance Relating To Ambulance And Emergency First Aid Services, Repealing, Amending, And Recodifying Certain Sections Of Chapter 5.72 Of The Everett Municipal Code. (3rd & Final Reading 5/22/24)

Documents:

[CB 2404-02.PDF](#)

(11) CB 2404-03 – 1st Reading - Adopt An Ordinance Relating To Special Business Licenses And Regulations And Repealing Chapters 5.20, 5.92, 5.96 And 5.102 Of The Everett Municipal Code. (3rd & Final Reading 5/22/24)

Documents:

[CB 2404-03.PDF](#)

(12) CB 2404-04 – 1st Reading - Adopt An Ordinance Relating To Admissions Tax,

Repealing Chapter 3.20 Of The Everett Municipal Code And Adopting A New Chapter 3.20 Of The Everett Municipal Code. (3rd & Final Reading 5/22/24)

Documents:

[CB 2404-04.PDF](#)

(13) CB 2404-05 – 1st Reading - Adopt An Ordinance Closing The Special Construction Fund Entitled "Fire Station No.2 And Fire Station No.6 Additions And Alterations", Fund 342, Program 029, As Amended By Ordinance No. 3867-22. (3rd & Final Reading 5/22/24)

Documents:

[CB 2404-05.PDF](#)

(14) CB 2404-06 – 1st Reading - Adopt An Ordinance Relating To Uniform Requirements For Food Service Establishments (FSE) And Non-FSE FOG Dischargers Of The Publicly Owned Treatment Works, Repealing And Replacing Ordinance 3071-08 (Chapter 14.42 EMC). (3rd & Final Reading 5/22/24)

Documents:

[CB 2404-06.PDF](#)

(15) CB 2404-07 – 1st Reading - Adopt An Ordinance Relating To Uniform Requirements For Users Of The Publicly Owned Treatment Works, Repealing And Replacing Ordinance 3070-08 (Chapter 14.40 EMC). (3rd & Final Reading 5/22/24)

Documents:

[CB 2404-07.PDF](#)

ACTION ITEMS:

(16) CB 2404-98 – 3rd & Final Reading - Adopt An Ordinance Creating A Special Construction Project Entitled "Main Library HVAC Replacement Project", Fund 342, Program 041, To Accumulate Design And Engineering Costs For The Project.

Documents:

[CB 2404-98.PDF](#)

(17) CB 2404-99 – 3rd & Final Reading - Adopt An Ordinance Creating A Special Construction Project Entitled "South Police Precinct HVAC Controls Replacement Project", Fund 342, Program 044, To Accumulate Design And Engineering Costs For The Project.

Documents:

[CB 2404-99.PDF](#)

(18) Authorize The Mayor To Sign The Guaranteed Maximum Price Amendment Which Will Add A Total Of \$26,270,329.25, Not Including Sales Tax, To The WFP Phase 2 Capital Upgrades Progressive Design-Build Contract, In Substantially The Form Provided.

Documents:

[IMCO-WFP PHASE 2 CAPITAL UPGRADES-AMENDMENT.PDF](#)

Executive Session

Adjourn

PARTICIPATION IN REMOTE COUNCIL MEETINGS

- o Call in to listen to the Council meetings: 425.616.3920, conference ID: 724 887 726#
- o Participate remotely via Zoom by registering to speak at everettwa.gov/speakerform. You must register no later than 30 minutes prior to the meeting. Or contact Angela Ely at 425.257.8703 or aely@everettwa.gov and identify the topic you wish to address.
- o Provide written public comments by email to Council@everettwa.gov or mail to 2930 Wetmore Avenue, Suite 9A, Everett, WA 98201. Emailing comments 24 hours prior to the meeting will ensure your comment is distributed to councilmembers and appropriate staff.
- o Persons seeking to comment on non-agenda items may be asked to submit the comments in writing if the comment does not address an issue of broad public interest.

AGENDAS, BROADCAST AND RECORDINGS

- o The Council agendas and meeting recordings can be found, in their entirety, at everettwa.gov/citycouncil.
- o The Council meetings are broadcast on government-access cable Comcast Channel 21 and Frontier Channel 29. They are rebroadcast on Monday and Tuesday at noon; Thursday at 2 p.m. and 7 p.m.; Friday and Sunday at 7 p.m.; Saturday at 10 a.m.
- o Watch live meetings and recordings at YouTube.com/EverettCity.

CONTACT THE COUNCIL

If you do not wish to participate in the meeting, we provide these other methods of contacting your elected officials: Email the Council at Council@everettwa.gov.

- o Call the Council offices at 425.257.8703
- o You may call in just to listen to the meeting: 425.616.3920, conference ID 724 887 726#

The City of Everett does not discriminate on the basis of disability in the admission or access to, or treatment in, its programs or activities. Requests for assistance or accommodations can be arranged by contacting the Everett City Council Office at 425.257.8703. For additional information, please visit our website at <https://www.everettwa.gov/3129/American-Disabilities-Act-ADA-and-Title->.

RESOLUTION NO. _____

Be it Resolved by the City Council of the City of Everett:

Whereas the claims payable by check against the City of Everett for the period April 20, 2024 through April 26, 2024, having been audited and approved by the proper officers, have been paid and the disbursements made by the same, against the proper funds in payment thereof, as follows:

| <u>Fund</u> | <u>Department</u> | <u>Amount</u> | <u>Fund</u> | <u>Department</u> | <u>Amount</u> |
|-------------|------------------------------|----------------------|---------------------|------------------------------|---------------|
| 001 | City Council | 491.53 | 101 | Parks & Recreation | 22,019.34 |
| 002 | General Government | (3,625.56) | 110 | Library | 28,576.67 |
| 003 | Legal | 101,962.84 | 120 | Public Works-Streets | 38,495.61 |
| 004 | Administration | 170.24 | 130 | Develop & Const Permit Fee | 1,498.18 |
| 005 | Municipal Court | 5,925.40 | 138 | Hotel/Motel Tax | 14,495.00 |
| 007 | Human Resources | 1,198.53 | 145 | Real Property Acquisition | 80,808.56 |
| 009 | Misc Financial Funds | 70,086.02 | 146 | Property Management | 59,461.11 |
| 010 | Finance | 1,145.74 | 148 | Cum Reserve-Parks | 128.24 |
| 015 | Information Technology | 140.59 | 151 | Fund for Animals | 19,203.21 |
| 018 | Communications, Mktg & Engag | 3,263.68 | 152 | Cum Reserve Library | 1,682.25 |
| 021 | Planning & Community Dev | 792.47 | 153 | Emergency Medical Service: | 9,149.43 |
| 024 | Public Works-Engineering | 32,834.26 | 155 | Capital Reserve Fund | 98,943.86 |
| 026 | Animal Shelter | 216.19 | 156 | Criminal Justice | 15,439.16 |
| 030 | Emergency Management | 157.75 | 162 | Capital Projects Reserve | 16,243.88 |
| 031 | Police | 20,250.03 | 171 | Affordable/Supportive Hous | 8,682.10 |
| 032 | Fire | 16,239.68 | 197 | CHIP Loan Program | 12,716.75 |
| 038 | Facilities Maintenance | 2,518.39 | 303 | PW Improvement Projects | 91,740.84 |
| | TOTAL GENERAL FUND | \$ 253,767.78 | 336 | Water & Sewer Sys Improv I | 755,557.67 |
| | | | 342 | City Facilities Construction | 4,554.13 |
| | | | 401 | Public Works-Utilities | 509,836.75 |
| | | | 402 | Solid Waste Utility | 39,937.27 |
| | | | 425 | Public Works-Transit | 162,959.94 |
| | | | 430 | Everpark Garage | 2,440.41 |
| | | | 440 | Golf | 67,655.19 |
| | | | 501 | MVD-Transportation Service | 7,980.78 |
| | | | 505 | Computer Reserve | 129,127.14 |
| | | | 507 | Telecommunications | 2,638.05 |
| | | | 508 | Health Benefits Reserve | 10,800.00 |
| | | | 637 | Police Pension | 943.36 |
| | | | 638 | Fire Pension | 943.35 |
| | | | 661 | Claims | 63,378.28 |
| | | | TOTAL CLAIMS | \$ 2,531,804.29 | |

Councilperson introducing Resolution

Passed and approved this _____ day of _____, 2024

Council President



RESOLUTION NO. _____

Be it resolved by the City Council of the City of Everett:

That the payroll of the employees of the City of Everett as of April 20 , and checks issued April 26, 2024, having been audited, be and the same is hereby approved and the proper officers are hereby authorized and directed to charge checks on the Payroll Fund in payment thereof:

| Fund | Department | Gross Payroll | Employer Contributions |
|------|------------------------------|-----------------------|---------------------------|
| 001 | Legislative | 12,844.45 | 6,926.31 |
| 003 | Legal | 88,913.89 | 26,415.84 |
| 004 | Administration | 52,102.11 | 12,004.88 |
| 005 | Municipal Court | 71,409.74 | 24,286.43 |
| 007 | Personnel | 59,015.75 | 17,725.70 |
| 010 | Finance | 101,903.84 | 31,838.30 |
| 015 | Information Technology | 113,704.20 | 37,247.48 |
| 018 | Communications and Marketing | 25,219.28 | 7,366.69 |
| 021 | Planning & Community Dev | 130,846.90 | 37,168.14 |
| 024 | Public Works | 212,878.15 | 70,096.48 |
| 026 | Animal Shelter | 57,426.55 | 23,703.95 |
| 030 | Emergency Management | 10,764.81 | 3,509.02 |
| 031 | Police | 1,172,487.94 | 305,070.46 |
| 032 | Fire | 850,677.52 | 200,617.43 |
| 038 | Facilities/Maintenance | 109,681.31 | 41,407.16 |
| 101 | Parks & Recreation | 157,053.71 | 60,180.09 |
| 110 | Library | 124,718.00 | 41,715.75 |
| 112 | Community Theatre | 8,654.25 | 2,124.91 |
| 120 | Street | 73,134.59 | 27,727.21 |
| 153 | Emergency Medical Services | 442,498.30 | 96,247.80 |
| 197 | CHIP | 11,771.45 | 3,476.65 |
| 198 | Community Dev Block | 3,839.51 | 1,273.26 |
| 401 | Utilities | 884,422.95 | 330,527.76 |
| 425 | Transit | 526,886.80 | 189,492.71 |
| 440 | Golf | 38,255.58 | 13,077.00 |
| 501 | Equip Rental | 82,273.92 | 30,893.96 |
| | | <u>\$5,423,385.50</u> | <u>\$1,642,121.37</u> |

Councilperson Introducing Resolution

Passed and approved this _____ day of _____, 2024.

Council President

Project title: Call for bids for the 20th Street Sewer Rehabilitation Project

Council Bill #**Agenda dates requested:**

05/08/24

Briefing

Proposed action

Consent ☒ X

Action

Ordinance

Public hearing

Yes ☒ x No**Budget amendment:**Yes ☒ x No**PowerPoint presentation:**Yes ☒ x No**Attachments:****Department(s) involved:**

Public Works

Contact person:

Souheil Nasr

Phone number:

425.257.7210

Email:snasr@everettwa.gov**Initialed by:**

RLS

Department head

Administration

Council President

Consideration: Call for Bids**Project:** 20th Street Sewer Rehabilitation Project**Partner/Supplier:** None**Location:** 20th Street, Grand to Broadway**Preceding action:** Ordinance No. 4016-24, Approved 4/24/24**Fund:** Fund 401 – Water & Sewer Utility**Fiscal summary statement:**

The programmed available funding, as established by City Ordinance number 4016-24, is \$2,895,000.

Project summary statement:

Staff requests authorization to call for bids for the 20th Street Sewer Rehabilitation Project

This project encompasses the rehabilitation of aging sewer mains, and sewer manholes, along 20th Street, and in multiple locations in the area of East Marine View Drive. Approximately 3,200 feet of pipe and 24 manholes will be rehabilitated using trenchless construction methods.

The Engineers estimate for construction of this project is \$2,000,000.

Recommendation (exact action requested of Council):

Authorize a Call for Bids for the completion of the 20th Street Sewer Rehabilitation Project.

Project title: Award Construction Contract for the Water Main Replacement “Y”, Phase 1 project to Earthworks Solutions

Council Bill # *interoffice use*

Agenda dates requested:

Briefing
Proposed action
Consent 5/8/24
Action
Ordinance
Public hearing
Yes ☒ No ☐

Budget amendment:

Yes ☐ No ☒

PowerPoint presentation:

Yes ☐ No ☒

Attachments:

Bid results

Department(s) involved:

Public Works

Contact person:

Souheil Nasr

Phone number:

425.257.7210

Email:

snasr@everettwa.gov

Initialed by:

RLS

Department head

Administration

Council President

Project: Water Main Replacement “Y”, Phase 1

Partner/Supplier: NA

Location: Multiple locations within the Water Service Area

Preceding action: Plans and Systems Ordinance 3928-23, 1/27/23, Call for bids 3/6

Fund: Fund 336 – Water & Sewer System Improvements Fund

Fiscal summary statement:

Funding source for this project will be Fund 401 Water and Sewer Utility fund. The programmed available funding for design and construction is \$3,750,000.

Project summary statement:

This project will install new water main to replace existing water mains that have a high consequence of failure, and/or recently prone to breaks. The upgrade of these water mains will ensure reliability of water service for existing customers and future development, and that adequate fire flow, per the 2020 Comprehensive Water Plan, is provided.

Bid opening for the Water Main Replacement “Y”, Phase 1 project was held on April 2, 2024. Two bids were received. The lowest responsive and responsible bidder was Earthworks Solutions with a bid of \$3,300,935.68. The Engineer’s estimate was \$3,122,967.86. City staff recommends awarding the construction contract to Earthworks Solutions.

Recommendation (exact action requested of Council):

Award the construction contract for the Water Main Replacement “Y”, Phase 1 project to Earthworks Solutions in the amount of \$3,300,935.68.

Project title: Adopt a Resolution Declaring a 2000 John Deere 310SE Backhoe and Authorizing Sale at Public Auction

Council Bill # *interoffice use*

Agenda dates requested:

May 8, 2024

Briefing

Proposed action

Consent ☒ X

Action

Ordinance

Public hearing

Yes ☒ X No

Budget amendment:

Yes ☒ X No

PowerPoint presentation:

Yes ☒ X No

Attachments:

Resolution

Department(s) involved:

Procurement & Motor Vehicles

Contact person:

Theresa Bauccio-Teschlog

Phone number:

(425) 257-8901

Email:

tbauccio@everettwa.gov

Initialed by:

sh

Department head

Administration

Council President

Project: Resolution declaring a 2000 John Deere 310SE Backhoe (H0025) Surplus and Authorizing Sale at Public Auction

Partner/Supplier: *(Partner, etc.)*

Location: *If relevant*

Preceding action: *Previous council /committee*

Fund: 401 Utilities

Fiscal summary statement

Funds received from this surplus sale will be returned to Fund 401 Utilities.

Project summary statement:

The Public Works Department, Utility Division owns a 2000 John Deere 310SE Backhoe (H0025). H0025 has approximately 4372 hours and is scheduled to be replaced in 2024 based on age, maintenance cost, and maintenance cost scoring.

H0025 has an estimated surplus value of \$30,000 and has been replaced by a 2024 Dodge Ram 3500 Pick-Up Truck (V0397).

Recommendation (exact action requested of Council):

Adopt a Resolution declaring a 2000 John Deere 310SE Backhoe (H0025) surplus and authorizing sale at public auction.

RESOLUTION NO. _____

A RESOLUTION declaring a 2000 John Deere S310SE Backhoe (H0025) surplus and authorizing it for sale at public auction.

WHEREAS,

1. The City has a 2000 John Deere S310SE Backhoe (H0025), and
2. The above-referenced equipment is no longer of value or use to the City; and
3. Ordinance 2963-06 establishes a procedure and methods for surplus or disposition of City-owned personal property; and
4. Based on the guidelines set forth in EMC 3.88.020, a public auction is the disposition method that best meets the City's interests and
5. The City's Procurement Manager has reported the basis for the estimated value of the surplus property and has recommended the surplus of the above-referenced vehicle and equipment by public auction.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND EVERETT CITY COUNCIL THAT:

1. The City has a 2000 John Deere S310SE Backhoe (H0025);
2. The disposition of this equipment at a public auction is hereby authorized.

Councilmember introducing Resolution

Passed and approved this _____ day of _____, 2024.

Council President

Project title: Award Construction Contract for the 2024 Pavement Maintenance Overlay project to Lakeside Industries, Inc. of Monroe WA, in the amount of \$2,540,916.30.

Council Bill #**Consideration:** Award Construction Contract**Project:** 2024 Pavement Maintenance Overlay**Partner/Supplier:** N/A**Location:** Casino Road – 4th Ave W to Airport Rd**Preceding action:** Call for Bids 3/13/24**Fund:** 119 – Street Improvements**Agenda dates requested:**

Briefing

Proposed action

Consent 5/8/24

Action

Ordinance

Public hearing

Yes ☒ No ☐**Budget amendment:**Yes ☒ No ☐**PowerPoint presentation:**Yes ☒ No ☐**Attachments:**

Bid Summary, Vicinity Map

Department(s) involved:

Public Works, Admin

Contact person:

Tom Hood

Phone number:

425-257-8809

Email:

thood@everettwa.gov

Fiscal summary statement:

The funding source for this project is from Fund 119 – Street Improvements for a total programmed available funding of \$3,268,135.

Project summary statement:

This project will overlay West Casino Road from 4th Ave W to Airport Road.

Bid proposals for the 2024 Pavement Maintenance Overlay project were opened on April 9, 2024, with two bid proposals received. The lowest responsive and responsible bidder was Lakeside Industries, Inc. with a bid of \$2,540,916.30.

Recommendation (exact action requested of Council):

Award Construction Contract for the 2024 Pavement Maintenance Overlay project to Lakeside Industries, Inc. of Monroe WA, in the amount of \$2,540,916.30.

Initialed by:

RS

Department head

Administration

Council President

Vicinity Map
2024 Pavement
Maintenance Overlay

Overlay Location



0 2,500 5,000 Feet





3200 Cedar Street,
Everett WA 98201
(425) 257-8800

BID SUMMARY

2024 Pavement Maintenance Overlay

W.O.# 3823

Date: 4/9/2024

For:

Bidder Name:

Bidder Totals:

ENGINEER'S ESTIMATE

\$2,893,165.99

Lakeside Industries, Inc.

\$2,540,916.30

Granite Construction Company

\$2,639,616.20



City Council Agenda Item Cover Sheet

Project title: Seattle Outboard Association Application to Hold a Boating Regatta on Silver Lake on June 1 and 2, 2024

Council Bill #

Agenda dates requested:

Briefing

Proposed action

Consent: 5/8/24

Action

Ordinance

Public hearing

Yes X No

Budget amendment:

Yes X No

PowerPoint presentation:

Yes X No

Attachments:

Special Use Application

Department(s) involved:

Parks and Facilities

Administration

Contact person:

Bob Leonard

Phone number:

425 257-8335

Email:

bleonard@everettwa.gov

Initialed by:

RML

Department head

Administration

Council President

Project: Annual Hydroplane Races at Silver Lake

Partner/Supplier: Seattle Outboard Association

Location: 11405 W Silver Lake Rd, Everett

Preceding action: Park Board Recommendation 4/2/24

Fund: NA

Fiscal summary statement:

No expenditure required. Fees will be received for special use application, hall rentals, and picnic shelter rentals.

Project summary statement:

In accordance with Ordinance 1183-85, the Seattle Outboard Association submitted a special use application to hold its 2024 Boating Regatta on Silver Lake. The regatta has been held annually on Silver Lake since 1954.

In late February, the public hearing process was initiated. As required by the ordinance, the public hearing was promoted through the Everett Herald and signage was put up around Silver Lake. Parks staff solicited public input and comments leading up to the public hearing. The Board of Park Commissioners held a public hearing on April 2 and voted to recommend to Council that the Seattle Outboard Association's application to hold its annual Boating Regatta on June 1 and 2, 2024 be approved.

Ordinance 1183-85 requires City Council approval. This is the only event of this type held at Silver Lake each year.

Recommendation (exact action requested of Council):

Approve the Seattle Outboard Association application to hold a boating regatta on Silver Lake on June 1 and 2, 2024.

204



SPECIAL USE REQUEST APPLICATION—PARKS & FACILITIES DEPARTMENT

This application for a reservation and special use permit is TO BE USED FOR groups, organizations, persons requesting special use of any park, park area or facility. A reservation in the form of a written permit is required prior to the day of use and required when:

- Groups or assemblies are calculated to attract a large number of people, relative to the size and capacity of the park or facility. Group must, prior to the event, reserve the space. A large group or assembly is that which would occupy one-tenth or more of the user capacity of the park or facility. (Park Code 9.06.104)
- A park code is requested to be waived for a special event or activity. (Park Code 9.06.108 and 9.06.112)
- Additional park resources, equipment or staffing are requested
- Use of designated areas within a park (e.g. open spaces, trails, etc.) (fees may apply for use)
- Requesting partial or full fee reductions for park areas or facilities (fundraisers are not eligible)

RECEIVED
OCT 31 2023

(Separate applications must be filed for each type of activity or event for which you are requesting space) BY:

Applicants are encouraged to submit this special use request application 30-90 days or more in advance to allow adequate time for review and, if approved, to allow applicants adequate time to meet requirements established by the city. Applicants are required to submit this application at least 14 business days prior to the date of the intended use.

Application Fee: Parks charges a non-refundable Special Use Request Application fee of \$25.

SECTION 1

Name of Organization SEATTLE OUTBOARD ASSOCIATION
 Main Contact Person DAREN GOETHELYE
 Address 3530 EDWARD PL NE
 City, State, Zip Code MARSHVILLE, WA 98043
 Phone (Area Code) 206-540-8037 Email MERCURY63@COMCAST.NET
 Date/s of Event/s JUNE 1-2 2024 Time (IN) 7AM (OUT) 6:30PM
 Park, Facility (Shelter, Hall), or Park Area Requested 7500 BEACH AREA, LOWER GROUNDS AREA AROUND WATER FRONT, BACK BAY AREA, DOCKS - SILVER BAY
 Detailed description of activity or event. (Attach additional pages if necessary) SMALL HYPERPLANE BOAT RACES

Estimated attendance 100-500 Target age group 9-70 YRS UP
 Is the activity/event open to the public? Yes ☒ No ☐ If yes, please complete section 2 on next page.
 Will a fee be charged for event participation? Yes ☐ No ☒ What will fee/s be? _____
 How will money be collected? _____
 Will you be asking for donations? Yes ☐ No ☒ Is the event recreationally oriented? Yes ☒ No ☐

SECTION 1, continued

Is this a fundraiser? Yes ☐ No ☒ If yes, please complete section 2.

Do you plan to close off any park area/s for your activity/event? Yes ☒ No ☐

Please specify area WATER ACCESS FROM DECKS TO PLAYGROUND

How many vehicles do you anticipate? 50

Are you planning to amplify music or sound at your activity/event? Yes ☒ No ☐ Describe PA

SYSTEM FOR RACE ORGANIZATION / OPERATION

Please note: Performer conduct and performance content, live or recorded, must be appropriate for families and general audiences. Profane, lewd, indecent or slanderous conduct or content is unacceptable.

Will tents or other temporary structures be erected in the park or park area? Yes ☒ No ☐

Will vehicles need to be driven on turf? Yes ☐ No ☒

Will food be served to general public? Yes ☐ No ☒

If so, have you consulted with the Snohomish County Health Department to ensure your activity/event is in compliance with their regulations? Yes ☒ No ☐

- Attach a site map to this application
- Provide a list of vendors, if any, participating in your event
- Attach a parking plan, if needed

- **SECTION 2** Must be completed if:
 - * Your event is open to the public
 - * You are fundraising or charging a fee
 - * You are requesting a full or partial fee reduction (not eligible for fundraisers)

1-Give a brief history of your organization and its mission/intent:

SCA HAS BEEN AROUND FOR OVER 25 YRS TO PROMOTE AN AVENUE FOR PEOPLE ACROSS THE AREA TO ENJOY WATER SPORTS RACING. SCA HAS PROVIDED A SLACK LAKE FOR OVER 50 YRS

2-List name and title of current officers and/or board members:

RON MANNING - CHAIRMAN
DAREN COCHRAN - VICE CHAIRMAN
JOHN MARTIN - TREASURER
KELSI EAGAN - SECRETARY

3-How will the public be notified of this activity/event: Newspaper Advertisement ☐ Press Release ☒

Radio/TV ☐ Other ☒ Please explain LOCAL ADVERTISING, SOCIAL MEDIA

4-Provide a budget summary of projected revenue and expenses for this event (attach additional pages if necessary):

INCOME \$13,800 EXPENSES \$12,575 NET \$1,225

Please note that fundraisers cannot be considered for partial or reduced fees and will be required to pay full rental fees on facilities. Events must not discriminate because of age, sex, marital status, race, creed, color, national origin or presence of sensory, mental or physical disability. No events serving alcohol will be co-sponsored by the City of Everett.

Please allow 10/+ business days for processing your request. Thank you.



SPECIAL USE HOLD HARMLESS

Agreement:

In consideration of allowing this organization to hold its special event at the City of Everett Parks & Facilities, the organization hereby accepts full responsibility and agrees to release, indemnify and promise to defend and save harmless the City of Everett, its officers, employees and agents from and against any and all liability, loss, damage, expense, actions and claims, including costs and reasonable attorney's fees, incurred by the City of Everett, its officers, employees and agents in defense thereof, for both personal and/or property damage resulting from or connected directly or indirectly to the execution of this event, provided, however, the undersigned organization will not be required to hold the City of Everett, its officers, employees and agents harmless from the sole negligence of the City, its officers, employees and agents.

This organization also agrees to accept full responsibility for all damages to any equipment or property owned by the City of Everett. I, as an authorized agent on behalf of this organization, understand that my organization may be banned from use of Parks facilities for failure to comply with all specified rules/regulations including but not limited to cleaning requirements for parks and facilities and additionally I, as an authorized agent on behalf of this organization, also understand that all City of Everett ordinances and Park codes apply to this event/function application. I, on behalf of this organization, acknowledge that I have received the information on this form in the Park codes to ensure compliance.

____ (initial here)

I understand that I am required to pay all required fees within 10 days of approval notification by the City of Everett. Failure to do so will result in revocation of my permit and reservation.

____ (initial here)

I hereby declare the name and address and all other information given on this application to be true and correct. If the information is found to be false, I understand that I could be subject to prosecution and be fined up to \$5,000 under RCW 9A.76.175

____ (initial here)

Insurance: Depending on the size or activity of your group, you may be required to be covered by bodily injury and property damage liability insurance in an amount ascertained by the City of Everett, naming the City of Everett as an additional insured. Prior to the event, the organization will be responsible for obtaining said insurance and notifying the proper officials.

I certify that I have read the foregoing statements and that I have the authority as an official and/or authorized agent of the aforementioned organization to sign on behalf of said organization.

Signature of person in charge

Date signed

10/30/23

| OFFICE USE ONLY | |
|--|---|
| <input type="checkbox"/> Approved | <input type="checkbox"/> Application fee paid |
| <input type="checkbox"/> Approved w/noted stipulations | |
| <input type="checkbox"/> Unapproved | Staff Liaison to event (if applicable) _____ |
| Authorized Approving Signature _____ | Date _____ |
| Notes: _____ _____ _____ | |



Everett Parks and Facilities
802 E. Mukilteo Blvd.
Everett, WA 98203
425-257-8300 x2
recreation@everettwa.gov
everettwa.gov

PERMIT #13829

Authorized On: 10/31/2023 11:42 AM

NOTE: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf)

| | | |
|--|---|--|
| Location Thornton A Sullivan Park 11405 Silver Lake Rd Everett, WA 98208 | Permit Holder Seattle Outboard Association c/o 3520 82nd PI NE Marysville, WA 98270 | Authorized Agent Susan Fuller 425-257-8300 recreation@everettwa.gov everettwa.gov |
|--|---|--|

RESERVATIONS

| Location | Facility | Date | Time | Hours |
|--------------------------|---------------------------|-------------------|-------------------|-------|
| Thornton A Sullivan Park | Silver Hall Meeting Room | Sat, Jun 1st 2024 | 07:00 AM-06:30 PM | 11.50 |
| Thornton A Sullivan Park | Silver Lake Beach Shelter | Sat, Jun 1st 2024 | 07:00 AM-06:30 PM | 11.50 |
| Thornton A Sullivan Park | Silver Lake Dock Shelter | Sat, Jun 1st 2024 | 07:00 AM-06:30 PM | 11.50 |
| Thornton A Sullivan Park | Silver Lake Dock Shelter | Sun, Jun 2nd 2024 | 07:00 AM-06:30 PM | 11.50 |
| Thornton A Sullivan Park | Silver Hall Meeting Room | Sun, Jun 2nd 2024 | 07:00 AM-06:30 PM | 11.50 |
| Thornton A Sullivan Park | Silver Lake Beach Shelter | Sun, Jun 2nd 2024 | 07:00 AM-06:30 PM | 11.50 |

For hall/meeting room rentals, contact the Recreation Office at 425.257.8300 ext. 2 between 8am and 1pm Monday-Friday to schedule an appointment to pick up the key or access card for your upcoming rental:

*Weekday hall or meeting room rentals can be scheduled for pick-up on the same day as the rental

*Weekend hall or meeting room rentals must be scheduled for pick-up on Friday before the rental

*Holiday hall or meeting room rentals must be scheduled for pick-up on the business day prior to the holiday

The timeframe allowed for a pick-up appointment is between 8am and 12:45pm.

For Floral Hall, Legion Hall and Lions Hall rentals that include alcohol, you must obtain a banquet permit or special occasion license (if charging for alcohol) from the Washington State Liquor and Cannabis Board website and provide the permit/license # to our office by ten days prior to your event. The special occasion license takes longer to obtain from the State so plan accordingly. Permit/license must be posted in the facility during your event.

For emergencies during your event call 911.

If you experience non-emergency issues, look for the call out sheet posted in your building or call the Park Ranger at 425-754-4835 daily before dusk. After dusk if needed call in this order until you reach someone: 425-359-5453, 425-508-6886.

Hold Harmless



Run On 10/31/2023 11:44 AM

Run By Susan Fuller

From 06/01/2024 12:00 AM

To 06/02/2024 11:59 PM

Facilities Multiple (4)

Facility Reservations by Facility

Thornton A Sullivan Park Boating Dock

| Rental Date/Time | Description | User | Phone 1 | Email |
|---|---|---|--------------|-----------------------|
| 1. 06/01/2024 07:00 AM - 06:30 PM | Internal Reservation: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf) | <u>Seattle Outboard Association c/o</u> | 360-540-2037 | mercguy63@comcast.net |
| Note: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf) | | | | |
| 2. 06/02/2024 06:00 AM - 06:30 PM | Internal Reservation: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf) | <u>Seattle Outboard Association c/o</u> | 360-540-2037 | mercguy63@comcast.net |
| Note: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf) | | | | |

Thornton A Sullivan Park Fishing Dock

| Rental Date/Time | Description | User | Phone 1 | Email |
|---|---|---|--------------|-----------------------|
| 1. 06/01/2024 07:00 AM - 06:30 PM | Internal Reservation: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf) | <u>Seattle Outboard Association c/o</u> | 360-540-2037 | mercguy63@comcast.net |
| Note: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf) | | | | |
| 2. 06/02/2024 06:00 AM - 06:30 PM | Internal Reservation: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf) | <u>Seattle Outboard Association c/o</u> | 360-540-2037 | mercguy63@comcast.net |
| Note: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf) | | | | |

Thornton A Sullivan Park Silver Lake South

| Rental Date/Time | Description | User | Phone 1 | Email |
|---|---|---|--------------|-----------------------|
| 1. 06/01/2024 07:00 AM - 06:30 PM | Internal Reservation: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf) | <u>Seattle Outboard Association c/o</u> | 360-540-2037 | mercguy63@comcast.net |
| Note: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf) | | | | |
| 2. 06/02/2024 06:00 AM - 06:30 PM | Internal Reservation: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf) | <u>Seattle Outboard Association c/o</u> | 360-540-2037 | mercguy63@comcast.net |
| Note: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf) | | | | |

Thornton A Sullivan Park Swimming Beach

| Rental Date/Time | Description | User | Phone 1 | Email |
|---|---|---|--------------|-----------------------|
| 1. 06/01/2024 07:00 AM - 06:30 PM | Internal Reservation: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf) | <u>Seattle Outboard Association c/o</u> | 360-540-2037 | mercguy63@comcast.net |
| Note: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf) | | | | |

2. 06/02/2024 06:00 AM Internal Reservation: Hydroplane races; expecting Seattle Outboard 360-540- mercguy63@comcast.net
- 06:30 PM 100-500; Daren Goehring / 360.540.2037; SUA Association c/o 2037
submitted 10/31/2023 (sf)

Note: Hydroplane races; expecting 100-500; Daren Goehring / 360.540.2037; SUA submitted 10/31/2023 (sf)



Project title:

A Professional Services Agreement with Reid Middleton to Provide Design, Engineering, and Construction Administration Services for the Thornton A. Sullivan Park Floating Dock Repairs Project

Council Bill #**Agenda dates requested:**

Briefing

Proposed Action

Proposed Action

Consent 5/8/24

Action

Ordinance

Public hearing

Yes ☒ No ☐**Budget amendment:**Yes ☐ No ☒**PowerPoint presentation:**Yes ☐ No ☒**Attachments:**

Professional Services
Agreement

Department(s) involved:

Parks & Facilities

Contact person:

Bob Leonard

Phone number:

425-257-8335

Email:

bleonard@everettwa.gov

Initialed by:*RML*

Department head

Administration

Council President

Project: Thornton A. Sullivan Park Floating Dock Repairs**Partner/Supplier:** Reid Middleton Engineers**Location:** 11405 W Silver Lake Rd, Everett**Preceding action:** N/A**Fund:** Fund 354, Program 100 (CIP-3)**Fiscal summary statement:**

The source of funds for the design and engineering is Fund 354, Program 100. The contract total amount is not to exceed \$33,700.

Project summary statement:

The Silver Lake's three Floating docks are over thirty years old. Repairs were identified from a preliminary assessment and engineer's report conducted December 2023. Repairs include resurfacing to remedy spalling and delamination of the concrete surfaces that pose trip hazards and render the docks non-ADA compliant; replacement of rotting bull rails, perimeter walers and edge/rub boards; replacement of missing through-rods connecting and stabilizing float sections; pin pile replacement; mooring system upgrades; shore re-grading where the docks and access gangways meet the beach to minimize grounding and excessive lateral pitch of the docks.

The scope of services includes complete design and engineering services for all three floating dock repairs.

Upon completion of the design and engineering work, Parks & Facilities staff will return to Council to amend the Ordinance for construction.

Recommendation (exact action requested of Council):

Authorize the Mayor to sign a Professional Service Agreement with Reid Middleton to provide design, engineering, and construction administration services for the Thornton A. Sullivan Park Floating Dock Repairs project.



PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("**Agreement**") is effective as of the date of last signature below and is between the City of Everett, a Washington municipal corporation (*the "City"*), and the Service Provider identified in the Basic Provisions below ("**Service Provider**"). This Agreement is for the purpose of the Service Provider providing services to the City as set forth in the Agreement. This Agreement includes and incorporates the Basic Provisions, the attached General Provisions, the attached scope of work (Exhibit A), and the attached method of compensation (Exhibit B).

| BASIC PROVISIONS | |
|--------------------------------|---|
| Service Provider | Reid Middleton |
| | 728 134th Street SW, Suite 200 |
| | Everett, WA 98204 |
| | wahn@reidmiddleton.com |
| City Project Manager | Brad Chenoweth |
| | City of Everett – Parks & Facilities |
| | 802 E. Mukilteo Blvd |
| | Everett, WA 98201 |
| Brief Summary of Scope of Work | bchenoweth@everettwa.gov |
| | Design, engineering, and construction administration services |
| | |
| | |
| Completion Date | December 31, 2025 |
| Maximum Compensation Amount | \$33,700.00 |

| BASIC PROVISIONS | |
|---|---|
| Service Provider Insurance Contact Information | Kaylee Patino |
| | 206-508-5613 |
| | Kaylee.patino@usi.com |
| State Retirement Systems (must answer both questions) | <p>Does Service Provider have 25 or more employees?</p> <p>Answer: Yes</p> <p>If Service Provider has less than 25 employees, did any Service Provider Personnel who will work under this Professional Services Agreement retire under a DRS retirement system?</p> <p>Answer: N/A - Service Provider has 25 or more employees</p> <p>“DRS retirement system” refers to any of the following Public Employers’ Retirement System (PERS), School Employees’ Retirement System (SERS), Teachers’ Retirement System (TRS), and Law Enforcement Officers and Fire Fighters plan (LEOFF).</p> <p>“Service Provider Personnel” includes Service Provider employees and owners (such as shareholders, partners or members). If Service Provider is a sole proprietor, then “Service Provider Personnel” refers to the sole proprietor.</p> |

END OF BASIC PROVISIONS

IN WITNESS WHEREOF, the City and Service Provider have executed this Agreement, which includes and incorporates the above Basic Provisions, the attached General Provisions, the attached scope of work (Exhibit A), and the attached method of compensation (Exhibit B).

**CITY OF EVERETT
WASHINGTON**

Enter Service Provider name – must match name in
Basic Provisions

Cassie Franklin, Mayor

Signature: _____

Name of Signer: Willy Ahn, Ph.D., PE

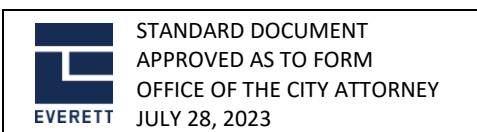
Signer's Email Address: wahn@reidmiddleton.com

Date

Title of Signer: Director

ATTEST

Office of the City Clerk



ATTACHMENT
PROFESSIONAL SERVICES AGREEMENT
(GENERAL PROVISIONS v.071423.1)

1. **Engagement of Service Provider.** The City hereby agrees to engage Service Provider, and Service Provider hereby agrees, to perform the work in a competent and professional manner and provide the services described in the Scope of Work attached as Exhibit A. The Scope of Work so identified is hereafter referred to as “Work”. Without a written directive of an authorized representative of the City, Service Provider shall not perform any services that are in addition to, or beyond the scope of, the Work. If Service Provider’s proposal or other document generated by Service Provider is incorporated or attached as an exhibit or part of any exhibit to this Agreement or in any amendment or task or work order pursuant to this Agreement, then such proposal or document is part of this Agreement solely to the extent that it describes the Work, the Work schedule, and the amounts or rates to be paid for such Work, and Service Provider expressly agrees that no terms or conditions from such proposal or document are incorporated or included into this Agreement. In the event of difference or conflict between parts of this Agreement, Service Provider shall be bound by whichever is more stringent on Service Provider. If, and to the extent, the Work includes the design of a public work or improvement, in whole or in part, Service Provider’s design shall be reasonably accurate, adequate and suitable for its intended purpose.
2. **Intellectual Property Rights.** Reports, drawings, plans, specifications and any other intangible property created in furtherance of the Work are property of the City for all purposes, whether the project for which they are made is executed or not, and may be used by the City for any purpose. To the extent the Work includes material subject to copyright, Service Provider agrees that the Work is done as a “Work For Hire” as that term is defined under U.S. copyright law, and that as a result, the City shall own all copyrights in the Work. To the extent that the Work includes material subject to proprietary right protection but does not qualify as a “Work For Hire” under applicable law, Service Provider hereby assigns to the City all right, title and interest in and to the Work, including all copyrights, patents, trade secrets, and other proprietary rights therein (including renewals thereof). To the maximum extent permitted by law, Service Provider waives all moral rights in the Work. Notwithstanding the foregoing, Service Provider retains any intellectual property rights in documents and intangible property created by Service Provider prior to engagement, or not created by Service Provider for its performance of this Agreement.
3. **Time of Beginning and Completion of Performance.** This Agreement shall commence as of the date of mutual execution of this Agreement and the Work shall be completed by Completion Date stated in the Basic Provisions.
4. **Compensation.**
 - A. The City shall pay Service Provider only for completed Work and for services actually rendered which are described herein. Such payment shall be full compensation for Work performed or services rendered, including, but not limited to, all labor, materials, supplies, equipment and incidentals necessary to complete the Work.
 - B. Service Provider shall be paid such amounts and in such manner as described in Exhibit B.
 - C. Service Provider may receive payment as reimbursement for Eligible Expenses actually incurred. “Eligible Expenses” means those expenses as set forth in an exhibit to this Agreement or such expenses as are approved for reimbursement by the City in writing prior to the expense being incurred. An expense shall not be reimbursed if: (1) the expense is not identified as an Eligible Expense; (2) the expense exceeds the per item or cumulative limits for such expense if it is identified as an Eligible Expense; or (3) the expense was not approved

in writing by an authorized City representative prior to Service Provider incurring the expense. If, and to the extent, overnight lodging in western Washington is authorized, Service Provider is strongly encouraged to lodge within the corporate limits of City. When authorized, Service Provider will be reimbursed 100% of lodging expense, if lodged within the corporate limits of the City, but Service Provider will be reimbursed 50% of lodging expense when lodged outside the corporate limits of the City. If authorized, the City may (at its sole option) obtain or arrange air travel for Service Provider.

- D. Total compensation, including all services and expenses, shall not exceed the Maximum Compensation Amount in the Basic Provisions.
- E. If Service Provider fails or refuses to correct its work when so directed by the City, the City may withhold from any payment otherwise due an amount that the City in good faith believes is equal to the cost to the City of correcting, re-procuring, or remedying any damage caused by Service Provider's conduct.

5. **Method of Payment.**

- A. To obtain payment, Service Provider shall (a) file its request for payment, accompanied by evidence satisfactory to the City justifying the request for payment; (b) submit a report of Work accomplished and hours of all tasks completed; (c) to the extent reimbursement of Eligible Expenses is sought, submit itemization of such expenses and, if requested by the City, copies of receipts and invoices; and (d) comply with all applicable provisions of this Agreement. Service Provider shall be paid no more often than once every thirty days.
- B. All requests for payment should be sent to the City Project Manager Address in the Basic Provisions or to an address designated by the City Project Manager in writing.

6. **Submission of Reports and Other Documents.** Service Provider shall submit all reports and other documents as and when specified in the Scope of Work. This information shall be subject to review by the City, and if found to be unacceptable, Service Provider shall correct and deliver to the City any deficient Work at Service Provider's expense with all practical dispatch. Service Provider shall abide by the City's determinations concerning acceptability of Work.

7. **Termination of Contract.** City reserves the right to terminate this Agreement at any time by sending written notice of termination to Service Provider ("Notice"). The Notice shall specify a termination date ("Termination Date"). The Notice shall be effective ("Notice Date") upon the earlier of either actual receipt by Service Provider (whether by email, mail, delivery or other method reasonably calculated to be received by Service Provider in a reasonably prompt manner) or three calendar days after issuance of the Notice. Upon the Notice Date, Service Provider shall immediately commence to end the Work in a reasonable and orderly manner. Unless terminated for Service Provider's material breach, Service Provider shall be paid or reimbursed for: (a) all hours worked and Eligible Expenses incurred up to the Notice Date, less all payments previously made; and (b) those hours worked and Eligible Expenses incurred after the Notice Date, but prior to the Termination Date, that were reasonably necessary to terminate the Work in an orderly manner. The City does not by this Section waive, release or forego any legal remedy for any violation, breach or non-performance of any of the provision of this Agreement. At its sole option, and without limitation of or prejudice to any other available remedy or recourse, the City may deduct from the final payment due Service Provider (a) any damages, expenses or costs arising out of any such violations, breaches, or non-performance and (b) any other backcharges or credits.

8. **Changes.** The City may, from time to time, unilaterally change the scope of the services of Service Provider to be performed hereunder. Such changes, including any increase or decrease in the scope of work (and resulting increase or decrease in compensation), shall: (a) be made only in

writing and signed by an authorized City representative, (b) be explicitly identified as an amendment to this Agreement and (c) become a part of this Agreement.

9. **Subletting/Assignment of Contracts.** Service Provider shall not sublet or assign any of the Work without the express, prior written consent of the City.
10. **Indemnification.** Except as otherwise provided in this Section, Service Provider hereby agrees to defend and indemnify and save harmless the City from any and all Claims arising out of, in connection with, or incident to any negligent or intentional acts, errors, omissions, or conduct by Service Provider (or its employees, agents, representatives or subcontractors/subconsultants) relating to this Agreement, whether such Claims sound in contract, tort, or any other legal theory. Service Provider is obligated to defend and indemnify and save harmless the City pursuant to this Section whether a Claim is asserted directly against the City, or whether it is asserted indirectly against the City, e.g., a Claim is asserted against someone else who then seeks contribution or indemnity from the City. Service Provider's duty to defend and indemnify and save harmless pursuant to this Section is not in any way limited to, or by the extent of, insurance obtained by, obtainable by, or required of Service Provider. Service Provider's obligations under this Section shall not apply to Claims caused by the sole negligence of the City. If (1) RCW 4.24.115 applies to a particular Claim, and (2) such Claim is caused by or results from the concurrent negligence of (a) Service Provider, its employees, subcontractors/subconsultants or agents and (b) the City, then Service Provider's obligations under this Section shall be only to the extent of Service Provider's negligence. Solely and expressly for the purpose of its duties to indemnify and defend and save harmless the City, Service Provider specifically waives any immunity it may have under the State Industrial Insurance Law, Title 51 RCW. Service Provider recognizes that this waiver of immunity under Title 51 RCW was specifically entered into pursuant to the provisions of RCW 4.24.115 and was the subject of mutual negotiation. As used in this Section: (1) "City" includes the City, the City's officers, employees, agents, and representatives and (2) "Claims" include, but is not limited to, any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damages, irrespective of the type of relief sought or demanded, such as money or injunctive relief, and irrespective of whether the damage alleged is bodily injury, damage to property, economic loss, general damages, special damages, or punitive damages or infringement or misappropriation of any patent, copyright, trade secret, or other proprietary right. If, and to the extent, Service Provider employs or engages subconsultants or subcontractors, then Service Provider shall ensure that each such subconsultant and subcontractor (and subsequent tiers of subconsultants and subcontractors) shall expressly agree to defend and indemnify and save harmless the City to the extent and on the same terms and conditions as Service Provider pursuant to this Section. The provisions of this Section shall survive the termination of this Agreement.
11. **Insurance.**
 - A. Service Provider shall comply with the following conditions and procure and keep in force during the term of this Agreement, at Service Provider's own cost and expense, the policies of insurance as set forth in this Section with companies authorized to do business in the State of Washington, which are rated at least "A-" or better and with a numerical rating of no less than seven (7), by A.M. Best Company and which are acceptable to the City.
 1. Workers' Compensation Insurance as required by Washington law and Employer's Liability Insurance with limits not less than \$1,000,000 per occurrence. If the City authorizes sublet work, Service Provider shall require each subcontractor to provide Workers' Compensation Insurance for its employees, unless Service Provider covers such employees.

2. Commercial General Liability (CGL) Insurance on an occurrence basis in an amount not less than \$1,000,000 per occurrence and at least \$2,000,000 in the annual aggregate, including but not limited to: premises/operations (including off-site operations), blanket contractual liability and broad form property damage.
 3. Business Automobile Liability Insurance in an amount not less than \$1,000,000 per occurrence, extending to any automobile. A statement certifying that no vehicle will be used in accomplishing this Agreement may be substituted for this insurance requirement.
 4. Professional Errors and Omissions Insurance in an amount not less than \$2,000,000 per occurrence and \$2,000,000 in the annual aggregate. Such coverage may be written on a claims made basis.
- B. The above CGL and auto liability policies shall be primary as to the City and shall contain a provision that the policy shall not be canceled or materially changed without 30 days prior written notice to the City. No cancellation provision in any insurance policy shall be construed in derogation of the continuous duty of Service Provider to furnish the required insurance during the term of this Agreement.
 - C. Upon written request by the City, the insurer or its agent will furnish, prior to or during any Work being performed, a copy of any policy cited above, certified to be a true and complete copy of the original.
 - D. The Description of Operations on the Certificate of Insurance must substantially read as follows: "The above commercial general and auto liability policies are primary as to the City of Everett; have the City of Everett, its officers, employees, agents, and volunteers as additional insureds; and contain a provision that the policy shall not be canceled or materially changed without 30 days prior written notice to the City of Everett."
 - E. Prior to Service Provider performing any Work, Service Provider shall provide the City or the City's designee with a Certificate of Insurance acceptable to the City Attorney evidencing the required insurance. Service Provider shall provide the City or the City's designee with either (1) a true copy of an endorsement naming the City of Everett, its officers, employees, agents and volunteers as Additional Insureds on the Commercial General Liability Insurance policy and the Business Automobile Liability Insurance policy with respect to the operations performed and services provided under this Agreement and that such insurance shall apply as primary insurance on behalf of such Additional Insureds or (2) a true copy of the blanket additional insured clause from the policies. Receipt by the City or the City's designee of any certificate showing less coverage than required is not a waiver of Service Provider's obligations to fulfill the requirements.
 - F. If the Professional Errors and Omissions Insurance is on a claims made policy form, the retroactive date on the policy shall be the effective date of this Agreement or prior. The retroactive date of any subsequent renewal of such policy shall be the same as the original policy provided. The extended reporting or discovery period on a claims made policy form shall not be less than 36 months following expiration of the policy.
 - G. Service Provider certifies that it is aware of the provisions of Title 51 of the Revised Code of Washington that requires every employer to be insured against liability of Workers' Compensation, or to undertake self-insurance in accordance with the provisions of that Title. Service Provider shall comply with the provisions of Title 51 of the Revised Code of Washington before commencing the performance of the Work. Service Provider shall provide the City with evidence of Workers' Compensation Insurance (or evidence of qualified self-insurance) before any Work is commenced.

- H. In case of the breach of any provision of this Section, the City may, at its option and with no obligation to do so, provide and maintain at the expense of Service Provider, such types of insurance in the name of Service Provider, and with such insurers, as the City may deem proper, and may deduct the cost of providing and maintaining such insurance from any sums which may be found or become due to Service Provider under this Agreement or may demand Service Provider to promptly reimburse the City for such cost.
12. **Risk of Loss.** Service Provider shall be solely responsible for the safety of its employees, agents and subcontractors in the performance of the work hereunder and shall take all protections reasonably necessary for that purpose. All work shall be done at Service Provider's own risk, and Service Provider shall be solely responsible for any loss of or damage to Service Provider's materials, tools, or other articles used or held for use in connection with the work.
13. **Independent Contractor.**
- A. This Agreement neither constitutes nor creates an employer-employee relationship. Service Provider must provide services under this Agreement as an independent contractor. Service Provider must comply with all federal and state laws and regulations applicable to independent contractors including, but not limited to, the requirements listed in this Section. Service Provider agrees to indemnify and defend the City from and against any claims, valid or otherwise, made against the City because of these obligations.
- B. In addition to the other requirements of this Section, if Service Provider is a sole proprietor, Service Provider agrees that Service Provider is not an employee or worker of the City under Chapter 51 of the Revised Code of Washington, Industrial Insurance for the service performed in accordance with this Agreement, by certifying to the following:
- (1) Service Provider is free from control or direction over the performance of the service; and
 - (2) The service performed is outside the usual course of business for the City, or will not be performed at any place of business of the City, or Service Provider is responsible for the costs of the principal place of business from which the service is performed; and
 - (3) Service Provider is customarily engaged in an independently established business of the same nature as the service performed, or has a principal place of business for the service performed that is eligible for a business deduction for federal income tax purposes; and
 - (4) On the effective date of this Agreement, Service Provider is responsible for filing a schedule of expenses, for the next applicable filing period, with the internal revenue service for the type of service performed; and
 - (5) By the effective date of this Agreement or within a reasonable time thereafter, Service Provider has established an account with the department of revenue and other state agencies, where required, for the service performed for the payment of all state taxes normally paid by employers and businesses and has registered for and received a unified business identifier number from the state of Washington; and
 - (6) By the effective date of this Agreement, Service Provider is maintaining a separate set of records that reflect all items of income and expenses of the services performed.
- C. Any and all employees of Service Provider, while engaged in the performance of any Work, shall be considered employees of only Service Provider and not employees of the City. Service Provider shall be solely liable for any and all claims that may or might arise under the Worker's Compensation Act on behalf of such employees or Service Provider, while so

engaged and for any and all claims made by a third party as a consequence of any negligent act or omission on the part of Service Provider's employees, while so engaged on any of the Work.

- D. Service Provider shall comply with all applicable provisions of the Fair Labor Standards Act and other legislation affecting its employees and the rules and regulations issued thereunder insofar as applicable to its employees and shall at all times save the City free, clear and harmless from all actions, claims, demands and expenses arising out of such act, and rules and regulations that are or may be promulgated in connection therewith.
 - E. Service Provider assumes full responsibility for the payment of all payroll taxes, use, sales, income, or other form of taxes (such as state and, city business and occupation taxes), fees, licenses, excises or payments required by any city, federal or state legislation which are now or may during the term of the Agreement be enacted as to all persons employed by Service Provider and as to all duties, activities and requirements by Service Provider in performance of the Work and Service Provider shall assume exclusive liability therefor, and meet all requirements thereunder pursuant to any rules or regulations that are now or may be promulgated in connection therewith.
14. **Employment/Conflict of Interest.** Service Provider warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Service Provider, to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for Service Provider, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the City shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee. Further, it is recognized that Service Provider may or will be performing professional services during the term of this Agreement for other parties; however, such performance of other services shall not conflict with or interfere with Service Provider's ability to perform the Work. Service Provider agrees to resolve any such conflicts of interest in favor of the City.
15. **Audits and Inspections.** At any time during normal business hours and as often as the City may deem necessary, Service Provider shall make available to the City for the City's examination all of Service Provider's records and documents with respect to all matters covered by this Agreement and, furthermore, Service Provider will permit the City to audit, examine and make copies, excerpts or transcripts from such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.
16. **City of Everett Business License.** Service Provider agrees to obtain a City of Everett business license prior to performing any work pursuant to this Agreement.
17. **State of Washington Requirements.** Service Provider agrees to register and obtain any State of Washington business licenses, Department of Revenue account and/or unified business identifier number as required by RCW 50.04.140 and 51.08.195 prior to performing any work pursuant to this Agreement.
18. **Compliance with Federal, State and Local Laws.** Service Provider shall comply with and obey all federal, state and local laws, regulations, and ordinances applicable to the operation of its business and to its performance of work hereunder.
19. **Compliance with the Washington State Public Records Act.** Service Provider acknowledges that the City is subject to the Public Records Act, chapter 42.56 RCW (the "Act"). All records owned, used or retained by the City are public records subject to disclosure unless exempt under the Act,

whether or not such records are in the possession or control of the City or Service Provider. Service Provider shall cooperate with the City so that the City may comply with all of its obligations under the Act. Within ten (10) days after receipt of notice from the City, Service Provider shall deliver to the City copies of all records relating to this Agreement or relating to the Work that the City determines qualify as the City's public records under the Act. If the City receives a public records request relating to this Agreement or relating to the Work, the City shall seek to provide notice to Service Provider at least ten (10) days before the City releases records pursuant to such public records request, but in no event will the City have any liability to Service Provider for any failure of the City to provide such notice. In addition to its other indemnification and defense obligations under this Agreement, Service Provider shall indemnify and defend the City from and against any and all losses, penalties, fines, claims, demands, expenses (including, but not limited to, attorney's fees and litigation expenses), suits, judgments, or damage arising from or relating to any failure of Service Provider to comply with this Section.

20. **Compliance with Grant/Loan Terms and Conditions.** Service Provider shall comply with any and all terms, conditions, terms and requirements of any federal, state or other agency grant or loan that wholly or partially funds Service Provider's work hereunder. If the grant or loan requires that the agency be a third party beneficiary to this Agreement, then the agency is a third party beneficiary to this Agreement.
21. **Equal Employment Opportunity.** Service Provider shall not discriminate against any employee, applicant for employment, or other person on the basis of race, color, religion, sex, age, disability, marital state, or national origin or other circumstance prohibited by applicable federal, state, or local law or ordinance. Service Provider shall comply with and shall not violate any applicable provisions of Chapter 49.60 RCW, Title VI of the Civil Rights Act of 1964, and all applicable federal, state, or local law or ordinance regarding non-discrimination.
22. **Waiver.** Any waiver by Service Provider or the City or the breach of any provision of this Agreement by the other party will not operate, or be construed, as a waiver of any subsequent breach by either party or prevent either party from thereafter enforcing any such provisions.
23. **Complete Agreement.** This Agreement contains the complete and integrated understanding and agreement between the parties and supersedes any understanding, agreement or negotiation whether oral or written not set forth herein.
24. **Modification of Agreement.** This Agreement may only be modified as provided in Section 8, or by a writing explicitly identified as a modification or amendment of this Agreement that is signed by authorized representatives of the City and Service Provider.
25. **Severability.** If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void, insofar as it is in conflict with said laws, and the remainder of the Agreement shall remain in full force and effect.
26. **Notices.**
 - A. Notices to the City shall be sent to the City Project Manager address in the Basic Provisions.
 - B. Notices to Service Provider shall be sent to its address in the Basic Provisions.
27. **Venue.** Venue for any lawsuit arising out of this Agreement shall be in the Superior Court of Snohomish County, Washington.
28. **Governing Law.** The laws of the State of Washington, without giving effect to principles of conflict of laws, govern all matters arising out of or relating to this Agreement.
29. **City Marks.** Service Provider will not use any trade name, trademark, service mark, or logo of the City (or any name, mark, or logo confusingly similar thereto) in any advertising, promotions, or otherwise, without the City's express prior written consent.

30. **No Personal Liability.** No officer, agent or employee of the City shall be personally responsible for any liability arising under this Agreement, whether expressed or implied, nor for any statement or representation made or in any connection with this Agreement.
31. **Federal Debarment.** Service Provider shall immediately notify the City of any suspension or debarment or other action that excludes Service Provider or any Service Provider subcontractor from participation in Federal contracting. Service Provider shall verify all subcontractors that are intended and/or used by Service Provider for performance of Work are in good standing and are not debarred, suspended or otherwise ineligible by the Federal Government. Debarment shall be verified at <https://www.epls.gov/eplsearch.do>. Service Provider shall keep proof of such verification within Service Provider records.
32. **Signature/Counterparts.** This Agreement and any amendment thereto may be signed in counterparts, each of which shall be deemed an original, and all of which, taken together, shall be deemed one and the same document. AdobeSign signatures are fully binding. Any ink, electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as an original signature.
33. **Standard Document.** This General Provisions document is a standard City form document. No changes by Service Provider are authorized to the General Provisions. Notwithstanding anything to the contrary in this Agreement, in the event that Service Provider makes unauthorized changes to the General Provisions, such changes are deemed to have never been made and the contract between the City and Service Provider is deemed to be the unchanged standard City form General Provisions in version stated below, regardless of whether the City signs this Agreement in a form that may contain the unauthorized changes.

END OF GENERAL PROVISIONS
(v.071423.1)

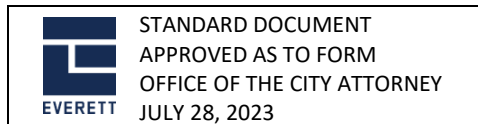


EXHIBIT A
PROFESSIONAL SERVICES AGREEMENT
(SCOPE OF WORK -- ATTACHED)

March 18, 2024
File No. 242023.009

Mr. Brad Chenoweth
City of Everett Parks & Facilities
802 E Mukilteo Blvd
Everett, WA 98203

Subject: Scope of Services - TA Sullivan Park Float Repair Package

Dear Mr. Chenoweth,

Thank you for considering Reid Middleton to provide professional engineering services for the Float Repair Package development for TA Sullivan Park floating dock facilities in Everett, Washington. We look forward to continue working with you on this project.

A. PROJECT UNDERSTANDING

In December 2023, and on behalf of the City of Everett Parks & Facilities (City), an assessment report for the three existing floats at TA Sullivan Park was completed by Reid Middleton. This assessment identified immediate, short-term repairs recommended for these facilities. In subsequent discussions, the City would like to have Reid Middleton prepare a repair design package, including drawings and associated specifications, based on the assessment report and recommended repairs that the City can distribute to contractors for bid.

In addition to the assessment report's recommended repairs, the City also has noted that Float 1 has come loose from its shore end moorage and drifted over to Float 2. Float 1 is currently tied off with rope to Float 2 to secure it in place, so re-establishing Float 1 and re-setting the gangway on Float 1 will need to be included in the repair package.

B. SCOPE OF SERVICES

1. Information Review & Kickoff Meeting

Reid Middleton will review the assessment report, float repair recommendations, and site photos regarding Float 1 moorage and gangway. Reid Middleton will attend a kickoff meeting (virtual) with the City to coordinate the repair package elements and schedule.

2. Repair Package Development

Reid Middleton will prepare a repair package for the City. This will include repair drawings (based on the previously repaired float assessment drawings) for each of the three floating docks, as well as several specification sections (concrete repair, timber

repair, temporary erosion & sedimentation control, etc.). Specifications will be prepared in CSI format. A cost estimate for repairs (Engineer's Estimate) will also be prepared.

One (virtual) comment and review meeting will be held with the City after the Draft Repair Package. After the City comment and review meeting, Reid Middleton will finalize the repair package and submit the final package (drawings, specification sections, and engineer's estimate) to the City.

Repair Package Deliverables:

- Draft Repair Package including drawings, specifications, and cost estimate, PDF format.
- Final Repair Package including drawings, specifications, and cost estimate, PDF format.

3. Construction Phase Services

- a. Answer questions prior to the preconstruction meeting.
- b. Attend a preconstruction meeting at the project site.
- c. Respond to Requests for Information
- d. Perform two site observations during construction.
- e. Review technical submittals including material and shop drawing submittals.
- f. Perform a punchlist walkthrough of the site.
- g. Attend telephone coordination calls as requested.

4. Schedule

Reid Middleton will prepare and submit the Draft Repair Package within 4 weeks of the Kickoff Meeting. The City review of the Draft Repair Package is assumed to be 2 weeks. Reid Middleton will prepare and submit the Final Repair Package within 3 weeks after the City comment and review meeting.

5. Additional services requested by the City of Everett Parks & Facilities

Reid Middleton can provide additional services that are beyond the scope of services described in Section B, Items 1 thru 2, at client request with contract amendment(s). A new schedule will be provided with any contract amendment(s).

6. Assumptions

- No onsite visits or in-person meetings required for repair package development.
- Bidding services are not included. These can be added as additional contract amendment(s) if requested.
- This scope excludes attendance at weekly onsite construction meetings.

- Additional construction site visits can be added as additional contract amendment(s) if requested.

7. Exclusions

- Topographic or hydrographic survey
- Eelgrass and other habitat surveys, cultural resource surveys and other environmental documentation
- In-water soil exploration or any other geotechnical explorations. These can be provided as additional services.
- Underwater (dive) assessment or testing for existing anchors
- Permitting assistance and/or tracking (WDFW, City, etc.)
- Analysis of structural load-carrying capacities

C. PERIOD OF PERFORMANCE

Reid Middleton will begin services upon receipt of a signed agreement, will make every reasonable effort to complete the services in a timely manner considering the needs of the project, and will complete the project prior to July 19, 2024.

D. CLIENT'S RESPONSIBILITIES

City of Everett Parks & Facilities shall provide available pertinent data, site access, documents, and other information to Reid Middleton as necessary to complete the services outlined in Section B above.

E. COMPENSATION

1. For services described in Sections A and B, Reid Middleton shall be paid on an hourly basis as outlined in the Estimate of Professional Services. We estimate the fee for this portion of the services to be Thirty-Three Thousand Seven Hundred Dollars (\$33,700).

F. REID MIDDLETON STAFF

Blaine McRae will be the project manager primarily responsible for this job. However, other individuals at Reid Middleton will work on aspects of your project as required.

Mr. Brad Chenoweth
City of Everett Parks & Facilities
March 18, 2024
File No. 242023.009
Page 4

If you have any questions or comments, please contact Blaine McRae, bmcrae@reidmiddleton.com, or myself.

Sincerely,

Reid Middleton, Inc.

A handwritten signature in black ink, appearing to read 'Willy Ahn', with a large, sweeping flourish extending to the right.

Willy Ahn, Ph.D., PE
Director, Waterfront Group

Estimate of Professional Services

728 134th Street SW, Suite 200
 Everett, WA 98204
 (425) 741-3800
 (425) 741-3900 FAX

PROJECT: TA Sullivan
 CLIENT: City of Everett Parks & Facilities
 PROJ. NO: 242023.009.000
 FILE: H:\24WFA2023\009 TA Sullivan Floats Assessment & Concept Options\Contract\Amend 2 Float Repair Package\2024 03

BY: BGM
 DATE: 3/18/2024

Chkd by: KEL 3/18/24

| | | Principal | PM / Senior Engineer | Senior Designer | Design Technician | Project Administrator | Technical Writer II | Total Labor hours | Total Labor Earnings | Computer | | Mileage | Total Reimb | Labor & Reimb |
|--|---|------------------|----------------------|-----------------|-------------------|-----------------------|---------------------|-------------------|----------------------|----------------------------------|------|----------|--------------|---------------|
| Hourly Rate: | | \$285 | \$196 | \$190 | \$158 | \$134 | \$152 | | | hrs | \$12 | \$0.66 | 10% | |
| Task No. | Description | WWA | JJS | BGM | DJO | KL | EHW | | | | | per mile | for Expenses | |
| 001 | Information Review & Kickoff Meeting | | | | | | | | | | | | | |
| 00101 | Kickoff meeting (virtual meeting) | | 1 | 1 | | | | 2 | 386 | | 0 | | 0 | 386 |
| 00102 | Information review | | 2 | 2 | | | | 4 | 772 | | 0 | | 0 | 772 |
| 00103 | Project setup | 1 | | 1 | | 2 | | 4 | 743 | | 0 | | 0 | 743 |
| | Subtotal Task 001 | 1 | 3 | 4 | 0 | 2 | 0 | 10 | 1,901 | 0 | 0 | 0 | 0 | 1,901 |
| 002 | Repair Package Development | | | | | | | | | | | | | |
| 00201 | Draft Repair Package Development (Drawings & Specs) | 1 | 16 | 12 | 8 | | 8 | 45 | 8,181 | | 0 | | 0 | 8,181 |
| 00202 | Draft Cost Estimate Preparation | | 1 | 8 | | | | 9 | 1,716 | | 0 | | 0 | 1,716 |
| 00203 | City Review Meeting, Review & Address Comments | 1 | 4 | 4 | | | | 9 | 1,829 | | 0 | | 0 | 1,829 |
| 00204 | Final Repair Package Development | 2 | 12 | 12 | 8 | | 4 | | | | | | | |
| 00205 | Final Cost Estimate Preparation | | 1 | 4 | | | | 5 | 956 | | 0 | | 0 | 956 |
| 00206 | QA/QC, PM | 4 | 2 | 2 | | 2 | | 10 | 2,180 | | 0 | | 0 | 2,180 |
| | Subtotal Task 002 | 8 | 36 | 42 | 16 | 2 | 12 | 116 | 21,936 | 0 | 0 | 0 | 0 | 21,936 |
| 003 | Construction Administration | | | | | | | | | | | | | |
| 00301 | Answer Questions | | 2 | 2 | | | | 4 | 772 | | 0 | | 0 | 772 |
| 00302 | Preconstruction Meeting | | 4 | 4 | | | | 8 | 1,544 | | 0 | | 0 | 1,544 |
| 00303 | RFIs | | 3 | 3 | | | | 6 | 1,158 | | 0 | | 0 | 1,158 |
| 00304 | Site Visits, two (2) total | | 8 | | | | | 8 | 1,568 | | 0 | | 0 | 1,568 |
| 00305 | Technical Submittal Review | | 4 | 4 | | | | 8 | 1,544 | | 0 | | 0 | 1,544 |
| 00306 | Punchlist Walkthrough | | 4 | | | | | 4 | 784 | | 0 | | 0 | 784 |
| 00307 | Telephone Coordination Calls | | 2 | 2 | | | | 4 | 772 | | 0 | | 0 | 772 |
| 00308 | PM, QA/QC | 2 | 2 | 4 | | | | 8 | 1,722 | | 0 | | 0 | 1,722 |
| | Subtotal Task 003 | 2 | 29 | 19 | 0 | 0 | 0 | 50 | 9,864 | 0 | 0 | 0 | 0 | 9,864 |
| | TOTAL HOURS | 11 | 68 | 65 | 16 | 4 | 12 | 176 | 33,701 | 0 | 0 | 0 | 0 | 33,701 |
| | SubTotal Cost | 3,135 | 13,328 | 12,350 | 2,528 | 536 | 1,824 | | 33,701 | | | | | |
| Percent of Total Hours | | 6% | 39% | 37% | 9% | 2% | 7% | | | | | | | |
| Assumptions | | Project Duration | | 2 | | | | | | | | | | |
| Hours and rates shown are for estimating purposes only. The actual number of hours charged to the project and personnel used may vary. Hours worked will be billed using the rates, personnel categories, and terms identified in Exhibit A. | | | | | | | | | | Inflation Factor | | | | 4% |
| | | | | | | | | | | % of Work after July 1 | | | | 0% |
| | | | | | | | | | | Inflation Adj. on Labor and Exp. | | | | -1 |
| | | | | | | | | | | Contingency/Rounding | | | | |
| | | | | | | | | | | NOT TO EXCEED TOTAL | | | | 33,700 |

EXHIBIT B
PROFESSIONAL SERVICES AGREEMENT

**SELECT ONE OF THE FOLLOWING METHODS OF COMPENSATION, EACH OF WHICH IS
SUBJECT TO THE MAXIMUM COMPENSATION AMOUNT**

- ☒ **HOURLY RATE.** The City shall pay Service Provider a sum equal to the amount of hours actually worked multiplied by the rate identified below for staff performing the Work.

| Name | Title | Rate |
|-------------|---------------------|------------|
| As Assigned | Principal 1 | \$285 |
| As Assigned | PM/Sr. Engineer | \$196 |
| As Assigned | Senior Designer | \$190 |
| As Assigned | Design Tech | \$158 |
| As Assigned | Project Admin | \$134 |
| As Assigned | Technical Writer II | \$152 |
| enter name | enter title | enter rate |

If there are more staff than rows in the table above, then those staff names, titles, and rates shall be provided in the Scope of Work.

- ☐ **PROGRESS PAYMENTS.** The City shall pay Service Provider the following amounts upon the completion of the following tasks.

| Task | Amount Paid on Task Completion |
|------------|--------------------------------|
| enter task | enter amount |
| enter task | enter amount |
| enter task | enter amount |
| enter task | enter amount |
| enter task | enter amount |
| enter task | enter amount |
| enter task | enter amount |

If there are more tasks than rows in the table above, then those tasks and payment amounts shall be provided in the Scope of Work.

- ☐ **LUMP SUM.** The City shall pay Service Provider \$ enter amount upon the completion of the Work.

- ☐ **METHOD CONTAINED IN SCOPE OF WORK.** The City shall pay Service Provider as set forth in the Scope of Work.

- ☐ **METHOD CONTAINED IN ATTACHED PAGE(S).** The City shall pay Service Provider as set forth in the spreadsheets or other documents attached to this Exhibit B.

Project title: An ORDINANCE relating to Amendments to the City's Procurement Policy, Amending Ordinance 3781- 20

Council Bill #

CB 2404-01

Agenda dates requested:

Briefing 05/01/2024

Proposed action 05/08/2024

Consent

Action 05/15/2024

Ordinance X

Public hearing

Yes X No

Budget amendment:

Yes X No

PowerPoint presentation:

X Yes No

Attachments:

Ordinance

Department(s) involved:

Finance

Contact person:

Susy Haugen

Phone number:

(425) 257-8612

Email:

shaugen@everettwa.gov

Initialed by:

sh

Department head

Administration

Council President

Project: Procurement Policy Amendments

Partner/Supplier: N/A

Location: N/A

Preceding action: Ordinance [3781-20](#)

Fund: N/A

Fiscal summary statement: None

Project summary statement: In 2020, the City Council adopted the City's Procurement Policy via Ordinance 3781-20. That Policy allows for revisions, additions and deletions to the Policy by the Mayor. Since the 2020 adoption, with recommendation by the Finance Department, the Mayor has approved certain administrative amendments, mostly updates required by law, clarifications, conforming processes to existing practices, and other technical matters. The [Procurement Policy updated with those amendments](#) is publicly available on the Procurement Division's website at <https://www.everettwa.gov/319/Procurement>.

This proposed ordinance would adopt three substantive, policy-related amendments to the Procurement Policy concerning relatively small procurements, for three key reasons:

- These procurements represent the bulk of procurements in number, and so processes associated with them can cumulatively cause significant staff burden.
- In addition, dollar thresholds related to small procurements can become outdated quickly in today's inflationary environment.
- Small procurements represent opportunities for small business, which may be helped by streamlining processes.

The three proposed amendments in the ordinance are:

Ordinance Section 1 (Small Works Roster). The City, like most Washington public agencies, uses a small works roster for projects less than \$350,000. Effective July 1, 2024, the Legislature revised the small works statute to now include an optional process to allow streamlined direct negotiation with small businesses and others. The proposed amendment would change the Procurement Policy to allow the City to use this new process.

Ordinance Section 2 (Departmental Solicitation). The Procurement Policy states that for non-public works procurements, the Procurement Division may informally solicit quotes. This amendment changes the Procurement Policy to allow this solicitation to be done also by City departments for procurements between \$10,000 and \$100,000, instead of this administrative work being solely shouldered by the Procurement Division.

Ordinance Section 3 (PSAs). The Procurement Policy states that PSAs with an annual value of greater than \$50,000 must be approved by City Council. This proposed amendment would raise that threshold to \$100,000, matching the threshold used by other cities, including Auburn, Lake Stevens, Lynnwood, Marysville, and Renton.

Recommendation (exact action requested of Council): Adopt ordinance relating to Amendments to City's Procurement Policy, Amending Ordinance 3781-20.



ORDINANCE NO. _____

An ORDINANCE relating to Amendments to the City's Procurement Policy, Amending Ordinance 3781- 20

WHEREAS,

A. In 2020, the City Council adopted Ordinance 3781-20, which adopted the City's Procurement Policy. The Procurement Policy states in its Section 15 that the Mayor may make amendments to Procurement Policy, and the Mayor has made certain administrative amendments since 2020. The Procurement Policy, as updated by those amendments, is available for reference on the Procurement Division's public website.

B. Other amendments to the Procurement Policy regarding small procurements are in the public interest and adopted by City Council with the ordinance, all as set forth below.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. A new section is added to Section 8 of the Procurement Policy as follows:

Effective July 1, 2024, the City may use the small works roster processes contained in RCW 39.04.152, including the processes in RCW 39.04.152(b) for small public works projects with an estimated cost less than \$150,000 for the purpose of increasing the utilization of small businesses.

On recommendation from the Finance Department, the Mayor will add subsections to this new section in the Procurement Policy as necessary for implementation. These subsections may include processes, procedures, and references to new standard small works forms. RCW 39.04.152 will not be implemented before the City establishes a "small, minority, women, and veteran-owned business utilization plan" as required by RCW 39.04.152(b).

Section 2. A new section is added to Section 7 of the Procurement Policy:

When a City department requires a procurement with a cost estimate of \$10,000 to \$100,000 (including shipping but not including sales tax), the department may use this section for solicitation of quotations from suppliers instead of the Procurement Division administering the solicitation. The department must obtain at least three competitive quotations. The departments must demonstrate due diligence to ensure eligible small business suppliers are invited to provide quotations. To the extent practical, departments using this section must equitably distribute opportunities among qualified suppliers.

On recommendation from the Finance Department, the Mayor will add subsections to this new section

in the Procurement Policy as necessary for implementation. These subsections may include processes, procedures, and references to new standard quotation forms.

Section 3. Section 1.9.7 of the Procurement Policy is amended by replacing “\$50,000” with “\$100,000”, so that Section 1.9.7 reads as follows:

1.9.7 PROFESSIONAL OR SPECIAL PERSONAL SERVICES AGREEMENTS

Professional or Special Personal Services Agreements and Amendments that are not the result of a competitive solicitation and have an estimated or actual annual value greater than \$100,000 must be awarded or approved by City Council. The limit may be lowered on a case-by-case basis at the Mayor’s discretion or comprehensively by Mayoral Directive. See the definition for Special Personal Service in Section 2.

Architectural and Engineering Services are governed by Section 7.5.

Section 4. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance, including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 5. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 6. The enactment of this Ordinance shall not affect any case, proceeding, appeal, or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 7. It is expressly the purpose of this Ordinance to provide for and promote the health, safety, and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees, or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST:

Marista Jorve, City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____



City Council Agenda Item Cover Sheet

Project title: An Ordinance relating to Ambulance and Emergency First Aid Services, repealing, amending, and recodifying certain sections of Chapter 5.72 of the Everett Municipal Code.

Council Bill # *interoffice use*

CB 2404-02

Agenda dates requested:

1st Reading 5/08/24

2nd Reading 5/15/24

Consent

Action 5/22/24

Ordinance X

Public hearing

Yes X No

Budget amendment:

Yes X No

PowerPoint presentation:

Yes X No

Attachments: Ordinance

Department(s) involved:

Finance/Legal

Contact person:

Susy Haugen

Phone number:

X8612

Email:

shaugen@everettwa.gov

Project: Amending Ordinance

Partner/Supplier: NA

Location: N/A

Preceding action:

Fund:

Fiscal summary statement:

There is no fiscal impact.

Project summary statement:

Chapter 5.72 EMC contains ambulance licensing provisions that have never been used. This ordinance will repeal those sections.

Chapter 5.72 EMC also contains sections about Emergency Medical Services (EMS). Those sections do not belong in Title 5, which concerns business licenses. This ordinance will move those sections without amendment to a new EMC chapter 3.82, which will be entitled "Emergency Medical Services."

This ordinance also updates transport fees in EMC 5.72.210 (to be recodified as EMC 3.82.090).

Recommendation (exact action requested of Council):

Adopt Ordinance relating to Ambulance and Emergency First Aid Services, repealing, amending, and recodifying certain sections of Chapter 5.72 of the Everett Municipal Code.

Initialed by:

sh

Department head

Administration

Council President



ORDINANCE NO. _____

AN ORDINANCE relating to Ambulance and Emergency First Aid Services, repealing, amending, and recodifying certain sections of Chapter 5.72 of the Everett Municipal Code.

WHEREAS,

- A.** Chapter 5.72 EMC contains outdated licensing requirements for ambulances and first aid services, which have not been used by many years. One purpose of this ordinance is to repeal those.
- B.** Chapter 5.72 EMC also contains other provisions related to the fire department and EMS services that do not belong in Title 5. The second purpose of this ordinance is to move those sections to an appropriate title of the Everett Municipal Code.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. The following sections of chapter 5.72 EMC are repealed:

- 5.72.020 (Title-Gender);
- 5.72.030 (Licenses required for ambulance service and certain emergency aid services);
- 5.72.040 (License not transferable);
- 5.72.050 (Required ambulance equipment—Response time);
- 5.72.060 (Standards for ambulance license—Liability insurance);
- 5.72.080 (Standards for ambulance company, ambulance attendant/emergency medical technician license);
- 5.72.090 (Expiration and renewal of license).
- 5.72.100 (Denial, revocation or suspension of license).
- 5.72.110 (Reports)
- 5.72.130 (Emergency medical system);
- 5.72.170 (Penalties);
- 5.72.180 (General Duty).

Section 2. EMC 5.72.210 (which also shall be recodified as EMC 3.82.090) is amended as follows:

5.72.210 Operation and funding.

The following procedures are established for users of the city's fire department ALS and BLS

patient transport service:

A. *Charges to Be Made.* All persons who are transported by fire department emergency paramedic/aid unit shall be charged for all services rendered by the fire department. Each person transported will be billed for all services provided. EMS members and nonmembers, as defined in subsection B of this section, shall be billed at the same rate.

B. *EMS Membership Benefits.* By reason of property tax levies under RCW [84.52.069](#) for EMS, which are levied against property within the corporate limits of the city or are levied against property within the corporate limits of a jurisdiction for which the city has assumed contractual EMS responsibility, each resident of the city and those of contractual jurisdictions, by signing (by recipient or authorized representative) a city-approved EMS membership form containing an assignment of benefits to the city, together with an appropriate release of medical information, shall become an EMS member and be entitled to membership benefits as herein provided. An EMS member receiving transport by the fire department unit shall be deemed to have paid (by reason of the special levy imposed under RCW [84.52.069](#)) that portion of the charges incurred which is not payable by third parties and insurers, including but not limited to any insurance or medical benefits of any nature available to such member. This EMS membership benefit of coverage of charges in excess of available insurance or medical benefits shall cease when or if:

1. A member ceases to be a resident;
2. A member refuses to provide requested information pertaining to third party coverage or to provide appropriate releases of information and assignment of benefit to the city on forms provided by the city; or
3. Such EMS membership benefit is limited or extinguished by amendment or repeal of this chapter.

C. *Nonmembers.* Persons receiving transport by fire department units who are not entitled to an EMS membership shall be required to pay all charges incurred. Where practical, the city, in accordance with procedures to be approved by the finance department, will, with the authorization of a nonmember receiving fire department transport services, first seek payment of charges incurred from such nonmember's insurance or other medical benefit provided. Such nonmember shall remain fully responsible for any amount due which is not paid by such third parties.

D. *Medicare and Medicaid.* Eligible recipients of Medicare and Medicaid benefits shall be charged as the result of transport services by the fire department at only the maximum rate allowed under the Medicare and Medicaid federal programs, and the city shall accept as payment under the Medicare and Medicaid programs only such maximum amount as the city may collect pursuant to the applicable requirements and guidelines of the Medicare and Medicaid programs.

E. *Additions, Purchase, Compliance with Capital Facilities Plan.* Additions and purchases to and



for the fire department EMS and patient transport services shall be made in accordance with the city's budget as the same now exists or as it may hereafter be amended.

F. *Additions, Purchases, Financing.* The cost of making additions, or purchases to and for the fire department EMS and patient transport services, shall be paid from such sources and by such means as the city from time to time may direct, in accordance with state law and applicable regulations of the State Auditor.

G. *Emergency Medical Services Fund.* There shall be created and established in the city's budget a special fund, to be known and designated as the emergency medical services fund. There shall be deposited in the emergency medical services fund: (1) all revenues collected pursuant to the fire department transport service fees established and set forth in subsection N of this section; (2) all revenues collected pursuant to any contract and/or agreement to provide all or a portion of the fire department transport service; (3) appropriations from the city, the county, state and federal government; and (4) such other funds as may be received for the use for fire department transport service. The emergency medical services fund shall be administered in accordance with the state laws and applicable regulations of the State Auditor.

H. *Assistance from Other Funds.* Assistance for fire department EMS and transport services from other funds shall be accounted for in accordance with state law, applicable regulations of the State Auditor, and in accordance with RCW [36.32.470](#).

I. *Fire Department Transport Service Fees and Rates.* Fees for users of the city fire department transport service shall be fixed from time to time at the rates as set by ordinance of the city as amended from time to time; provided, that the fire department may adjust the charges fixed by ordinance yearly for any cost-of-living adjustment (COLA) increase as measured by the Consumer Price Index Pacific Cities and U.S. Cities average for the Seattle-Tacoma-Everett areas; and provided, that the fire chief is authorized to administratively set rates for medical supplies. Rates for services and medical supplies shall be set to provide for recovery of actual costs based upon an average charge, which will be reviewed annually.

J. *Use of Emergency Medical Services Fees.* All proceeds derived from the fire department transport service fees authorized under this section shall be used solely for the operation, maintenance, and capital needs of fire department transport service.

K. *Billing of Emergency Medical Services Fees.* Each patient who utilizes the fire department transport service shall be billed by the city in accordance with the fee schedule adopted in subsection N of this section. The department of finance shall establish a procedure to bill and collect fire department transport service fees for the services rendered. Under the procedure, the city may elect to bill the patient directly or bill the patient's insurance company. If the patient's insurance does not cover all of the cost of the ambulance service, the city will bill the remaining balance to the patient directly. The city may contract with a public or private entity to bill and collect the fire department transport service fees.

L. *Civil Enforcement.* The fire department transport service fees imposed by this section may be collected by appropriate civil action instituted by the city attorney for that purpose.

M. *Fee Determination Criteria.* Fire department transport service fees shall be set at a level to cover the actual costs incurred by the city in providing the fire department transport service. It is the intent of the city that fire department transport service fees shall be charged in exchange for targeted fire department transport service that alleviates the burden placed on such service by its users. In classifying customers served, or ALS, or BLS fire department transport service, the city may, in its discretion, consider any or all of the following factors: the difference in cost of service to various customers; the location of the various customers within the city; the difference of cost of maintenance, operation, repair and replacement of the various equipment used for fire department transport service; the different character of service furnished various customers; and any other criteria or matters which constitute a reasonable ground for distinction.

N. *Fire Department Transport Fee Imposed.* Fire department transport fees shall be as follows:

1. Patients for whom the fire department provides ALS 1 transport shall be billed ~~eight hundred ninety dollars~~ one thousand and thirty nine dollars and thirty two cents (\$1039.32) per transport, the cost of the medical supplies used in the transport, and ~~eighteen dollars and fifty cents~~ twenty-one dollars and sixty cents (\$21.60) per mile. For the purposes of this subsection, "ALS 1" means the following:

Transportation by ground ambulance vehicle and the provision of medically necessary supplies and services, including the provision of an ALS assessment or at least one ALS intervention, which means a procedure that is, pursuant to state and local laws, beyond the scope of practice of an emergency medical technician—basic (EMT—basic).

2. Patients for whom the fire department provides ALS 2 transport shall be billed ~~nine hundred eighty dollars~~ one thousand one hundred forty-four dollars and forty-two cents (\$1144.42) per transport, the cost of the medical supplies used in the transport, and ~~eighteen dollars and fifty cents~~ twenty-one dollars and sixty cents (\$21.60) per mile. For the purposes of this subsection, "ALS 2" means as follows:

Transportation by ground ambulance vehicle and the provision of medically necessary supplies and services including either:

- a. At least three separate administrations of one or more medications by intravenous push/bolus or by continuous infusion in accordance with approved protocols, including, but not limited to, the American Heart Association Advanced Cardiac Life Support (ACLS) protocol; or
- b. At least one of the following ALS 2 procedures:
 - (1) Manual defibrillation/cardioversion;
 - (2) Endotracheal intubation;



- (3) Central venous line;
- (4) Cardiac pacing;
- (5) Chest decompression;
- (6) Surgical airway; or
- (7) Intraosseous line.

3. Patients for whom BLS transport is provided by the fire department shall be billed seven hundred ninety four dollars and eight cents (\$794.08) ~~six hundred eighty dollars~~ per transport, the cost of the medical supplies used in the transport, and ~~eighteen dollars and fifty cents~~ twenty-one dollars and sixty cents (\$21.60) per mile. For the purposes of this subsection, “BLS” means as follows:

Transportation by ground ambulance vehicle and the provision of medically necessary supplies and services involving noninvasive emergency medical services requiring basic medical treatment skills. The ambulance must be staffed by an individual who is qualified, pursuant to state and local laws, to be an emergency medical technician—basic (EMT—basic).

4. The fire chief is authorized to administratively set the cost of medical supplies. A current list of such costs is available at the fire department.

5. The rates and fees in this subsection N are effective until June 30, 2024. The fire chief, in accordance with subsection I above, will increase these rates and fees effective each July 1 thereafter.

O. *Compliance with Medicare and Medicaid Requirements.* This chapter and the fire department transport service fees hereunder shall be construed and implemented in a manner consistent with applicable Medicare and Medicaid requirements. If any part of this chapter is found to conflict with Medicare and Medicaid requirements, the conflicting part of this chapter shall be inoperative to the extent of the conflict and such finding or determination shall not affect the operation of the remainder of this chapter

Section 3. The following sections of chapter 5.72 EMC shall be recodified as a new chapter 3.82 EMC entitled “Emergency Medical Services” as follows:

| Current Code Section | New Code Section |
|---|---|
| 5.72.010 (Definitions) | 3.82.010 (Definitions) |
| 5.72.070 (Duties of fire chief) | 3.82.020 (Duties of fire chief) |
| 5.72.120 (City emergency medical services director) | 3.82.030 (City emergency medical services director) |

| | |
|---|---|
| 5.72.140 (Emergency medical response) | 3.82.040 (Emergency medical response) |
| 5.72.150 (Ambulance contract) | 3.82.050 (Ambulance contract) |
| 5.72.160 (Training) | 3.82.060 (Training) |
| 5.72.190 (Findings and declaration) | 3.82.070 (Findings and declaration) |
| 5.72.200 (Fire department EMS transportation) | 3.82.080 (Fire department EMS transportation) |
| 5.72.210 (Operation and funding) | 3.82.090 (Operation and funding) |
| 5.72.220 (Additional funding) | 3.82.100 (Additional funding) |

Section 3. The following is provided for reference and may not be complete:

| EMC Repealed/Recodified by this Ordinance | Ordinance History of EMC Repealed/Recodified by this Ordinance |
|--|---|
| EMC 5.72.010 | (Ord. 2792-04 § 2, 2004; Ord. 2308-98 § 1, 1998.) |
| EMC 5.72.020 | (Ord. 2308-98 § 2, 1998.) |
| EMC 5.72.030 | (Ord. 3206-10 § 1, 2010; Ord. 2308-98 § 3, 1998.) |
| EMC 5.72.040 | (Ord. 2308-98 § 4, 1998.) |
| EMC 5.72.050 | (Ord. 2308-98 § 5, 1998.) |
| EMC 5.72.060 | (Ord. 2308-98 § 6, 1998.) |
| EMC 5.72.070 | (Ord. 2308-98 § 7, 1998.) |
| EMC 5.72.080 | (Ord. 2308-98 § 8, 1998.) |
| EMC 5.72.090 | (Ord. 2308-98 § 9, 1998.) |
| EMC 5.72.100 | (Ord. 2308-98 § 10, 1998.) |
| EMC 5.72.110 | (Ord. 2308-98 § 11, 1998.) |
| EMC 5.72.120 | (Ord. 2308-98 § 12, 1998.) |
| EMC 5.72.130 | (Ord. 2308-98 § 13, 1998.) |
| EMC 5.72.140 | (Ord. 2308-98 § 14, 1998.) |
| EMC 5.72.150 | (Ord. 3206-10 § 2, 2010; Ord. 2308-98 § 15, 1998.) |
| EMC 5.72.160 | (Ord. 2308-98 § 16, 1998.) |
| EMC 5.72.170 | (Ord. 2308-98 § 17, 1998.) |
| EMC 5.72.180 | (Ord. 2308-98 § 19, 1998.) |
| EMC 5.72.190 | (Ord. 2792-04 § 1, 2004; Ord. 2308-98 § 23, 1998.) |
| EMC 5.72.190 | (Ord. 2792-04 § 1, 2004; Ord. 2308-98 § 24, 1998.) |
| EMC 5.72.200 | (Ord. 2792-04 § 1, 2004; Ord. 2308-98 § 24, 1998.) |
| EMC 5.72.210 | (Ord. 3722-20 § 1, 2020; Ord. 3205-10 § 1, 2010; Ord. 3049-07 § 1, |

| | |
|--------------|---|
| | 2007; Ord. 2792-04 § 1, 2004; Ord. 2308-98 § 25, 1998.) |
| EMC 5.72.220 | (Ord. 2792-04 § 1, 2004; Ord. 2308-98 § 26, 1998.) |

Section 4. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 5. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 6. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 7. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST:

Marista Jorve, City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____



ORDINANCE



City Council Agenda Item Cover Sheet

Project title: AN ORDINANCE relating to special business licenses and regulations and repealing Chapters 5.20, 5.92, 5.96, and 5.102 of the Everett Municipal Code

Council Bill # *interoffice use*

CB 2404-03

Agenda dates requested:

Briefing

Proposed action 5/8/24

Proposed action 5/15/24

Consent

Action 5/22/24

Ordinance X

Public hearing

Yes X No

Budget amendment:

Yes X No

PowerPoint presentation:

Yes X No

Attachments:

Ordinance

Department(s) involved:

Finance/Legal

Contact person:

Susy Haugen

Phone number:

X8612

Email:

shaugen@everettwa.gov

Initialed by:

Sh

Department head

Administration

Council President

Project: Amending Ordinance to Title 5 of the Everett Municipal Code

Partner/Supplier: NA

Location: NA

Preceding action:

Fund:

Fiscal summary statement:

No fiscal impact.

Project summary statement:

This amending ordinance modernizes Title 5 of the Everett Municipal Code by repealing obsolete sections.

| | |
|-------|---|
| 5.20 | Dancehalls |
| 5.92 | Garbage Removal |
| 5.96 | Massage Parlors, Body Painting Studios, and Public Bathhouses |
| 5.102 | Circuses, Carnivals, Amusement Centers, and Go-Kart Centers |

Recommendation (exact action requested of Council):

Adopt ordinance relating to special business licenses and regulations and repealing Chapters 5.20, 5.92, 5.96, and 5.102 of the Everett Municipal Code



ORDINANCE NO. _____

AN ORDINANCE relating to special business licenses and regulations and repealing Chapters 5.20, 5.92, 5.96 and 5.102 of the Everett Municipal Code.

WHEREAS,

- A.** Title 5 of the EMC contains the City's special business licenses and regulations.
- B.** Most were adopted more than 30 years ago and are obsolete. Many have been unused for many years, sometimes decades, and some may conflict with state law.
- C.** In particular, the following chapters of Title 5 are no longer needed:

| | |
|-------|---|
| 5.20 | Dancehalls |
| 5.92 | Garbage Removal |
| 5.96 | Massage Parlors, Body Painting Studios, and Public Bathhouses |
| 5.102 | Circuses, Carnivals, Amusement Centers, and Go-Kart Centers |

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Chapters 5.20, 5.92, 5.96, and 5.102 of the Everett Municipal Code are hereby repealed.

Section 2. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 3. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 4. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 5. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST:

City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____



City Council Agenda Item Cover Sheet

Project title: An Ordinance Relating to Admissions Tax, Repealing Chapter 3.20 of the Everett Municipal Code and Adopting a New Chapter 3.20 of the Everett Municipal Code.

Council Bill # *interoffice use*

CB 2404-04

Agenda dates requested:

Briefing

Proposed action:

1st & 2nd Readings: 5/8/24

Consent

Action

3rd reading: 5/15/24

Ordinance

Public hearing

Yes X No

Budget amendment:

Yes X No

PowerPoint presentation:

Yes X No

Attachments:

Ordinance

Department(s) involved:

Finance

Contact person:

Director

Phone number:

Email:

Initialed by:

sh

Department head

Administration

Council President

Project: Admissions Tax Ordinance

Partner/Supplier: NA

Location: N/A

Preceding action: N/A

Fund: N/A

Fiscal summary statement:

No fiscal impact

Project summary statement:

The Admissions Tax Ordinance was adopted over 50 years ago and requires significant updating and clarification.

Key updates include clarification of Admissions Tax exemptions, removal of conflicting provisions relating to golf and making the tax rate for all taxpayers 5%, and significant simplification of how the tax is applied and calculated.

The proposed code as revised will improve administration and be much easier for the public to understand and follow.

Recommendation (exact action requested of Council):

Adopt the Ordinance relating to Admissions Tax, repealing Chapter 3.20 of the Everett Municipal Code and Adopting a New Chapter 3.20 of the Everett Municipal Code.



ORDINANCE NO. _____

An Ordinance Relating to Admissions Tax, Repealing Chapter 3.20 of the Everett Municipal Code and Adopting a New Chapter 3.20 of the Everett Municipal Code.

WHEREAS,

- A. The admissions tax code, which is chapter 3.20 EMC, was adopted over 50 years ago and requires updating and clarification.
- B. The purpose of this ordinance is to replace the current chapter 3.20 EMC with a new chapter 3.20 EMC with updating and clarification.

NOW THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. The City Council hereby finds the foregoing recitals are adopted in support of this Ordinance.

Section 2. Chapter 3.20 EMC is hereby repealed and replaced with the Chapter 3.20 EMC as set forth in Exhibit A attached and incorporated herein.

Section 3. The City Clerk and codifiers of the ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 4. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or situation, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances. The City Council of the City of Everett hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof irrespective of the fact that any one or more sections, subsections, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 5. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 6. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST

City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

EXHIBIT A

EMC Chapter 3.20 ADMISSIONS TAX

- 3.20.010 Definitions.
- 3.20.020 Tax levied—Amount.
- 3.20.030 Tax not levied—Exemptions.
- 3.20.040 Collection of tax—Duties of collector—Returns required.
- 3.20.050 Registration with city clerk.
- 3.20.060 Penalty for violations.

3.20.010 Definitions.

For purposes of this chapter, these words and phrases shall have the following meanings:

- A. “Admission charge,” in addition to its usual and ordinary meaning, includes a charge made for season tickets or subscriptions; a cover charge or a charge made for use of seats and tables, reserved or otherwise, and similar accommodations; a required charge made for food and refreshments in lieu of a cover charge in any place where any entertainment, recreation, or amusement is provided; and a charge made for rental or use of equipment or facilities for purposes of recreation or amusement (provided that where the rental of the equipment or facilities is necessary to the enjoyment of the privilege for which a general admission is charged, the combined charge shall be considered as the admission charge).
- B. The “clerk” means the City clerk.
- C. A “place” can be either indoors or outdoors and includes, but is not limited to; theaters, auditoriums, music venues, drinking establishments, stadiums, athletic pavilions and fields, baseball and athletic parks, bowling alleys, golf courses, circuses, carnivals, swimming pools, and amusement parks.
- D. “Person” means any individual, receiver, assignee, firm, co-partnership, joint venture, corporation, company, joint stock association, society, entity, or any group of individuals acting as a unit, whether mutual, cooperative or fraternal. Regardless of the foregoing, when an individual or entity pays an admission charge to an organization recognized by the United States of America as exempt from federal income taxation pursuant to Section 501(c)(1) or (3) of the Internal Revenue Code, such paying individual or entity is not, as to that admission charge, a “person” for the purposes of this chapter.
- E. “Admissions tax” means the tax imposed under EMC 3.20.020 and this Chapter.

3.20.020 Tax levied—Amount.

Unless subject to exemption under EMC 3.20.030 or RCW 35.21.280 or successor law, there is levied and imposed, upon every person who pays an admission charge to any place, a tax of five percent paid for the admission charge.

3.20.030 Tax not levied—Exemptions.

- A. An admission charge \$5.00 or less is exempt from admissions tax.
- B. An admission charge for admission to the Regional Center owned, operated and maintained by the Everett Public Facilities District under Chapter 35.57 RCW, commonly referred to as the Everett Events Center, is exempt from admissions tax. This exemption includes exemption from admissions tax for any admission charge to paid to Everett Public Facilities District or paid to any person with whom the Everett Public Facilities District has either directly or indirectly contracted for the putting on of activities such as games, plays, performances, displays, or other similar activities in the Everett Events Center.
- C. Amounts paid to any person for initiation fees, or paid as dues on a membership basis in lieu of admissions charges for members, are exempt from admissions tax. However, admission charges paid by non-members are subject to admissions tax.
- D. Amounts paid to any person for admission by season ticket or subscription are exempt from admissions tax if the amount which would be charged to the season ticket holder or subscriber for a single admission is \$5.00 or less. Otherwise, amounts paid for admission by season ticket or subscription are subject to admissions tax.

3.20.040 Collection of tax—Duties of collector—Returns required—Administration.

- A. Admissions tax, unless exempted under this Chapter, shall be collected at the time an admission charge is paid by any person for admission to any place. The admissions tax shall be collected by the person receiving the admission charge and shall be held in trust until paid to the City.
- B. Any person required to collect admissions tax, unless exempted under this Chapter, who fails to collect such admissions tax shall be personally liable to the City for the amount of such tax and, unless remittance is made to the City as required by this Chapter, shall be guilty of a violation of this chapter in accordance with Chapter 3.19 EMC.
- C. Admissions tax collected by any person shall be reported and remitted by that person to the clerk in quarterly installments on a form(s) provided by the clerk.
- D. Any person, reasonably believed to be required to collect admissions tax, may be subject to an examination or audit by the clerk in accordance with EMC 3.19.060.

3.20.050 Registration with city clerk.

Any person conducting or operating any place which requires an admission charge for entry shall obtain a general business license from the clerk and shall indicate in its application for such license that admissions tax is likely to be collected by that person.

3.20.060 Administration.

This Chapter shall be administered in accordance with Chapter 3.19 of the Everett Municipal Code.



City Council Agenda Item Cover Sheet

Project title:

An Ordinance Closing the Special Construction Fund Entitled "Fire Station No.2 and Fire Station No.6 Additions and Alterations", Fund 342, Program 029, as Amended by Ordinance No. 3867-22.

Council Bill #

CB 2404-05

Agenda dates requested:**Briefing**

Proposed action 5/08/2024

Proposed action 5/15/2024

Consent

Action 5/22/2024

Ordinance ☒

Public hearing

Yes ☒ No

Budget amendment:

Yes ☒ No

PowerPoint presentation:

Yes ☒ No

Attachments:

Closing Ordinance

Department(s) involved:

Parks & Facilities
Fire

Contact person:

Bob Leonard

Phone number:

425-257-8335

Email:

BLEonard@everettwa.gov

Initialed by:

RML

Department head

Administration

Council President

Project: Fire Station No.2 and Fire Station No.6 Additions and Alterations

Partner/Supplier: Forma Construction and Burton Construction respectively

Location: 16th Street and Evergreen Way respectively

Preceding action: Ordinance No. 3867-22

Fund: Fund 342, Program 029 (CIP 1)

Fiscal summary statement:

The source of funds for Fire Station No. 2 and Fire Station No. 6 Additions and Alterations was Capital Improvement Program 1 (CIP-1) in the amount \$1,025,000. The project was completed at a total cost of \$999,276. All expenses have been paid. The remaining balance of \$25,724 will be transferred back to CIP 1.

The proposed Ordinance will close the special construction fund for the Fire Station No.2 and Fire Station No.6 Additions and Alterations. Ordinance No. 3709-19 provided an original funding amount of \$850,000 for construction costs of the project. Ordinance No. 3804-21 amended the original amount for an additional \$80,000 above the amount in the existing Ordinance in order to complete Fire Station No.2's phase 2 construction for the amended total amount of \$930,000. Ordinance No. 3867-22 amended the funding amount for an additional \$95,000 to capture costs due to supply chain issues which required construction materials to be acquired and warehoused minimizing the disruption to Fire Station No.2 construction phase for the amended total amount of \$1,025,000.

Project summary statement:

The alterations at Fire Station No.6 accomplished the goal of creating gender neutral restrooms and building renovations and improvements Phase 1 and 2 to Fire Station No.2, correcting deficiencies identified in the Facilities Condition Assessment. Construction was completed in early 2023.

All work has been completed to the satisfaction of the Parks and Facilities Department.

Recommendation (exact action requested of Council):

Adopt an Ordinance closing the Special Construction Fund entitled "Fire Station No.2 and Fire Station No.6 Additions and Alterations", Fund 342, Program 029, as amended by Ordinance No. 3867-22.

ORDINANCE NO. _____

An ORDINANCE closing the special construction fund entitled “Fire Station No.2 and Fire Station No.6 Additions and Alterations”, Fund 342, Program 029, as amended by Ordinance No. 3867-22.

WHEREAS,

- A.** The “Fire Station No. 2 and Fire Station No. 6 Additions and Alterations Project”, Fund 342, Program 029 was established to provide design and construction cost for the building renovations and improvements.
- B.** The City Council has recognized the need to remodel Fire Station No. 2 and Fire Station No. 6. located on 16th Street and Evergreen Way respectively.
- C.** Ordinance No. 3709-19 was established as Fund 342, Program 029 entitled “Fire Station No. 2 and Fire Station No. 6 Additions and Alterations” to accumulate the construction costs for the project in the amount of \$850,000.
- D.** Ordinance No. 3804-21 was established amending Ordinance 3709-19 entitled “Fire Station No.2 and Fire Station No.6 Additions and Alterations” Fund 342, Program 029, to accumulate the construction costs for the project in the amount of \$930,000.
- E.** Ordinance No. 3867-22 was established amending Ordinance 3804-21 entitled “Fire Station No.2 and Fire Station No.6 Additions and Alterations” Fund 342, Program 029, for an increase amount of \$95,000 to accumulate the construction costs for the project.
- F.** The purpose of the special improvement project has been accomplished.
- G.** There are neither outstanding obligations of the funds to be paid nor uncollected revenues to be received.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. That the fund entitled “Fire Station No. 2 and Fire Station No. 6 Additions and Alterations”, Fund 342, Program 029, as established by Ordinance No. 3867-22, be closed.

Section 2. That the final revenues and expenses for the “Fire Station No. 2 and Fire Station No. 6 Additions and Alterations”, Fund 342, Program 029, are as follows:

REVENUES

| | |
|----------------|--------------------|
| Fund 342 CIP 1 | <u>\$1,025,000</u> |
| Total | \$1,025,000 |

EXPENSES

| | |
|--------------|--------------------|
| Construction | \$999,276 |
| Transfer Out | <u>\$ 25,724</u> |
| Total | \$1,025,000 |

Section 3. That the remaining balance of \$25,724 be transferred to CIP 1.

Section 4. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 5. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 6. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 7. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST:

City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____



Project title: ORDINANCE Repealing and Replacing Chapter 14.42 of the Everett Municipal Code

Council Bill #

CB 2404-06

Agenda dates requested:

5/08/24, 5/15/24, 5/22/24

Briefing

Proposed action 5/8 & 5/15/24

Consent

Action 5/22/24

Ordinance ☒

Public hearing

Yes ☒ No**Budget amendment:**Yes ☒ No**PowerPoint presentation:**Yes ☒ No**Attachments:**

Ordinance

Department(s) involved:

Public Works

Contact person:

Jeff Marrs

Phone number:

(425) 257-8967

Email:

jmarrs@everettwa.gov

Initialed by:*RLS*

Department head

Administration

Council President

Project: 2024 Adoption of the new Chapter 14.42 EMC related to grease control**Partner/Supplier:** n/a**Location:** n/a**Preceding action:** 2008 Adoption of Chapter 14.42 EMC related to grease control under Ord. 3071-08**Fund:** n/a**Fiscal summary statement:**

This action item has no fiscal impact associated at this time.

Project summary statement:

Chapter 14.42 EMC regulates discharge of fats, oils and grease (FOG) into the Publicly Owned Treatment Works. To remain consistent with the proposed revisions to Chapter 14.40 EMC (Wastewater Pretreatment Regulations) Chapter 14.42 EMC (Grease Control) must be revised.

The Grease Control Ordinance was first adopted in 2008. The new Chapter 14.42 EMC addresses the combined sewer overflow requirements contained in Section 8 (S8.B.3) of the City's National Pollutant Discharge Elimination System (NPDES) permit. Additionally, the updated reflects current practices, regulations, city policies and coding.

The proposed Ordinance was available for a 30-day public comment period ending April 18, 2024.

Recommendation (exact action requested of Council):

Adopt An Ordinance relating to Uniform Requirements for Food Service Establishments (FSE) and non-FSE FOG dischargers of the Publicly Owned Treatment Works, repealing and replacing Ordinance 3071-08 (Chapter 14.42 EMC).



ORDINANCE NO. _____

An ORDINANCE relating to Grease Control Regulations, repealing Everett Municipal Code Chapter 14.42 and adopting a new Everett Municipal Code Chapter 14.42.

WHEREAS,

- A. The City Council deems it necessary to set forth uniform requirements for certain users of the City's publicly owned treatment works in order to comply with all applicable State and Federal laws and regulations.
- B. The City's grease control regulations, codified at Chapter EMC 14.42, were last amended in 2008, and the City recognizes the need to update these regulations.
- C. Washington State's Department of Ecology and the United States Environmental Protection Agency have reviewed and approved the requirements for users that discharge fats, oils and grease to the City's publicly owned treatment works contained in this Ordinance.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Chapter 14.42 EMC is hereby repealed in its entirety. For purposes of reference, chapter 14.42 EMC was adopted under Ord. 3071-08, 2008.

Section 2. A new chapter 14.42 EMC is hereby added to the Everett Municipal Code as set forth in Exhibit A. Permits issued under chapter 14.42 EMC adopted under Ord. 3071-08 shall hereafter be subject to the provisions of the new chapter 14.42 EMC attached as Exhibit A hereto.

Section 3. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 4. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 5. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 6. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST:

City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____



EXHIBIT A
TO GREASE CONTROL REGULATIONS ORDINANCE

CHAPTER 14.42 EMC

| Reference Table for Codification | |
|----------------------------------|--------------------------------------|
| Section Number in Attached Text | Code Section Number for Codification |
| 1.1 | 14.42.010 |
| 1.2 | 14.42.020 |
| 1.3 | 14.42.030 |
| 1.4 | 14.42.040 |
| 2.1 | 14.42.050 |
| 2.2 | 14.42.060 |
| 2.3 | 14.42.070 |
| 2.4 | 14.42.080 |
| 2.5 | 14.42.090 |
| 2.6 | 14.42.100 |
| 2.7 | 14.42.110 |
| 2.8 | 14.42.120 |
| 3 | 14.42.130 |
| 3.1 | 14.42.140 |
| 3.2 | 14.42.150 |
| 3.3 | 14.42.160 |
| 3.4 | 14.42.170 |
| 3.5 | 14.42.180 |
| 3.6 | 14.42.190 |
| 3.7 | 14.42.200 |
| 4.1 | 14.42.210 |
| 4.2 | 14.42.220 |
| 4.3 (New Section) | 14.42.225 |
| 5 | 14.42.230 |
| 6.1 | 14.42.240 |
| 6.2 | 14.42.250 |
| 6.3 | 14.42.260 |
| 6.4 | 14.42.270 |
| 6.5 | 14.42.280 |
| 6.6 | 14.42.290 |
| 6.7 | 14.42.300 |
| 6.8 | 14.42.310 |
| 6.9 | 14.42.320 |
| 7.1 | 14.42.330 |
| 7.2 | 14.42.340 |
| 7.3 | 14.42.350 |
| 7.4 | 14.42.360 |
| 8.1 | 14.42.370 |
| 8.2 | 14.42.380 |

| Reference Table for Codification | |
|----------------------------------|--------------------------------------|
| Section Number in Attached Text | Code Section Number for Codification |
| 8.3 | 14.42.390 |
| 8.4 | 14.42.400 |
| 8.5 | 14.42.410 |
| 8.6 | 14.42.420 |
| 9.1 | 14.42.430 |
| 9.2 | Not Used |
| 9.3 | 14.42.450 |
| 10.1 | 14.42.460 |
| 10.2 | 14.42.470 |

Grease Control

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SECTION 1 - GENERAL PROVISIONS

1.1 *Purpose and Policy*

This ordinance sets forth uniform requirements for Food Service Establishments (FSEs) and Non-FSE FOG Dischargers (NFDs), collectively Fats, Oils and Greases (FOG) dischargers, that discharge wastewater to the City of Everett Publicly Owned Treatment Works (POTW). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the POTW by FOG dischargers that will interfere with the operation of the POTW;
- B. To prevent the introduction of pollutants into the POTW by FOG dischargers that will cause Combined Sewer Overflows (CSOs) or Sanitary Sewer Overflows (SSOs);
- C. To protect the environment from pollution caused by CSOs and SSOs;
- D. To adequately regulate the sale and use of additives added to Grease Removal Systems (GRSs).
- E. To assist users with efficient operation and maintenance of pretreatment equipment and facilities to maintain consistent compliance with the ordinance.

This ordinance shall apply to all non-residential users as defined herein as FSEs or NFDs, except those defined as Significant Industrial Users under 40CFR403, that discharge or may discharge excess Fats, Oils and Greases (FOG) to the POTW. The ordinance authorizes inspection and regulation of these users; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user record keeping; provides for the issuance of control mechanisms if deemed necessary by the Director; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein if deemed necessary by the Director.

1.2 *Administration*

Except as otherwise provided herein, the Director shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other City of Everett personnel. The Director may create administrative guidelines to implement the provisions of this ordinance.

1.3 *Definitions*

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

- A. Accessible. Accessible, when applied to required pretreatment monitoring or treatment equipment, shall mean direct access without the necessity of removing any panel, door, landscaping, vehicle, equipment, materials, use of a ladder, or other similar obstruction.
- B. Additive. Any material, in any physical form, put into a Grease Removal System (GRS) or any drain lines or appurtenances discharging to a GRS intended in any way to modify the operation of the GRS or its captured and retained FOG.
- C. Administrative Penalty (fine). A punitive monetary charge unrelated to treatment cost, which is assessed by the Director rather than a court.
- D. Approval Authority. The state of Washington Department of Ecology.
- E. Authorized Representative of the User.
 - (1) If the user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (b) The manager of one or more facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility; initiate and direct measures to assure long-term compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for required reports; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
 - (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;
 - (3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or authorized designee.
 - (4) The individuals described in paragraphs 1 through 3 above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
- F. Automatic Grease Removal System (AGRS). A GRS that has provision to automatically remove separated FOG and/or settled solids from the tank and collect them for disposal.

- G. Best Management Practices (BMPs). means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of "waters of the United States." BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.
- H. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter amenable to measurement by the methods described in Standard Methods for the examination of Water and Wastewater, latest approved edition or other methods approved by 40CFR136.
- I. Chemical Oxygen Demand (COD). A measure of the oxygen consuming capacity of inorganic and organic matter present in wastewater amenable to measurement by the methods described in Standard Methods for the examination of Water and Wastewater, latest approved edition or other methods approved by 40CFR136. COD is expressed as the amount of oxygen consumed from a chemical oxidant in mg/L during a specific test.
- J. City. The City of Everett, Washington.
- K. Commissary Kitchen. A commercial kitchen facility used by third parties that provides potable water supply, safe food storage and preparation equipment, and fixtures and equipment required for proper wastewater disposal.
- L. Combined Sewer Overflow (CSO). Any unplanned discharge from the combined sewer system.
- M. Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
- N. Day. Day shall be defined as a calendar day.
- O. Director. The Public Works Director, or the Director's duly authorized representative.
- P. Discharge Authorization. A wastewater discharge permit authorizing users to discharge wastewater to the Everett POTW. These permits are for non-Significant and/or non-Categorical Industrial Users requiring a control mechanism.
- Q. Domestic Sewage. Domestic sewage means the liquid and water borne wastes derived from ordinary living processes, free from industrial wastes, and of such character to permit satisfactory disposal, without special treatment, into the POTW.
- R. Domestic User (Residential User). Any person who contributes, causes, or allows the contribution of wastewater into the City POTW that is of a similar volume and/or chemical make-up as that of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to 100 gallons per capita per day at 300 mg/L of BOD and TSS.

- S. Environmental Protection Agency (EPA). The US Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
- T. Existing User. An existing user is defined as any user which is discharging wastewater prior to the effective date of this ordinance.
- U. Fats, Oils and Grease (FOG). The term fats, oils, and grease shall mean those components of wastewater amenable to measurement by the methods described in Standard Methods for the examination of Water and Wastewater, latest approved edition or other methods approved by 40CFR136 (i.e., EPA Method 1664 (HEM; SGT/HEM)). For the purposes of this ordinance, the term Fats, Oils and Grease shall include polar fats, oils, and grease and other components extracted from wastewater by these methods, excluding the non-polar fraction.
- V. Food Service Establishment (FSE). Any establishment, commercial or noncommercial, primarily engaged in the preparing, serving, or otherwise making available for consumption foodstuffs in or on a receptacle that requires washing more than two (2) days per week and that discharges to the POTW.
- W. Ghost Kitchen. A functioning FSE where food is prepared for another FSE, MFU, or NFD.
- X. Grab Sample. A sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.
- Y. Gravity Grease Interceptor/Interceptor/Interceptor-style GRS. Any relatively large in ground or above-ground tank, generally, but not always, of precast concrete, with internal plumbing and baffling intended to act as a GRS or AGRS to serve one or more fixtures and which shall be remotely located. GGIs shall meet the IAPMO/ANSI Z1001 Standard.
- Z. Grease/Greases. See FOG.
- AA. Grease Impact Area. Any area of the POTW collection system where grease deposits originating at FSEs and/or NFDs create maintenance requirements exceeding normal sewer maintenance. These areas will be identified by the Director and updated as needed.
- AB. Grease Removal System (GRS). Any device designed for, and intended for, separating, collecting, and removing waterborne FOG and settleable solids prior to discharging to the POTW. This includes any AGRS.
- AC. High Strength Waste. Any waters or wastewater having a concentration of BOD or Total Suspended Solids in excess of 300 mg/L, or having a concentration of Fats, Oil and Grease in excess of 50 mg/L.
- .

- AD. Hydromechanical Grease Removal System/Grease Trap/ /Trap-style GRS. Any relatively small appurtenance, generally, but not always, made of cast iron, poly/plastic, or fabricated steel, with internal configuration and internal or external flow control, intended to function as a GRS or AGRS. All hydromechanical trap-style grease removal systems shall be PDI or IAPMO approved.
- AE. Interference. A discharge which alone or in conjunction with a discharge or discharges from other sources, either: (1) inhibits or disrupts the POTW, its treatment processes or operations; (2) inhibits or disrupts its biosolids (sludge) processes, use or disposal; or (3) is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/ regulatory provisions or permits issued thereunder: Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- AF. Liquid Waste. Liquid waste is the discharge from any fixture, appliance, or appurtenance in connection with a plumbing system which does not receive fecal matter.
- AG. Maximum Allowable Discharge Limit. The maximum concentration (or loading) of a pollutant allowed to be discharged at any time.
- AH. Mobile Food Unit (MFU). An operation where the food service establishment is readily movable; this includes mobile food trucks, trailers, and carts.
- AI. North American Industry Classification System (NAICS). A classification pursuant to the North American Industry Classification System Manual issued by the United States Office of Management and Budget.
- AJ. New User. A new user is defined as a user that applies to the City for a new building permit or any person who occupies an existing building and plans to discharge wastewater to the City's collection system after the effective date of this ordinance. Any person that buys an existing facility that is discharging non-domestic wastewater will be considered an existing user if no substantial remodel is made in the operation.
- AK. Non-FSE FOG Discharger (NFD). Any establishment, such as a church, synagogue, worship hall, banquet facility, or meeting space, with a commercial-style kitchen that is used for preparing, serving, or otherwise making available for consumption foodstuffs in or on a receptacle that requires washing two days a week or less and that discharges to the POTW.
- AL. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation).

- AM. Permittee. A person or user issued a wastewater discharge permit, or discharge authorization.
- AN. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all Federal, State, or local governmental entities.
- AO. pH. A measure of the acidity or alkalinity of a substance, expressed in standard units measured using the methods described in Standard Methods for the Examination of Water and Wastewater, current approved edition.
- AP. Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor].
- AQ. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).
- AR. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- AS. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits established by the City (POTW).
- AT. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Sections 2.1 (A) and (B) of this ordinance.
- AU. Publicly Owned Treatment Works (POTW). A treatment works, as defined by Section 212 of the Act (33 USC 1292) which is owned by the City. This definition includes all devices facilities, or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means the City of Everett Water Pollution Control Facility.
- AV. Sanitary Flow: Sewage.

- AW. Sanitary Sewer Overflow (SSO). Any unplanned discharge from the separate sanitary sewer system.
- AX. Septic Tank Waste. Any domestic and/or residential sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- AY. Settleable Solids. The solids that sinks to the bottom of water, wastewater, or other liquid, and which is amenable to measurement by the methods described in Standard Methods for the examination of Water and Wastewater, latest approved edition or other methods approved by 40CFR136.
- AZ. Sewage. Human excrement and gray water (household showers, dishwashing operations, food preparation, etc.)
- BA. Sewer. Any pipe, conduit, ditch, or other device used to collect and transport sewage from the generating source.
- BB. Shall, May. "Shall" is mandatory, "may" is permissive.
- BC. Solids Interceptor. Any device designed for, and intended for, separating, collecting, and removing waterborne solids prior to being discharged to a GRS. A Solids Interceptor must remove solids greater than 1/8 inch.
- BD. Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.
- BE. State. The State of Washington.
- BF. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- BG. Substantial Remodel. Any modification to an existing FSE or NFD kitchen that involves changes to 50% or more of the floor area of the kitchen.
- BH. Total Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering and is amenable to measurement by the methods described in Standard Methods for the examination of Water and Wastewater, latest approved edition or other methods approved by 40CFR136.
- BI. Toxic Pollutant. One of the pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by EPA under Section 307 (33 USC 1317) of the Act, or other pollutants as may be promulgated.
- BJ. Treatment Plant Effluent. The discharge from the POTW into waters of the United States.

- BK. User. For the purposes of this ordinance a user is any FSE or NFD. This shall not include domestic user as defined herein.
- BL. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- BM. Wastewater Discharge Permit (Industrial Wastewater Discharge Permit, Discharge Permit, Discharge Authorization). An authorization or equivalent control document issued by the City to users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this ordinance.
- BN. Wastewater Treatment Plant or Treatment Plant or Pollution Control Facility. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

1.4 Abbreviations

The following abbreviations shall have the designated meanings:

| | |
|-------------|---|
| AGRS | Automatic Grease Removal System |
| AKART | All Known Available and Reasonable Technology |
| BMPs | Best Management Practices |
| BOD | Biochemical Oxygen Demand |
| CFR | Code of Federal Regulations |
| COD | Chemical Oxygen Demand |
| CSO | Combined Sewer Overflow |
| EPA | US Environmental Protection Agency |
| FOG | Fats, Oils, and Grease |
| FSE | Food Service Establishment |
| GPD | gallons per day |
| GGI | Gravity Grease Interceptor |
| GRS | Grease Removal System |
| HGI | Hydromechanical Grease Interceptor (aka “Trap-style” GRS) |
| L | liter |
| mg | milligrams |
| mg/L | milligrams per liter |
| NFD | Non-FSE FOG Discharger |
| O&M | Operation and Maintenance |
| POTW | Publicly Owned Treatment Works |
| SSO | Sanitary Sewer Overflow |
| TSS | Total Suspended Solids |

SECTION 2 - GENERAL REQUIREMENTS

2.1 *Prohibited Discharge Standards*

- A. General Prohibitions: No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- B. Specific Prohibitions: No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
 - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having a pH less than 5.0 s.u. or more than 11.0 s.u. (unless in compliance with Section 2.5 of this Ordinance) or otherwise causing corrosive structural damage to the POTW or equipment;
 - (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one quarter inch (1/4");
 - (4) Pollutants, including oxygen-demanding pollutants (BOD, COD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
 - (5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C) unless the Approval Authority, upon the request of the POTW, approves alternate temperature limits;
 - (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
 - (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - (8) Trucked or hauled pollutants (except Domestic Sewage or Septic Tank Wastes) unless authorized by the director, and at discharge points designated by the City.

- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life;
- (11) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director in compliance with applicable State or Federal regulations;
- (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Director;
- (13) Any sludges, screenings, or other residues from the pretreatment of industrial or commercial wastes or from industrial or commercial processes, or residues from cleaning wetwells or sewers, except as authorized by the Director;
- (14) Medical wastes, except as specifically authorized by the Director;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances in amounts which may cause excessive foaming in the POTW;
- (17) Any liquid, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion meter, at the point of discharge into the system (or at any point in the system), be more than five (5%) per cent nor any single reading over ten (10%) per cent of the lower explosive limit (LEL) of the meter.

- (18) Animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, glass grinding or polishing wastes, or other similar wastes in amounts that cause Interference in the collections system and at the POTW.
- (19) Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits.
- (20) Any wastewater, which in the opinion of the Director can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under special agreement by the Director (except that no special waiver shall be given from categorical pretreatment standards).
- (21) The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septage, or other wastewater unless said person has first obtained testing and approval as may be generally required by the City of Everett and paid all fees assessed for the privilege of said discharge.
- (22) Any hazardous or dangerous wastes as defined in rules published by the State of Washington (WAC 173-303), in EPA rules 40 CFR Part 261, or Hazardous Waste Pharmaceuticals.
- (23) Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA)
- (24) Any slug load.
- (25) Any substance which may cause the POTW's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse, or to interfere with the reclamation process.
- (26) Fats, oils and grease in amounts that may cause obstructions or maintenance problems in the collection/conveyance system, or interference in the POTW.
- (27) The use of the treatment and controls located at the POTW for wastewater treatment required by a National Emission Standards for Hazardous Air Pollutants for Source Categories (NESHAP) under 40 CFR Part 63 is prohibited. The discharge of any untreated wastewater regulated by a NESHAP also is prohibited. The POTW does not and will not accept a NESHAP regulated waste stream nor provide treatment or controls as an

agent for any Industrial User within the meaning of 40 CFR Part 63, including but not limited to 40 CFR § 63.1595.

- (28) Any toxic substances in amounts exceeding standards promulgated by the United States Environmental Protection Agency pursuant to Section 307(a) of the Act and the EPA's priority pollutant list.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they are likely to be discharged to the POTW unless the user has in place an accidental spill prevention plan (ASPP)/slug control plan.

2.2 State Requirements

State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this ordinance or other applicable ordinances.

2.3 Local Limits

The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum allowable discharge limit.

| | |
|--|----------|
| nonpolar fats, oils, and grease (NPFOG) | 200 mg/L |
|--|----------|

The above limit applies at the point where the wastewater is discharged to the POTW (end of the pipe).

The City Council authorizes the Director to revise local limits.

2.4 City's Right of Revision

The City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

2.5 Special Agreement

The City reserves the right to enter into special agreements with permitted users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a categorical pretreatment standard or federal pretreatment requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from the Approval Authority in accordance with 403.13.

2.6 Dilution

A user shall not increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on users that the Director believes may be using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

2.7 Pretreatment Facilities

- A. General: Users shall provide all known, available, and reasonable methods of prevention, control, and treatment (AKART) as required to comply with this ordinance and shall achieve compliance with all applicable pretreatment standards and requirements set out in this ordinance within the time limitations specified by the EPA, the State, or the Director, whichever is more stringent.

Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the user's expense.

In addition, the Director may establish Best Management Practices (BMPs) for particular groups of users. These BMPs may include but are not limited to types or methods of pretreatment technology to be used, methods of source control, minimum maintenance requirements, spill prevention, pollution prevention, and housekeeping practices (e.g. in trash enclosures), or other requirements as deemed necessary.

- B. If a failure to maintain any GRS results in partial or complete blockage of the building sewer, private sewer system discharging to the City Sewer System, or other parts of the City Sewer System, or adversely affects the treatment or transmission capabilities of the POTW, or requires excessive maintenance by the City, or poses a possible health hazard, the discharger responsible for the facilities

shall be subject to the remedies herein, including cost recovery, enforcement and penalties.

2.8 *Additional Pretreatment Measures*

- A. When deemed necessary, the Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
- B. When determined necessary by the Director, each user discharging into the POTW, shall install and maintain, on the user's property and at the user's expense, a suitable storage and flow-control facility to ensure equalization of flow. The Director may require the facility to be equipped with alarms and a rate of discharge controller, the regulation of which shall be determined by the Director. A wastewater Discharge Authorization (DA) may be issued solely for flow equalization.

SECTION 3 – GREASE REMOVAL SYSTEM REQUIREMENTS

All FSEs and NFDs shall have an adequate grease removal system installed and exercise proper kitchen best management practices to ensure that excess concentrations of FOG are not discharged to the POTW.

All Mobile Food Units (MFUs) which, in the judgement of the Director, generate FOG-bearing wastewater requiring pretreatment, shall use a commissary kitchen facility equipped with an approved grease removal system, and exercise proper best management practices to ensure that excess amounts of FOG are not discharged to the POTW.

3.1 *New Construction*

All new construction FSEs and NFDs shall submit kitchen fixture plan views and kitchen waste plans showing all potential grease discharging lines, all GRSs, and connecting piping to the Director or designee for approval prior to construction. The plumbing shall be installed in accordance with the approved plans. Failure to submit plans or construct in accordance with approved plans is a violation of this ordinance.

- A. All new single occupancy Food Service Establishment buildings shall be constructed with properly sized interceptor-style grease removal systems. Where bona-fide space or gradient limitations make the use of an interceptor-style GRS impractical, and with prior approval of the Director, a FSE may install properly sized hydromechanical trap-style GRSs. All kitchen drains and any other drains that may carry grease-laden waste shall be connected to this GRS (except the dishwasher if a hydromechanical trap-style GRS is installed.) If a hydromechanical trap-style GRS is installed, the kitchen may not have a garbage disposal/garbage grinder/macerator or similar unit installed. See Sec. 3.5.
- B. All new construction multi-tenant buildings (strip centers/malls) shall include a separate waste line for all leasable spaces that discharges to a common 2000 gallon or larger interceptor (See Sec. 3.6.E.). This waste line shall be permanently marked to identify it as required by the Director. When a space is leased, sold, or rented to a FSE or NFD, all kitchen drains and any other drains that may carry grease-laden waste shall be connected to this waste line; no domestic sewage may be connected to this line. The property owner shall be responsible for proper maintenance of this interceptor in accordance with the provisions of this ordinance.
- C. All new single occupancy Non-FSE FOG Discharger buildings shall install a properly sized GRS. Interceptor-style GRSs are recommended, but hydromechanical trap-style GRSs are permissible. All kitchen drains and any other drains that may carry grease-laden waste shall be connected to this GRS (except the dishwasher if a hydromechanical trap-style GRS is installed.) If an hydromechanical trap-style GRS is installed, the kitchen may not have a garbage disposal/garbage grinder/macerator or similar unit installed.

- D. Any FSE or NFD undertaking a Substantial Remodel, as defined herein ([Sec. 1.3.BG.](#)), will be considered new construction for the purposes of this ordinance.

3.2 Existing Users

- A. Any existing FSE without a functional GRS shall be required to install one. The type of GRS required will be determined by the Director, taking into account cost, available space and gradient, whether the user is in a grease impact area, and any other pertinent information. Unless otherwise approved by the Director, all kitchen drains and any other drains that may carry grease-laden waste shall be connected to this GRS (except the dishwasher if a hydromechanical trap-style GRS is installed.) If a hydromechanical trap-style GRS is installed, the kitchen may not have a garbage disposal/garbage grinder/macerator or similar unit installed.
- B. Any existing NFD without a functional GRS may be required to install one. The type of GRS required will be determined by the Director, taking into account cost, available space and gradient, whether the user is in a grease impact area, and any other pertinent information. Unless otherwise approved by the Director, all kitchen drains and any other drains that may carry grease-laden waste shall be connected to this GRS (except the dishwasher if a hydromechanical trap-style GRS is installed.) If a hydromechanical trap-style GRS is installed, the kitchen may not have a garbage disposal/garbage grinder/macerator or similar unit installed.

3.3 Grease Removal System Maintenance

- A. All grease removal systems shall be maintained to ensure proper operation. At a minimum, interceptor-style GRSs shall be cleaned at least once every 90 days and hydromechanical trap-style GRSs cleaned at least once per week. These required frequencies may be extended with the approval of the Director. Grease Removal Systems must be thoroughly cleaned whenever the combined thickness of the floating greases and settled solids is equal to, or greater than, 25% of the total liquid depth in the GRS.
- B. When cleaned, an interceptor-style GRS must be completely pumped out, all solids removed, solidified grease scraped or washed from the interior and the structure and all internal plumbing inspected for damage and corrosion. The GRS shall be refilled with water prior to being placed back into operation. If repairs are required, they shall be performed within 7 days, or within the shortest practicable time frame depending on repairs required, and as approved by the Director or designee.
- C. Hydromechanical trap-style GRSs may be maintained by the FSE or NFD. When cleaned, the trap must have surface grease and oil removed, settled solids removed, all sides scraped, removable parts removed and cleaned, be inspected for damage and corrosion, and be properly reassembled. If the GRS is equal to or greater than 25% full, it must be thoroughly cleaned as noted in 3.3.A. If repairs are required,

they shall be performed within 7 days, or within the shortest practicable time frame as approved by the Director.

- D. The material that is removed in the process of cleaning a GRS shall not be discharged back into the GRS, any part of the POTW, any private sewer, any drainage piping, waters of the state, or storm sewer system. The practices of stacking and decanting are strictly prohibited. All materials removed shall be handled and disposed of in accordance with Federal, State, County and Local laws, rules and regulations.
- E. In addition to the maintenance required above, Automatic Grease Removal Systems shall be maintained in accordance with the manufacturers' guidelines.

3.4 Grease Removal System Additives

No user may use an additive of any type for the GRS without the approval of the Director. The Director will adopt procedures for the approval of additives.

No vendor may sell, attempt to sell or otherwise distribute any additive in the City of Everett without prior approval of the additive by the Director. Any vendor selling, or attempting to sell, or otherwise distributing any additive intended for use in a GRS that has not been approved for use by the Director is in violation of this ordinance and is subject to all enforcement actions contained herein.

3.5 Solids Interceptor

If a garbage disposal/garbage grinder/macerator or similar unit is installed in a kitchen, it must discharge to the GRS through a solids interceptor plumbed immediately after the garbage disposal/garbage grinder/macerator or similar unit. The solids interceptor shall be maintained in proper operating condition at all times there is flow through it.

3.6 Grease Removal System Sizing

- A. Hydromechanical Trap-style grease removal systems shall be sized in accordance with the standards in the currently adopted Plumbing Code. But in no case shall they be rated at less than 20 GPM without express approval by the Director.
- B. The minimum size for an interceptor-style grease removal system shall be determined using the following table:

| Drainage Fixture Units ¹ | Nominal Interceptor Volume (gallons) |
|-------------------------------------|--------------------------------------|
| 21 | 750 |
| 35 | 1000 |
| 90 | 1250 |
| 172 | 1500 |
| 216 | 2000 |
| 307 | 2500 |
| 342 | 3000 |
| 428 | 4000 |
| 576 | 5000 ^D |
| 724 | 6000 ^D |
| 880 | 7000 ^D |
| 1036 | 8000 ^D |
| >1036 | 8000 ^D |

Note:

¹ Drainage Fixture Units (as defined in the currently adopted Uniform Plumbing Code) for installed equipment plumbed to kitchen drain lines connected to the Grease Removal System.

- C. No conventional interceptor smaller than 750 gallons shall be installed without prior approval of the Director. High-Efficiency or High-Capacity Interceptors not meeting minimum volume criteria shall be reviewed and approved on a case-by-case basis. If a garbage disposal/garbage grinder/macerator or similar unit is installed, the minimum size is 1500 gallons to adequately retain the added settleable solids loading.
- D. The maximum size for an interceptor shall be 4000 gallons. If the calculated minimum size is larger than this, two interceptors of approximately equal size shall be installed in series. If the calculated minimum size is 8000 gallons, two 4000-gallon interceptors shall be installed in series.
- E. Shared Grease Interceptors (Multi-Tenant/Strip Center). The number or volume of interceptors shared by multiple tenants/users may be adjusted if deemed necessary by the Director or Director's Designee, based on an assessment of square footage, size of water service, and/or the nature of the FSEs or NFDs served.

3.7 Flow Controls

All hydromechanical trap-style grease removal systems shall have an internal or external flow control installed to ensure that wastewater flow through the trap does not exceed the manufacturer's design flow rating. This flow control shall be maintained in operating condition at all times.

SECTION 4 – RECORD KEEPING/REPORTING REQUIREMENTS

4.1 *Record Keeping*

Users subject to this ordinance shall document all cleaning and maintenance activities performed on their GRS. These records shall be maintained for a minimum of three (3) years and be available onsite for inspection and copying by the Director or the Director's representative. This period shall be automatically extended for the duration of any litigation concerning the user or the POTW, or where the user has been specifically notified of a longer retention period required by the Director.

4.2 *Reporting*

Where the Director has determined that a user must provide written reports, these reports shall be submitted in accordance with the requirement of the Director. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report by the City shall govern.

4.3 *Electronic Reporting*

The City may implement electronic reporting for users. Until the electronic reporting system is approved under the Cross-Media Electronic Reporting Rule (CROMERR) and the individual user has complied with identity certification requirements, electronic reports must be followed up with original paper reports. Electronically submitted reports will be deemed to have been submitted on the date they are posted to the electronic reporting system. Electronic reporting does not preclude the City from requiring a user to continue submitting paper reports, if the City deems it is still necessary.

When service providers (contractors) submit electronic copies of trap or interceptor-style GRS cleaning, maintenance, or repairs, such service records should include sufficient information to assess the condition and compliance of the serviced GRS. This includes an estimate of combined thickness of the floating greases and settled solids, tank damage or corrosion, and the condition of the trap or interceptor's internal plumbing (See Section 3.3).

SECTION 5 - CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from City inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes or methods of production that are exempt from disclosure under the Public Records at Chapter 42.56 RCW, or as hereafter amended.

When requested and demonstrated by the user furnishing a report that such information should be held confidential, the City shall make reasonable efforts to protect the portions of a report which might disclose trade secrets or secret processes from inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, in enforcement proceedings involving the person furnishing the report, or upon presentation of a subpoena or other court order.

Wastewater constituents, characteristics, and other effluent data as defined by 40 CFR 2.302, or the identity and address of the user will not be recognized as confidential information and will be available to the public without restriction.

SECTION 6 - ADMINISTRATIVE ENFORCEMENT REMEDIES

6.1 *Notification of Violation (Notice of Violation, NOV)*

When the Director finds that a user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may serve upon that user a written Notice of Violation. The Director may select any means of service which is reasonable under the circumstances.

Within seven calendar (7) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

6.2 *Consent Orders*

The Director may enter into Consent Orders, assurances of voluntary compliance in “good faith,” or other negotiated settlements between the City and the user establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 6.4 and 6.5 of this ordinance and shall be judicially enforceable. Use of a Consent Order shall not be a bar against, or prerequisite for, taking any other action against the user.

6.3 *Show Cause Hearing*

The Director may order a user which has violated or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten business (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

6.4 Compliance Orders

When the Director finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue an order to the user responsible for the discharge directing that the user come into compliance within a time specified in the order. Compliance Orders may require users to refrain from certain activities, install additional pretreatment equipment, increase self-monitoring, use best management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may be issued unilaterally, and the terms of the order need not be discussed with the user in advance. If the user does not come into compliance within the time specified in the order, sewer service may be discontinued. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

6.5 Cease and Desist Orders

When the Director finds that a user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

6.6 Administrative Fines

- A. When the Director finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may fine such user in an amount not less than \$100 and not to exceed \$10,000. Such fines shall be assessed on a per violation, per day basis. Said Administrative fines shall constitute a sewer service surcharge, and upon assessment, shall be subject to collection in the same manner as all other sewer utility rates, charges and penalties.
- B. Unless other arrangements have been made with, and authorized by the Director, unpaid charges, fines, and penalties shall accrue thereafter at a rate of one percent (1%) per month. After 90 days, if charges, fines, and penalties have not been paid, the City may suspend the user's sewer service.

- C. Users desiring to appeal and dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within ten calendar (10) days of being notified of the fine. Upon receipt of a timely appeal, the Director shall set a date and time for an appeal hearing, but in no case shall the hearing be set more than sixty business (60) days from the receipt of the timely notice of appeal. The appellant shall be notified in writing of the date, time, and place for the appeal hearing. The Director or Director's designee shall serve as the Hearing Examiner. In the event the user's appeal is successful, any payments made shall be returned to the user. Affirmation or modification of an administrative fine by the Public Works Director shall relate back to the original date of assessment.

The City shall recover the costs of preparing administrative enforcement actions, such as notices and orders, including the cost of additional inspections, sampling and analysis, and may add them to the fine. The City may also add the monetary value of any economic benefit the user gained through noncompliance to the fine.

- D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.
- E. Users seeking judicial review of administrative fines must do so by filing a Petition for Review in the Snohomish County Superior Court within thirty calendar (30) days of the decision of the Director.

6.7 Emergency Suspensions

The Director may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons, threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals.

The Director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed. If the Director does not allow the user to recommence its discharge within 15 days of the emergency suspension, the Director shall initiate termination proceedings pursuant to Section 6.8 of this ordinance.

- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director prior to the date of any show cause or termination hearing under Sections 6.3 and 6.8 of this ordinance.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

6.8 Termination of Discharge (Non-Emergency)

Any user that violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
- E. Violation of the pretreatment standards in Section 2 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity for hearing pursuant to Section 6.9 of this ordinance to dispute the proposed termination action. Initiation of a termination proceeding by the City shall not be a bar to, or a prerequisite for, taking any other action against the user.

6.9 Appeal Procedures

- A. Appeals.
 - 1. Any user who has been subject to an enforcement action by the City and who seeks to dispute a Notice of Violation, order, fine, or other action of the Director may file an appeal. No other person may appeal an enforcement action.
 - 2. The notice of appeal must be filed in writing and received by the Director, in writing, within ten (10) calendar days of the receipt of the disputed action or proposed action. If the notice of appeal is not received by the Director within ten (10) days, the right to an appeal is waived. The notice of appeal shall state with particularity the basis upon which the appellant is disputing the action taken or proposed to be taken Including:

- (a) The name and the address of the appellant;
 - (b) The nature of the decision or action being appealed;
 - (c) Why appellant believes the decision or action is unwarranted; and
 - (d) What the appellant believes the appropriate decision or action should be.
- 3. Upon receipt of a timely notice of appeal, the Director shall set a date and time for an appeal hearing, but in no case shall the hearing be set more than sixty (60) days from the receipt of the timely notice of appeal. The appellant shall be notified in writing of the date, time, and place for the appeal hearing. The Director or Director's designee shall serve as the hearing examiner and be the presiding officer at the hearing.

B. Appeal Hearing.

- 1. Content of Notice of hearing. The notice of hearing shall include:
 - (a) Names and mailing addresses of all parties to whom notice is being given, and if known, the names and addresses of their representatives;
 - (b) If the City intends to appear, the mailing address and telephone number of the office designated to represent the City in the proceeding;
 - (c) The official file or other reference number and name of proceeding;
 - (d) The name, official title, mailing address and telephone number of the presiding officer, if known;
 - (e) A statement of the time, place and nature of the proceeding;
 - (f) A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - (g) A reference to the particular section of the ordinance or regulations involved;
 - (h) A short and plain statement of the matters asserted by the agency; and
 - (i) A statement that a party who fails to attend or participate in a hearing or other stage of an appeal hearing may be held in default.
- 2. Procedures at hearing. The hearing examiner/presiding officer, who may be the Director or the Director's designee, shall regulate the course of the hearing. The presiding officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence; provided, however, the presiding officer may control the manner and extent of cross-examinations and rebuttal. In the discretion of the presiding officer, all or part of the hearing may be conducted by telephone or other electronic means as long as each party in the hearing has an opportunity to effectively participate and hear.

3. Rules of evidence. Evidence, including hearsay evidence, is admissible if in the judgment of the presiding officer it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The presiding officer shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious. All testimony of parties and witnesses shall be made under oath or affirmation. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference. Official notice may be taken of (a) any judicially cognizable facts, (b) technical or scientific facts within the City's specialized knowledge, and (c) codes or standards that have been adopted by an agency of the United States, this state or another state, or by a nationally recognized organization or association. A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.
4. Default. If a party fails to attend or participate in any stage of a hearing, the presiding officer may serve upon all parties a default or other dispositive order, which shall include a statement of grounds for the order. Within seven (7) calendar days after service of a default order, the party against whom it was entered may file a written motion requesting that the order be vacated, stating the grounds for the motion. If the party against whom the default order is entered fails to timely file a motion to vacate or the motion to vacate is not granted, the default order will be the final decision of the City.
5. Burden of proof. The appellant shall have the burden of proof by a preponderance of the evidence.

C. Appeal Conclusion.

After the conclusion of the hearing, the hearing examiner shall determine if the disputed action was proper, and shall approve, modify, or rescind the disputed action. The final determination of the hearing examiner shall be in writing, and all parties shall be provided a copy of the final determination within ten (10) days (or such longer time as the hearing examiner may determine in writing). This decision will include findings of fact that are supported by and based on the record. These findings will be entitled to deference on any judicial review.

D. Judicial Review of Appeal.

1. Any party, including the City, the Washington State Department of Ecology, the United States Environmental Protection Agency, or the user/appellant, is entitled to review of the final determination of the hearing examiner in the Snohomish County Superior Court. Provided, that any petition for review shall be filed no later than thirty (30) calendar days after date of the final determination.
2. Copies of the petition for review shall be served as in all civil actions.
3. The filing of the petition shall not stay enforcement of the final determination except by order of the superior court and on posting of a bond to be determined by the court naming the City as beneficiary.
4. The review shall be conducted by the court without a jury. The record shall be satisfied by a narrative report certified by the hearing examiner and no verbatim record of proceedings before the hearing examiner shall be required to be presented to the superior court.
5. The court may affirm the final determination or remand the matter for further proceedings before the hearing examiner; or the court may reverse the final determination if the substantial rights of the petitioners may have been prejudiced because the final determination was:
 - (a) In violation of constitutional provisions; or
 - (b) In excess of the authority or jurisdiction of the hearing examiner;
or
 - (c) Arbitrary and capricious.

SECTION 7 - JUDICIAL ENFORCEMENT REMEDIES

7.1 *Injunctive Relief*

When the Director finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may petition the Snohomish County Superior Court through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user.

The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user. Injunctive relief shall be nonexclusive to other remedies available to the City.

7.2 *Civil Penalties*

- A. A user which has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of \$10,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The Director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City. The City may also add the monetary value of any economic benefit the user gained through noncompliance to the penalty.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for taking any other action against a user.

7.3 Criminal Prosecution

- A. A user who violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a gross misdemeanor, punishable by a fine of not more than \$5,000 and/or one year in jail. Each day a violation occurs shall constitute a separate offense.
- B. A user who introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a gross misdemeanor and be subject to a penalty of not more than \$5,000 and/or one year in jail. Each day a violation occurs shall constitute a separate offense. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- C. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be guilty of a gross misdemeanor, and punished by a fine of not more than \$5,000 and/or one year in jail. Each day a violation occurs shall constitute a separate offense.

In addition, the user shall be subject to:

- 1) the provisions of 18 USC Section 1001 relating to fraud and false statements;
- 2) the provisions of Sections 309 (c) 4 of the Clean Water Act, as amended governing false statements, representation, or certification; and
- 3) the provision of Section 309 (c) (6) of the Clean Water Act, regarding responsible corporate officers.

7.4 Remedies Non-exclusive

The provisions in Sections 6 through 9 of this ordinance are not exclusive remedies. The City reserves the right to take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City reserves the right to take other action against any user when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

SECTION 8 - SUPPLEMENTAL ENFORCEMENT ACTION

8.1 *Performance Bonds*

The Director may decline to issue or reissue a wastewater discharge permit to any permitted user which has failed to comply with any provision of this ordinance, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement unless such user first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance.

8.2 *Financial Assurances*

The Director may decline to issue or reissue a wastewater discharge permit to any permitted user which has failed to comply with any provision of this ordinance, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to meet pretreatment requirements, and/or restore or repair damage to the POTW caused by its discharge.

8.3 *Service Severance*

Whenever a user has violated or continues to violate any provision of this ordinance, fails to respond as required to an enforcement action or order issued hereunder, or any other pretreatment standard or requirement, water and/or sewer service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

8.4 *Public Nuisances*

A violation of any provision of this ordinance, wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director.

8.5 *Contractor Listing*

Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the City.

8.6 *Publication of Violations and/or Enforcement Actions.*

The Director may publish violations and/or enforcement actions at any time, where monetary fines may be inappropriate in gaining compliance, or in addition to monetary fines. Violations and/or enforcement actions may also be published when the Director feels that public notice should be made, or at other appropriate times. The cost of such publications will be recovered from the user.

SECTION 9 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

9.1 *Upset*

- A. For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with applicable pretreatment standards if the requirements of paragraph (C) are met.
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed or initialed contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the POTW and treatment plant operator within twenty four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
 - (a) A description of the indirect discharge and cause of noncompliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- E. A User may appeal any enforcement action due to an upset as provided under Section 6.9 of this ordinance.

- F. Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

9.2 Not Used

9.2 Bypass

- A. For the purposes of this section,
- (1) Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - (2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A user may allow any bypass to occur which does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.
- C.
- (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Director, at least ten (10) days before the date of the bypass, if possible.
 - (2) A user shall submit oral notice to the City of an unanticipated bypass that exceeds applicable pretreatment standards within twenty four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director may waive the written report on a case-by-case basis if the oral report has been received within twenty four (24) hours.
- D.
- (1) Bypass is prohibited, and the Director may take an enforcement action against a user for a bypass, unless

- (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The user submitted notices as required under paragraph (C) of this section.
- (2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

SECTION 10 - MISCELLANEOUS PROVISIONS

10.1 *Pretreatment Charges and Fees*

The Director may adopt reasonable fees for reimbursement of costs of setting up and operating the City's FOG Control Program.

These fees relate solely to the matters covered by this ordinance and are separate from all other rates or charges for sewer service, provided that the City shall collect said charges in the same manner as other sewer utility rates are collected, including but not limited to the sewer lien procedures provided under 35.67 RCW.

Fees may include:

- A. Fees for wastewater discharge permits, including the cost of processing the permit applications, public noticing, issuing and administering the permit, and reviewing monitoring reports submitted by users;
- B. Fees for modifying or transferring permits;
- C. Fees for monitoring, inspection, surveillance and enforcement procedures including the cost of collection and analyzing a user's discharge;
- D. Fees for reviewing accidental discharge procedures and construction;
- E. Fees for preparing and executing enforcement action;
- F. Fees for filing appeals;
- G. Fees for High Strength Waste and non-domestic flow; and
- H. Other fees as the City may deem necessary to carry out the requirements contained herein.
- I. Permit Fees: Should the Director determine that adequate FOG control activities require issuance of control mechanism to FSEs and NFDs, the fees shall be set by the Director.
- J. Monitoring Fees: Any user establishing a pattern of noncompliance, or having a history of noncompliance, or suspected of being in noncompliance, may require additional monitoring visits as deemed appropriate by the Director. Any additional inspections, sampling, surveillance monitoring activities, and analysis performed which detect noncompliance will be billed directly to the user.
- K. Enforcement Actions: All expenses in preparing enforcement actions will be billed directly to the User.

- L. Cost Recovery: The City may recover any expenses incurred due to noncompliance by a user, including, but not limited to; costs of opening a plugged sewer, costs of repairing a damaged sewer, costs of determining the cause of a SSO or CSO, and costs of cleaning up and mitigating a SSO or CSO.

All fees or charges will be collected via direct billing. Unless the Director has been made aware of extenuating circumstances that would prevent prompt payment, all fees are payable within 30 days of the billing. Fees past due will be considered a violation of this ordinance. Users not paying fees within 60 days of the billing period will be subject to termination of service. The Director may change existing or adopt new fees.

10.2 *Non-Liability*

It is expressly the purpose of this ordinance to provide for and promote the health, safety and welfare of the general public. It is not the intent of this ordinance to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms or requirements of this ordinance.

It is the specific intent of this ordinance to place the obligation of complying with these regulations upon the applicant or Discharger and no provision nor any term used in this ordinance is intended to impose any duty whatsoever upon the City or any of its officers, employees or agents, except as provided under the Act or other related statutes of the United States or the State of Washington.

Nothing contained in this ordinance is intended to be nor shall be construed to create or form the basis for any tort liability on the part of the City or its officers, employees or agents, for any injury or damage resulting from the failure of an applicant or Discharger to comply with the provisions of this ordinance, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this ordinance, or inaction on the part of the City related in any manner to the implementation or the enforcement of this ordinance by its officers, employees or agents.

Project title: ORDINANCE Repealing and Replacing Chapter 14.40 of the Everett Municipal Code

Council Bill #

CB 2404-07

Agenda dates requested:

5/8/24, 5/15/24, 5/22/24

Briefing

Proposed action 5/8 & 5/15/24

Consent

Action 5/22/24

Ordinance ☒

Public hearing

Yes ☐ x No ☐**Budget amendment:**Yes ☐ x No ☐**PowerPoint presentation:**Yes ☐ x No ☐**Attachments:**

Ordinance

Department(s) involved:

Public Works

Contact person:

Jeff Marrs

Phone number:

(425) 257-8967

Email:

jmarrs@everettwa.gov

Initialed by:

RLS

Department head

Administration

Council President

Project: 2024 Adoption of the new Chapter 14.40 EMC related to wastewater pretreatment regulations

Partner/Supplier: n/a

Location: n/a

Preceding action: 2008 Adoption of Chapter 14.40 EMC related to wastewater pretreatment regulations under Ord. 3070-08

Fund: n/a

Fiscal summary statement:

This action item has no fiscal impact associated at this time.

Project summary statement:

In 2019 our Water Pollution Control Facility (WPCF) biosolids exceeded Molybdenum (Mo) levels for beneficial use. This led to an investigation of our incoming wastewater influent into the source of the contamination. The industrial source was identified and corrected, however, during the investigation it became clear that the City needed a Mo limit.

The City's current Local Limits were established in 1993 and there has since been significant changes to both the plant and water quality regulations prompting the reevaluation of all limits. Chapter 14.40 of the Everett Municipal Code authorizes enforcement of Local Limits.

The new Chapter 14.40 EMC reflect current practices, regulations, city policies, coding and revises the established Local Limits.

The proposed Ordinance was available for a 30-day public comment period ending April 18, 2024.

Recommendation (exact action requested of Council):

Adopt an Ordinance relating to Uniform Requirements for Users of the Publicly Owned Treatment Works, repealing and replacing Ordinance 3070-08 (Chapter 14.40 EMC).



ORDINANCE NO. _____

An ORDINANCE relating to Wastewater Pretreatment Regulations, repealing Everett Municipal Code Chapter 14.40 and adopting a New Everett Municipal Code Chapter 14.40

WHEREAS,

- A. The City Council deems it necessary to set forth uniform requirements for users of the City's publicly owned treatment works in order to comply with all applicable State and Federal laws and regulations.
- B. The City's wastewater pretreatment regulations, codified at Chapter EMC 14.40, were last amended in 2008, and the City recognizes the need to update these regulations.
- C. Washington State's Department of Ecology and the United States Environmental Protection Agency have reviewed and approved the requirements for users of the City's publicly owned treatment works contained in this Ordinance; and

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Chapter 14.40 EMC is hereby repealed in its entirety. For purposes of reference, chapter 14.40 EMC was adopted under Ord. 3070-08, 2008.

Section 2. A new chapter 14.40 EMC is hereby added to the Everett Municipal Code as set forth in Exhibit A. Permits issued under chapter 14.40 EMC adopted under Ord. 3070-08 shall hereafter be subject to the provisions of the new chapter 14.40 EMC attached as Exhibit A hereto.

Section 3. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 4. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 5. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other

matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 6. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST:

City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

EXHIBIT A
TO WASTEWATER PRETREATMENT REGULATIONS ORDINANCE

CHAPTER 14.40 EMC

| Reference Table for Codification | |
|----------------------------------|--------------------------------------|
| Section Number in Attached Text | Code Section Number for Codification |
| 1.1 | 14.40.010 |
| 1.2 | 14.40.020 |
| 1.3 | 14.40.030 |
| 1.4 | 14.40.040 |
| 2.1 | 14.40.050 |
| 2.2 | 14.40.060 |
| 2.3 | 14.40.070 |
| 2.4 | 14.40.080 |
| 2.5 | 14.40.090 |
| 2.6 | 14.40.0100 |
| 2.7 | 14.40.0110 |
| 2.8 | 14.40.0120 |
| 2.9 | 14.40.0130 |
| 2.10 | 14.40.0140 |
| 2.11 | 14.40.0150 |
| 2.12 | 14.40.0160 |
| 2.13 | 14.40.0170 |
| 2.14 (New Section) | 14.40.0175 |
| 3.0 | 14.40.0180 |
| 3.1 | 14.40.0190 |
| 3.2 | 14.40.0200 |
| 3.3 | 14.40.0210 |
| 3.4 | 14.40.0220 |
| 3.5 | 14.40.0230 |
| 3.6 | 14.40.0240 |
| 3.7 | 14.40.0250 |
| 3.8 | 14.40.0260 |
| 3.9 | 14.40.0270 |
| 3.10 | 14.40.0280 |
| 3.11 | 14.40.0290 |
| 3.12 | 14.40.0300 |
| 3.13 | 14.40.0310 |
| 3.14 | 14.40.0320 |
| 3.15 | 14.40.0330 |
| 3.16 | 14.40.0340 |
| 4.1 | 14.40.0350 |
| 4.2 | 14.40.0360 |
| 4.3 | 14.40.0370 |
| 4.4 | 14.40.0380 |
| 4.5 | 14.40.0390 |
| 4.6 | 14.40.0400 |
| 4.7 | 14.40.0410 |

| Reference Table for Codification | |
|----------------------------------|--------------------------------------|
| Section Number in Attached Text | Code Section Number for Codification |
| 4.8 | 14.40.0420 |
| 4.9 | 14.40.0430 |
| 4.10 | 14.40.0440 |
| 4.11 | 14.40.0450 |
| 4.12 | 14.40.0460 |
| 4.13 | 14.40.0470 |
| 4.14 (New Section) | 14.40.0475 |
| 5.1 | 14.40.0480 |
| 5.2 | 14.40.0490 |
| 5.3 (Repealed) | 14.40.0500 (Repealed) |
| 6.1 | 14.40.0500 |
| 6.2 | 14.40.0510 |
| 6.3 | 14.40.0520 |
| 6.4 | 14.40.0530 |
| 7 | 14.40.0540 |
| 8 | 14.40.0550 |
| 9.1 | 14.40.0560 |
| 9.2 | 14.40.0570 |
| 9.3 | 14.40.0580 |
| 9.4 | 14.40.0590 |
| 9.5 | 14.40.0600 |
| 9.6 | 14.40.0610 |
| 9.7 | 14.40.0620 |
| 9.8 | 14.40.0630 |
| 9.9 | 14.40.0640 |
| 10.1 | 14.40.0650 |
| 10.2 | 14.40.0660 |
| 10.3 | 14.40.0670 |
| 10.4 | 14.40.0680 |
| 11.1 | 14.40.0690 |
| 11.2 | 14.40.0700 |
| 11.3 | 14.40.0710 |
| 11.4 | 14.40.0720 |
| 11.5 | 14.40.0730 |
| 11.6 | 14.40.0740 |
| 11.7 (New Section) | 14.40.0751 |
| 11.8 (New Section) | 14.40.0752 |
| 12.1 | 14.40.0750 |
| 12.2 | 14.40.0760 |
| 12.3 | 14.40.0770 |
| 13.1 | 14.40.0780 |
| 13.2 | 14.40.0790 |

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SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the City of Everett, and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 USC 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
- B. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
- C. To ensure that the quality of the wastewater treatment plant biosolids is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- D. To protect POTW personnel who may be affected by wastewater, wastewater solids, and biosolids in the course of their employment and to protect the general public;
- E. To improve the opportunity to recycle and reclaim wastewater and biosolids from the POTW;
- F. To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

This ordinance shall apply to all users of the POTW. The ordinance authorizes the issuance of wastewater discharge permits and discharge authorizations; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

1.2 Administration

Except as otherwise provided herein, the Director shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other City of Everett personnel. The Director may create administrative guidelines to implement the provisions of this ordinance.

1.3 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

- A. Accessible. Accessible, when applied to required pretreatment monitoring or treatment equipment, shall mean direct access without the necessity of removing any panel, door, vehicle, equipment, materials, or other similar obstruction.
- B. Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.
- C. Administrative Penalty (Administrative Fine). A punitive monetary charge unrelated to treatment cost, which is assessed by the Director rather than a court.
- D. Applicable Pretreatment Standards. For any specified pollutant, Everett prohibitive standards, Everett specific pretreatment standards (local limits), State of Washington pretreatment standards, or EPA's Categorical Pretreatment Standards (when effective); whichever standard is appropriate and most stringent.
- E. Approval Authority. The state of Washington Department of Ecology.
- F. Authorized Representative of the User.
 - (1) If the user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the

regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;
 - (3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or such director's authorized designee.
 - (4) The individuals described in paragraphs 1 through 3 above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
- G. Average Daily Flow. Average Daily Flow shall be defined as the arithmetical mean of the total Process Wastewater flow over a one (1) year period. This mean shall be calculated based on days when a discharge occurs.
- H. Best Management Practices (BMPs). The term Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- I. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter amenable to measurement by the methods described in Standard Methods for the examination of Water and Wastewater, current approved edition; under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration [milligrams per liter (mg/L)].
- J. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the US EPA in accordance

with Sections 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

- K. Categorical User (Categorical Industrial User). A user covered by one of EPA's Categorical Pretreatment Standards.
- L. Chemical Oxygen Demand (COD). A measure of the oxygen consuming capacity of inorganic and organic matter present in wastewater amenable to measurement by the methods described in Standard Methods for the examination of Water and Wastewater, current approved edition. COD is expressed as the amount of oxygen consumed from a chemical oxidant in mg/L during a specific test.
- M. City. The City of Everett, Washington.
- N. Cooling Water/Non-Contact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Cooling water may be generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.
- O. Color. The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
- P. Combined Sewer. A sewer receiving both surface runoff and sewage.
- Q. Commercial User. A Commercial User is any discharger of Industrial Waste that does not meet the definition of a Significant Industrial User.
- R. Composite Sample. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
- S. Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day (lb/day). Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- T. Day. Day shall be defined as a calendar day.
- U. Director. The Public Works Director, or such Director's duly authorized representative.

- V. Discharge Authorization. A wastewater discharge permit authorizing users to discharge wastewater to the Everett POTW. These permits would be for users other than Significant Industrial Users, or Categorical Industrial Users, but still requiring a control mechanism.
- W. Domestic Sewage. Domestic sewage means the liquid and water borne wastes derived from ordinary living processes, free from industrial wastes, and of such character to permit satisfactory disposal, without special treatment, into the POTW.
- X. Domestic User (Residential User). Any person who contributes, causes, or allows the contribution of wastewater into the City POTW that is of a similar volume and/or chemical make-up as that of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to 100 gallons per capita per day at 300 mg/L of BOD and TSS.
- Y. Environmental Protection Agency (EPA). The US Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
- Z. Existing Source. For a categorical industrial user, an existing source is any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- AA. Existing User. For non-categorical users an existing user is defined as any user which is discharging wastewater prior to the effective date of this ordinance.
- AB. Fats, Oils and Grease, Total (Total FOG). The term fats, oils, and grease shall mean those components of wastewater amenable to measurement by the method 1664 described in Standard Methods for the examination of Water and Wastewater, current approved edition. The term Fats, Oils and Grease shall include polar and non-polar (petroleum-based) fats, oils, and grease and other components extracted from wastewater by this method.
- AC. General Permit. At the discretion of the Director, groups of users may be regulated under general control mechanisms if the following conditions are met. All of the facilities to be covered must:
- (1) Involve the same or substantially similar types of operations;
 - (2) Discharge the same types of wastes;
 - (3) Require the same effluent limitations;

- (4) Require the same or similar monitoring; and
 - (5) In the opinion of the Director, are more appropriately controlled under a general control mechanism than under individual control mechanisms.
- AD. Grab Sample. A sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.
- AE. Gravity Grease Interceptor. a plumbing appurtenance identified by volume and intended to be installed in a sanitary drainage system to intercept, using gravity only, nonpetroleum fats, oils, and greases (FOG) from a wastewater discharge.
- AF. Hexane Extractable Materials (HEM). Hexane extractable material (HEM, oil and grease): Material that is extracted from a sample using n-hexane and determined by this method (i.e., EPA Method 1664, Revision B: n-Hexane Extractable Material (HEM; Oil and Grease) and Silica Gel Treated n-Hexane Extractable Material (SGT-HEM; Non-polar Material) by Extraction and Gravimetry. This material includes relatively non- volatile hydrocarbons, vegetable oils, animal fats, waxes, soaps, greases, and related matter.
- AG. High Strength Waste. Any waters or wastewater having a concentration of BOD or Total Suspended Solids in excess of 300 mg/L, or having a concentration of Total Fats, Oil and Grease in excess of 50 mg/L.
- AH. Hydromechanical Grease Removal Device (Grease Trap). a plumbing appurtenance or appliance installed in a sanitary drainage system to intercept nonpetroleum fats, oils, and greases (FOG) from a wastewater discharge; rated by flow. The design incorporates air entrainment, hydromechanical separation, interior baffling, and/or barriers in combination or separately, and one or more of the following: external flow control, with air intake (vent), directly connected
- (1) external flow control, without air intake (vent), directly connected
 - (2) without external flow control, directly connected
 - (3) without external flow control, indirectly connected
- AI. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act. The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.
- AJ. Industrial User. An Industrial User is any discharger of non-domestic waste.

- AK. Industrial User-Specific (case-by-case basis) Local Limit: MAHL protective mass based local limit not evenly distributed among users but allocated individually based upon user need.
- AL. Industry specific limits. Discharge limits for pollutants, applied on a case-by-case basis, for which local limits, as described in Section 2.4, have not been developed.
- AM. Industrial Wastewater. Any and all liquid or water borne waste from industrial or commercial processes, except domestic sewage.
- AN. Interceptor. An interceptor is a device designed and installed to separate and retain deleterious or undesirable matter from normal wastes and permit normal liquid wastes to discharge by gravity.
- AO. Interference. A discharge which alone or in conjunction with a discharge or discharges from other sources, either: (1) inhibits or disrupts the POTW, its treatment processes or operations; (2) inhibits or disrupts its biosolids (sludge) processes, use or disposal; or (3) is a cause of a violation of the City's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/ regulatory provisions or permits issued thereunder: Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- AP. Liquid Waste. Liquid waste is the discharge from any fixture, appliance or appurtenance in connection with a plumbing system which does not receive fecal matter.
- AQ. Local Limit. Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).
- AR. Lower explosive limit (LEL). Minimum concentration of a vapor-air mixture, which if ignited propagates flame independent of an external source of heat.
- AS. Maximum Allowable Discharge Limit (instantaneous). The maximum concentration (or loading) of a pollutant allowed to be discharged at any time.
- AT. Medical Wastes. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, dialysis wastes,

unsterilized wastes generated in the rooms of patients who are isolated because of a suspected or diagnosed communicable disease, recognizable portions of the human anatomy, and untreated dental amalgam wastes containing silver and mercury.

AU. Middle Tier Categorical Industrial User. At the Director's discretion, a Categorical Industrial User may be deemed a Middle Tier Categorical Industrial User (MTCIU) where the Industrial User meets all of the following conditions:

- (1) The Industrial User's total categorical wastewater flow does not exceed any of the following:
 - (a) 0.01 percent of the design dry weather hydraulic capacity of the POTW, or 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches;
 - (b) 0.01 percent of the design dry weather organic treatment capacity of the POTW; and
 - (c) 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved local limits were developed by the POTW;
- (2) The Industrial User has not been in significant noncompliance, as defined in § 403.8(f)(2)(viii), for any time in the past two years;
- (3) The Industrial User does not have daily flow rates, production levels, or pollutant levels that vary so significantly that decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions.

AV. North American Industry Classification System (NAICS). A classification pursuant to the North American Industry Classification System Manual issued by the United States Office of Management and Budget.

AW. New Source.

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

- (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source, if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - (a) Begun, or caused to begin as part of a continuous on-site construction program;
 - (i) any placement, assembly, or installation of facilities or equipment; or
 - ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or;
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

AX. New User. A new user is not necessarily a new source and is defined as a user that applies to the City for a new building permit or any person who occupies an existing building and plans to discharge wastewater to the City's collection system after the effective date of this ordinance. Any person that buys an

existing facility that is discharging non-domestic wastewater will be considered an existing user if no significant changes are made in the operation.

- AY. Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- AZ. Non-Significant Categorical Industrial User. A Non-Significant Categorical User is a Categorical Industrial User that meets the restrictions laid out in Section 1.3 BV (3) of this Ordinance.
- BA. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit (including an increase in the magnitude or duration of a violation).
- BB. Permittee. A person or user issued a wastewater Discharge Permit, Discharge Authorization, Zero Discharge Permit, or General Permit.
- BC. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all Federal, State, or local governmental entities.
- BD. pH. A measure of the acidity or alkalinity of a substance, expressed in standard units, measured using the methods described in Standard Methods for the Examination of Water and Wastewater, current approved edition.
- BE. Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), toxicity, or odor].
- BF. Pollution. The human-made or human-induced alteration of the chemical, physical, biological, and/or radiological integrity of water.
- BG. Pollution Prevention. Any method, action or activity that eliminates or reduces pollution prior to its creation. Pollution prevention involves the practice of source reduction. Source reduction is any practice which eliminates or reduces the amount of any hazardous substance, pollutant, or contaminant entering any waste stream or otherwise released into the environment prior to recycling, treatment, or disposal.

- BH. POTW Protection Criteria - The Protection Criteria are set at the average uncontrollable background concentrations as determined by background sampling plus 1 standard deviation except for BOD, TSS, and Fats, Oils, and Grease (i.e., HEM), which are set at surcharge trigger levels.
- BI. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to (or in lieu of) introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means (except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard).
- BJ. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- BK. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits established by the City (POTW).
- BL. Process Wastewater. Process Wastewater is Industrial Waste minus Cooling Water/Non-Contact Cooling Water.
- BM. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Sections 2.1 (A) and (B) of this ordinance.
- BN. Public Sewer. A sewer provided by or subject to the jurisdiction of the City. It shall also include sewers inside or outside the City boundaries that ultimately discharge into the City sanitary or combined sewer system.
- BO. Publicly Owned Treatment Works (POTW). A treatment works, as defined by Section 212 of the Act (33 USC 1292) which is owned by the City. This definition includes all devices facilities, or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The POTW includes the City of Everett Water Pollution Control Facility.
- BP. Sanitary Flow: Sewage.
- BQ. Sanitary Sewer. A sewer which carries domestic and industrial waste and to which storm, surface, and ground waters are not intentionally admitted.
- BR. Septic Tank Waste (Septage). Any domestic and/or residential sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

- BS. Sewage. All wastes conveyed through the collections system, includes both domestic and industrial wastewater.
- BT. Sewer. Any pipe, conduit, ditch, or other device used to collect and transport sewage from the generating source.
- BU. Shall, May. "Shall" is mandatory, "may" is permissive.
- BV. Significant Industrial User (SIU). Except as provided in paragraphs (BV)(3) and (BV)(4) of this section, the term Significant Industrial User means:
- (1) All Industrial Users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and
 - (2) Any other Industrial User that:
 - (a) discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - (b) contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW Treatment plant; or
 - (c) is designated as such by the Director on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement (in accordance with 40 CFR 403.8(f)(6)).
 - (3) The Director may determine that an Industrial User subject to categorical Pretreatment Standards under § 403.6 and 40 CFR chapter I, subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - (a) The Industrial User, prior to the Director's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
 - (b) The Industrial User annually submits the certification statement required in § 403.12(q) together with any additional information necessary to support the certification statement; and

- (c) The Industrial User never discharges any untreated concentrated wastewater.
- (4) Upon a finding that an Industrial User meeting the criteria in paragraph (BV)(2)(b) of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement, the Director may at any time, on his own initiative or in response to a petition received from an Industrial User or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such Industrial User is not a Significant Industrial User.
- BW. Sludge. Residual solids resulting from the treatment of wastewater.
- BX. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration which could cause a violation of the discharge standards in Section 2.1 through 2.4 of this ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.
- BY. Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.
- BZ. State. The State of Washington.
- CA. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- CB. Total Suspended Solids (TSS). The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering and is amenable to measurement by the methods described in Standard Methods for the examination of Water and Wastewater, current approved edition.
- CC. Toxic Pollutant. One of the pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by EPA under Section 307 (33 USC 1317) of the Act, or other pollutants as may be promulgated.
- CD. Treatment Plant Effluent. The discharge from the POTW into waters of the United States.
- CE. User. Any source of discharge into the sewer.
- CF. Wastewater. Liquid and water-carried industrial wastes and sewage from

residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

- CG. Wastewater Discharge Permit (Industrial Wastewater Discharge Permit, Discharge Permit, Discharge Authorization, General Permit). An authorization or equivalent control document issued by the City to users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this ordinance.
- CH. Wastewater Treatment Plant or Treatment Plant or Pollution Control Facility. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.
- CI. Zero Discharge Permit. A Permit for a Categorical User that operates its processes so that no Industrial Waste is discharged to the POTW.

The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

1.4 Abbreviations

The following abbreviations shall have the designated meanings:

| | |
|-------------|---|
| AKART..... | All Known Available and Reasonable Technology |
| ASPP | Accidental Spill Prevention Plan |
| BMPs | Best Management Practices |
| BOD | Biochemical Oxygen Demand |
| CIU..... | Categorical Industrial User |
| CFR | Code of Federal Regulations |
| COD | Chemical Oxygen Demand |
| CSO..... | Combined Sewer Overflow |
| CWA..... | Clean Water Act |
| EPA | US Environmental Protection Agency |
| FOG..... | Fats, Oils, and Grease |
| GPD | Gallons Per Day |
| HEM..... | Hexane Extractable Material |
| L..... | liter |
| LEL | Lower Explosive Limit |
| mg | milligrams |
| mg/L | milligrams per liter |
| MGD..... | Million Gallons per Day |
| NSCIU | Non-Significant Categorical Industrial User |
| NPDES..... | National Pollutant Discharge Elimination System |
| O&M..... | Operation and Maintenance |
| POTW | Publicly Owned Treatment Works |
| RCRA..... | Resource Conservation and Recovery Act |
| SIC..... | Standard Industrial Classifications |
| SIU | Significant Industrial User |
| SCP | Slug Control Plan |
| SSO | Sanitary Sewer Overflow |
| SWDA | Solid Waste Disposal Act (42 USC 6901, et seq.) |
| TSS..... | Total Suspended Solids |
| USC..... | United States Code |

SECTION 2 - GENERAL REQUIREMENTS

2.1 *Prohibited Discharge Standards*

- A. General Prohibitions: No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- B. Specific Prohibitions: No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
 - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having a pH less than 5.0 s.u. or more than 11.0 s.u. (unless in compliance with Section 2.5 of this Ordinance) or otherwise causing corrosive structural damage to the POTW or equipment;
 - (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one quarter inch (1/4");
 - (4) Pollutants, including oxygen-demanding pollutants (BOD, COD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
 - (5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C) unless the Approval Authority, upon the request of the POTW, approves alternate temperature limits;
 - (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
 - (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - (8) Trucked or hauled pollutants (except Domestic Sewage or Septic Tank

Wastes) unless authorized by the director, and at discharge points designated by the City.

- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than ten percent (10%) from the seasonably established norm for aquatic life;
- (11) Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director in compliance with applicable State or Federal regulations;
- (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Director;
- (13) Any sludges, screenings, or other residues from the pretreatment of industrial or commercial wastes from industrial or commercial processes, or residues from cleaning wetwells or sewers, except as authorized by the Director;
- (14) Medical wastes, except as specifically authorized by the Director;
- (15) Wastewater, alone or in conjunction with other sources, that causes the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances in amounts which may cause excessive foaming in the POTW;
- (17) Any liquid, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion meter, at the point of discharge into the system (or at any point in the system), be more than five (5%) per

cent nor any single reading over ten (10%) per cent of the lower explosive limit (LEL) of the meter.

- (18) Animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, glass grinding or polishing wastes, or other similar wastes in amounts that cause interference in the POTW or obstruction to the sewer system.
- (19) Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits.
- (20) Any wastewater, which in the opinion of the Director can cause harm either to the sewers, sewage treatment process, or equipment; have an adverse effect on the receiving stream; or can otherwise endanger life, limb, public property, or constitute a nuisance, unless allowed under special agreement by the Director (except that no special waiver shall be given from categorical pretreatment standards).
- (21) The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septage, or other wastewater unless said person has first obtained testing and approval as may be generally required by the City of Everett and paid all fees assessed for the privilege of said discharge.
- (22) Any hazardous or dangerous wastes as defined in rules published by the State of Washington (WAC 173-303), in EPA rules 40 CFR Part 261, or Hazardous Waste Pharmaceuticals.
- (23) Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA)
- (24) Any slug load.
- (25) Any substance which may cause the POTW's effluent or treatment residues, sludges, or scums to be unsuitable for reclamation and reuse, or to interfere with the reclamation process.
- (26) Fats, oils and grease in amounts that may cause obstructions or maintenance problems in the collection/conveyance system, or interference in the POTW.
- (27) The use of the treatment and controls located at the POTW for wastewater treatment required by a National Emission Standards for

Hazardous Air Pollutants for Source Categories (NESHAP) under 40 CFR Part 63 is prohibited. The discharge of any untreated wastewater regulated by a NESHAP also is prohibited. The POTW does not and will not accept a NESHAP regulated waste stream nor provide treatment or controls as an agent for any Industrial User within the meaning of 40 CFR Part 63, including but not limited to 40 CFR § 63.1595.

- (28) Any toxic substances in amounts exceeding standards promulgated by the United States Environmental Protection Agency pursuant to Section 307(a) of the Act and the EPA's priority pollutant list.

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they are likely to be discharged to the POTW unless the user has in place an accidental spill prevention plan (ASPP)/slug control plan.

2.2 Federal Categorical Pretreatment Standards

The National Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are incorporated herein by reference as if set forth in full in this ordinance.

- A. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant, the Director may impose equivalent concentration or mass limits.
- B. Where a categorical Pretreatment Standard is expressed only in terms of mass of pollutant per unit of production, the Director may impose equivalent concentration or mass limits.

2.3 State Requirements

State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this ordinance or other applicable ordinances.

2.4 Local Limits

- A. The director is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).
- B. The following technically based Maximum Allowable Headworks Loadings [MAHL] have been established to protect against pass through and interference. The MAHLs apply to all wastewater entering the WPCF (industrial, commercial, and residential). The Maximum Allowable Industrial Loading (MAIL) is calculated based

upon the MAHL minus the background (commercial and residential) loadings and a safety factor. The City uses a combination of uniform concentration and industry specific mass based limits to establish local limits that ensure MAHLs are not exceeded. Any applicable local limits shall be included in individual Industrial User wastewater discharge permits or other control mechanisms. At no time shall the City allocate loading to permitted users that causes these loadings to be exceeded:

| Parameter | lb/day |
|--|---------------|
| Arsenic (total) | 5.29 |
| Cadmium (total) | 2.01 |
| Chromium (total) | 173 |
| Copper (total) | 5.91 |
| Cyanide (total) | 0.87 |
| Lead (total) | 10.4 |
| Mercury (total) | 0.11 |
| Molybdenum (total) | 7.63 |
| Nickel (total) | 7.59 |
| Selenium (total) | 7.48 |
| Silver (total) | 0.93 |
| Zinc (total) | 108 |
| Biochemical Oxygen Demand ¹ | 83,000 |
| Total Suspended Solids ¹ | 89,000 |

¹ *Established by NPDES Permit*

Local limits apply at the point where the wastewater is discharged to the POTW (end of the pipe). Categorical pretreatment standards apply at the end of the process. However, the Director may elect to have local limits apply after pretreatment and/or prior to mixing with dilution flows.

All concentrations for metallic substances are for total metal unless indicated otherwise.

Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply.

The City Council authorizes the Director to revise local limits.

C. POTW Protection Criteria

The City has established the following criteria (in mg/L) based upon technical evaluation of the background loading. Any user proposing to discharge wastewater that contains the following pollutants at or below the listed concentration shall not be required to discharge under an industrial wastewater discharge permit unless the discharge meets

other SIU requirements or is otherwise required by the director at the director's discretion. If the proposed discharge exceeds the following concentration criteria, the user shall submit a completed Permit Application to the Industrial Pretreatment Section. These concentrations apply at the point where the wastewater is discharged to the POTW collection system. The City reserves the right to modify, add or delete Protection Criteria as the City deems necessary:

| Parameter | mg/l |
|---------------------------|-------------|
| Arsenic (total) | 0.001 |
| Cadmium (total) | 0.0002 |
| Chromium (total) | 0.002 |
| Copper (total) | 0.034 |
| Cyanide (total) | 0.003 |
| Lead (total) | 0.003 |
| Mercury (total) | 0.00007 |
| Molybdenum (total) | 0.0009 |
| Nickel (total) | 0.003 |
| Selenium (total) | 0.0005 |
| Silver (total) | 0.0003 |
| Zinc (total) | 0.139 |
| Biochemical Oxygen Demand | 300 |
| Total Suspended Solids | 300 |
| HEM (total) | 50 |

D. Local Pollutant Allocations

The City is also authorized to develop and issue Local Pollutant Allocations for the control of pollutants of concern other than those listed in Section 2.4.B. These Local Pollutant Allocations are also based on the Maximum Allowable Headworks Loadings, Pass-Through, Interference, or protection of health and are implemented through the issuance of a industrial wastewater discharge permits or other control mechanisms. A Local Pollutant Allocation is not a local limit, it is an industry specific limit for a pollutant that is not included with the local limits or Categorical Pretreatment Standards but still have the potential to adversely affect the plant or collections system and therefore must be monitored.

These limits apply at the point where the wastewater is discharged to the POTW (end of the pipe).

E. Best Management Practices

The Director may develop Best Management Practices (BMPs), for inclusion in an ordinance or in individual wastewater discharge permits, to implement Local Limits and the requirements of Section 2.1. These BMPs may include but are not limited to types or

methods of pretreatment technology to be used, methods of source control, minimum maintenance requirements, dragout, spill, and pollution prevention practices, or other requirements as deemed necessary. The Director may establish BMPs in lieu of numerical limits for non-categorical users.

2.5 *pH Effluent Limitations Under Continuous Monitoring*

- A. Where a permittee continuously monitors the pH of wastewater discharged to the City's sewer system pursuant to a requirement in their discharge permit, the permittee shall maintain the pH of such wastewater within the range set forth in the permit, except excursions from the range are permitted subject to the following limitations:
 - (1). The total time during which the pH values are outside the required range of pH values shall not exceed two (2) hours in any calendar month; and
 - (2). No individual excursion from the allowable range of pH values shall exceed 15 minutes.
- B. At no time will the pH value be outside the allowable range of pH values by more than one pH unit.
- C. At no time shall the pH be less than 5.0 pH units.
- D. All batch discharges shall be in compliance with the allowable pH range.
- E. For the purposes of this Ordinance, an excursion is an unintentional and temporary incident in which the pH value of the discharged wastewater exceeds the range set forth in the user's discharge permit.
- F. Temporary pH value excursions that comply with the provisions of this section of the Ordinance will not be considered violations of the user's discharge permit but shall be reported in the pretreatment self-monitoring report.

2.6 *City's Right of Revision*

The City reserves the right to establish, by ordinance or in wastewater discharge permits, differing standards or requirements on discharges to the POTW.

2.7 *Special Agreement*

The City reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special

agreement waive compliance with a categorical pretreatment standard or federal pretreatment requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from the Approval Authority in accordance with 403.13.

2.8 *Dilution*

A user shall not increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on users which the Director believes may be using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

2.9 *Pretreatment Facilities*

- A. General: Users shall provide all known, available, and reasonable methods of prevention, control, and treatment (AKART) as required to comply with this ordinance and shall achieve compliance with all applicable pretreatment standards and requirements set out in this ordinance within the time limitations specified by the EPA, the State, or the Director, whichever is more stringent.

Any facilities required to pretreat wastewater to a level acceptable to the City shall be provided, operated, and maintained at the user's expense.

The Director may establish Best Management Practices (BMPs) for particular groups of users.

When required by the Director, an engineering report as required by, and complying with, WAC 173-240, including detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be acceptable to the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the City under the provisions of this ordinance.

Within ninety (90) days after the completion of the wastewater pretreatment facility, the discharger shall furnish as built drawings and its operations and maintenance procedures. Any subsequent significant changes in the pretreatment facility or method of operation shall be reported to and approved by the Director prior to the initiation of the changes.

New sources, and new users determined to be SIU's must have pretreatment facilities installed and operating, if required, prior to discharge.

- B. Grease Control/Pretreatment: Measures to control, recycle, remove or pretreat for grease that are applicable to food service establishments, other than SIUs, are subject to the Grease Control Ordinance, chapter 14.42 of the Everett Municipal Code, as may be amended.
- C. Other Interceptors: Dischargers who operate automatic and coin-operated laundries, car washes, filling stations, commercial garages or similar businesses having any type of washing facilities (including pressure washing and steam cleaning) or any other dischargers producing grit, sand, oils, lint, or other materials which have the potential of causing partial or complete obstruction of the building side sewer or other areas in the POTW shall, upon order of the Director, install approved interceptors, oil/water separators, or tanks in accordance with specifications adopted by the City of Everett such that excessive amounts of oil, sand and inert solids are effectively prevented from entering the POTW.
- D. Amalgam Separators: Users who generate dental amalgam wastes containing silver or mercury shall install amalgam separators on all equipment that might carry amalgam waste to the sanitary sewer and service in accordance with 40 CFR Part 441.
- E. Installation and Maintenance: All pretreatment devices including oil/water separators, settling tanks, separators and grit traps shall be properly installed, maintained and operated by the discharger at the discharger's own expense. The installation shall be kept in continuous operation at all times and shall be maintained to provide efficient operation. Cleaning must be performed by a service contractor qualified to perform such cleaning, or in a manner approved by the Director. All material removed shall be disposed of in accordance with all state and federal regulations. Records and certification of maintenance shall be made readily available to the Director for review and inspection, and must be maintained onsite, accessible for review by the Director, for a minimum of three (3) years.

If a failure to maintain settling tanks, grit traps, grease interceptors, or oil/water separators results in partial or complete blockage of the building sewer, private sewer system discharging to the City Sewer System, or other parts of the City Sewer System, or adversely affects the treatment or transmission capabilities of the POTW, or requires excessive maintenance by the City, or poses a possible health hazard, the discharger responsible for the facilities shall be subject to the remedies herein, including cost recovery, enforcement and penalties.

2.10 *Deadline for Compliance with Applicable Pretreatment Requirements*

Compliance by existing sources (categorical users) covered by Categorical Pretreatment Standards shall be within three (3) years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate Standard. The City shall establish a final compliance deadline date for any categorical user when the local limits for said user are more restrictive than EPA's Categorical Pretreatment Standards. The City may establish a final compliance deadline date for any existing user not covered by Categorical Pretreatment Standards.

New source dischargers, and new users that are determined to be SIU's, are required to comply with applicable pretreatment standards within the shortest feasible time (not to exceed 90 days from the beginning of discharge). New Sources, and new users that are determined to be SIU's, shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

Any wastewater discharge permit issued to a categorical user shall not contain a compliance date beyond any deadline date established in EPA's Categorical Pretreatment Standards. Any other existing user that is considered to be an SIU, or a categorical user that must comply with a more stringent local limit, which is in noncompliance with any local limits shall be provided with a compliance schedule to ensure compliance within the shortest time feasible.

2.11 *Additional Pretreatment Measures*

- A. When deemed necessary, the Director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
- B. When determined necessary by the Director, a user discharging into the POTW shall install and maintain, on such user's property and at such user's expense, a suitable storage and flow-control facility to insure equalization of flow. The Director may require the facility to be equipped with alarms and a rate of discharge controller, the regulation of which shall be determined by the Director. A wastewater discharge permit or Discharge Authorization may be issued solely for flow equalization.

- C. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at the user's expense.
- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection system.

2.12 Accidental Discharge/Slug Control Plans

The Director may require any user to develop and implement an accidental discharge/slug control plan. Where deemed necessary by the City, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the user's cost and expense.

An accidental spill prevention plan (ASPP)/slug control plan showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval before implementation. The City shall determine which user is required to develop a plan and require said plan to be submitted within 90 days after notification by the City. Each user shall implement its ASPP as submitted or as modified after such plan has been reviewed and approved by the City. Review and approval of such plans and operating procedures by the City shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of this Section.

- A. Any user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:
 - (1) Description of discharge practices, including non-routine batch discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the Director of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the standards in Sections 2.1 through 2.4 of this ordinance; and
 - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading

and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

- B. Users shall notify the Everett Water Pollution Control Facility immediately upon the occurrence of a slug or accidental discharge of substances regulated by this ordinance. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any affected user shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the City on account thereof under state or federal law.
- C. Within five (5) days following an accidental discharge, the user shall submit to the Director a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this Ordinance or other applicable law.
- D. When required by the Director, signs shall be permanently posted in conspicuous places on the user's premises advising employees whom to call in the event of a slug or accidental discharge. Contact procedure shall include after hours, holidays, and weekends. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

2.13 *Septic Tank Wastes*

- A. Hauled residential/domestic septic tank waste may be introduced into the POTW only at a designated receiving structure within the treatment plant area, or at a site authorized by the Director and at such times as are established by the Director. Only residential/domestic septic waste shall be accepted and such wastes shall not violate any requirements established or adopted by the City, except as authorized by the Director.
- B. Permits for individual vehicles to use such facilities shall be issued by the City. Wastewater discharge permits may be issued to each septage hauling business and may encompass more than one vehicle. Permits may be revoked at the director's discretion if the permittee violates any condition found therein. Permits may be transferred in accordance with the conditions outlined within the permit.

- C. No load may be discharged without prior consent of the Director. The Director may collect samples of each hauled load to ensure compliance with applicable pretreatment standards. The Director may require the hauler to provide a waste analysis of any load prior to discharge. Hauled waste that is not strictly domestic in origin shall be refused and the permit may be revoked until such time the permittee provides disposal documentation of the refused load to the Director.
- D. Septage haulers shall utilize a waste tracking form (manifest) provided by the Director for every load discharged. Any discharge without a manifest form is an unauthorized discharge and the hauler will receive an administrative fine of not less than \$5,000, and may have their discharge permit revoked or suspended. Violations of permit conditions or this ordinance shall subject the permittee to the enforcement actions detailed in the permit and this ordinance.
- E. Wastewater discharge permit fees for liquid waste haulers shall be established and charged in addition to other license and volume fees charged under the Everett Municipal Code, as amended. License and volume fees shall be established as part of the user fee system utilizing the principles established in Section 13 of this ordinance.

2.14 High Strength Wastes

The discharge of Industrial wastewater with compatible pollutants shall be subject to the review and approval of the Director. If the Director determines that the mass loading and/or volume of flow is excessive, and the wastewater will not cause interference, pass through, or reduce the efficiency of the wastewater treatment system, the wastewater may be allowed subject to additional charges. Permitted industrial user discharges exceeding the BOD, TSS, and HEM concentrations listed in Sec 2.4.C shall be subject to high strength surcharges. These additional charges will be based on the average treatment cost of the pollutant and flow. The additional charge shall be applied to the total load and flow discharged.

SECTION 3 - WASTEWATER DISCHARGE PERMIT REQUIREMENTS

3.0 *Permit Required*

No SIU shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in this ordinance.

Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

The Director may require other users, including liquid waste haulers, to obtain wastewater discharge permits (as necessary) to carry out the purposes of this ordinance.

3.1 *Wastewater Discharge Permitting: Existing SIU*

Any SIU that was discharging wastewater into the POTW prior to the effective date of this ordinance without an effective wastewater discharge permit and that wishes to continue such discharges in the future shall, within 60 days after notification by the Director submit a permit application to the City in accordance with Section 3.7 of this ordinance, and shall not cause or allow discharges to the POTW to continue after 90 days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Director.

The City's notification to SIUs covered by categorical pretreatment standards will be in reasonable time to ensure that the SIUs complies with the 180-day submittal deadline date established in 40 CFR §403.12 (b).)

3.2 *Wastewater Discharge Permitting: New Source and New User*

At least 90 days prior to the anticipated start-up, new sources, sources that become a user subsequent to the promulgation of an applicable categorical pretreatment standard, and new users that are determined to be SIU, shall apply for a wastewater discharge permit and will be required to submit to the City at least the information listed in paragraphs (A)-(E) of Section 3.7 of this ordinance. A new source, or new user that is determined to be a SIU, cannot discharge without first receiving a wastewater discharge permit from the City. New sources, and new users that are determined to be SIU's, shall also be required to include in their application information on the method of

pretreatment the user intends to use to meet applicable pretreatment standards. New Sources, and new users that are determined to be SIU's, shall give estimates of the information requested in paragraphs (D) and (E) of Section 3.7 of this ordinance.

3.3 *Wastewater Discharge Permitting: Extrajurisdictional Users*

Any existing user located beyond the City limits required to obtain a wastewater discharge permit shall submit a wastewater discharge permit application as outlined in Section 3.1 of this ordinance.

New Sources and new users that are determined to be SIU's, located beyond the City limits required to obtain a wastewater discharge permit shall comply with Section 3.2 of this ordinance.

3.4 *Wastewater Discharge Permitting: Zero Discharge Permits*

Any categorical user that operates its regulated processes so that no industrial waste is discharged to the POTW shall request that a zero-discharge permit be issued by the City. To be eligible for a zero discharge permit the user shall demonstrate to the Director's satisfaction that no industrial waste will be discharged and shall either permanently seal all accesses to the POTW other than those required for disposal of domestic sewage or install shutoff devices that will accept City installed, tamper evident seals. Breaking this seal without prior authorization by the Director shall be a violation of the zero-discharge permit and this ordinance.

3.5 *Wastewater Discharge Permitting: Middle Tier Categorical Industrial User*

Any categorical user that operates its regulated processes so that it complies with the requirements in Section 1.3 AU of this Ordinance may request that it be designated a Middle Tier Categorical Industrial User. If the Director agrees with that request, the User's discharge permit will be modified to incorporate the applicable provisions of 40 CFR 403. If, at any time, the User no longer complies with the requirements in Section 1.3 AU of this Ordinance, it shall immediately notify the Director and comply with the backup monitoring and reporting requirements contained in the permit.

3.6 *Wastewater Discharge Permitting: Non-Significant Categorical Industrial User*

Any categorical user that operates its regulated processes so that it complies with the

requirements in Section 1.3 BV (3) of this Ordinance may request that it be designated a Non-Significant Categorical Industrial User. If the Director agrees with that request, the User will be issued a Non-Significant Categorical Industrial User permit and shall comply with the requirements of that permit. If, at any time, the User no longer complies with the requirements in Section 1.3 BV (3) of this Ordinance, it shall immediately notify the Director and comply with the backup reporting requirements contained in the permit.

3.7 Wastewater Discharge Permit Application Contents

All users required to obtain a wastewater discharge permit must submit, at a minimum, the following information. The Director shall approve a form to be used as a permit application. Categorical users submitting the following information shall have complied with 40 CFR 403.12(b).

- A. Identifying information. The user shall submit the name and address of the facility including the name of the operator and owners, contact information, description of activities, facilities, and plant production processes on the premises;
- B. Permits. The user shall submit a list of any environmental control permits held by or for the facility;
- C. Description of operations. The user shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such Industrial User, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW; number and type of employees; hours of operation; each product produced by type, amount, process or processes, and rate of production; type and amount of raw materials processed (average and maximum per day) and the time and duration of discharges. This description should also include a schematic process diagram which indicates points of discharge to the POTW from the regulated or manufacturing processes. Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.
- D. Flow Measurement.

(1) Categorical User:

The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of

the following:

- (a) Regulated or manufacturing process streams; and
- (b) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) if required.

(2) Non-Categorical User

The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

- (a) Total process flow, wastewater treatment plant flow, total plant flow or individual manufacturing process flow as required by the Director.

The City may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

E. Measurements of pollutants.

(1) Categorical User:

- (a) The user shall identify the applicable pretreatment standards for each regulated or manufacturing process.
- (b) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (and/or mass) where required by the Categorical Pretreatment Standard or as required by the City of regulated pollutants (including standards contained in Sections 2.1 through 2.4 of this ordinance, as appropriate) in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (and/or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Section 5.
- (c) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- (d) Where an alternate concentration or mass limit has been

calculated in accordance with 40 CFR 403.6(e) for a categorical user covered by a categorical pretreatment standard this adjusted limit along with supporting data shall be submitted as part of the application.

(2) Non-Categorical User

- (a) The user shall identify the applicable pretreatment standards for its wastewater discharge.
- (b) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by the City) of regulated pollutants contained in Sections 2.1 through 2.4 of this ordinance, as appropriate in the discharge. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Section 5 of this ordinance.
- (c) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- (d) Where the Director developed alternate concentration or mass limits because of dilution this adjusted limit along with supporting data shall be submitted as part of the application.

F. Certification. A statement, reviewed by an authorized representative of the user and certified by a qualified professional as outlined in Section 3.8 of this ordinance, indicating whether the applicable Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the user to meet the applicable Pretreatment Standards and Requirements;

G. Compliance Schedule. If additional pretreatment and/or Operation & Maintenance activities will be required to meet the applicable Pretreatment Standards, the City will establish the shortest schedule by which the user will provide such additional pretreatment and/or Operation & Maintenance activities. The schedule shall conform with the requirements of Section 4.4. The completion date in this schedule shall not be later than the compliance date established pursuant to Section 2.10 of this ordinance.

- (1) Where the user's categorical Pretreatment Standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream

formula (40 CFR 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR 403.13) at the time the user submits the report required by this paragraph, the information required by paragraphs (D) and (E) of this section shall pertain to the modified limits.

- (2) If the categorical Pretreatment Standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR 403.13) after the user submits the report required by paragraphs (D) and (E) of this section, then a new report shall be submitted by the user within 60 days after the modified limit is approved.

- H. Any other information as may be deemed necessary by the Director to evaluate the wastewater discharge permit application. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

3.8 *Signatory and Certification Requirement*

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Depending upon the nature of a user's discharge permit, certification statements may require additional information (zero discharge, non-significant categorical, etc.). Refer to individual permits for the required certification statements.

3.9 *Wastewater Discharge Permit Decisions*

The Director will evaluate the data furnished by the user in the application and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application and any additional information required, the Director will determine whether or not to issue a wastewater discharge permit based on full evaluation and acceptance of the data furnished. Upon a determination to issue a

wastewater discharge permit, the user shall fulfill the public notice requirements, and publish in the largest local daily newspaper, its application for, and the City's intent to issue, a wastewater discharge permit. The manner, format, content and length of time for the publication shall be as prescribed by the Director, but at no time shall be less stringent than the requirements in WAC 173-216-090. The cost of publication shall be paid for by the applicant. If there have been no adverse comments when the public comment period has elapsed, the application shall be considered complete and the permit will be drafted. Once drafted the permit will also be put out for public comment. The permit shall be issued within thirty [30] days of the end of the applicable public comment period if no comments are received, or completion of review and addressing of any public notice comments received. If addressing public comments results in significant changes to the draft permit, the public notice may need to be repeated with the modified permit. The Director may deny any application for a wastewater discharge permit.

3.10 Wastewater Discharge Permit Contents

Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the Director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

- A. Wastewater discharge permits must contain the following conditions:
 - (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
 - (2) A statement that the wastewater discharge permit is non-transferable without prior notification to and approval from the City, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
 - (3) Applicable pretreatment standards: Effluent limits, including Best Management Practices, based on applicable general Pretreatment Standards, categorical Pretreatment Standards, local limits, and State and local law;
 - (4) Self-monitoring, and sampling as necessary, reporting, notification, submittal of technical reports, compliance schedules, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;

- (5) Requirement for immediate notification to the City where self-monitoring results indicate noncompliance;
- (6) Requirement to report a by-pass or upset of a pretreatment facility;
- (7) Requirement to control and notify the City of slug loads and accidental discharges, if determined by the City to be necessary;
- (8) Requirement for the SIU who reports noncompliance to repeat the sampling and analysis as required in Section 4.8 and submit results to the City within 30 days after becoming aware of the violation;
- (9) A statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.
- (10) Requirements for notification of the City of any new wastewater characteristics, change in volume, or constituents of the wastewater being discharged or change in production.

B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- (4) Development and implementation of waste minimization and pollution prevention plans to reduce the amount of pollutants discharged to the POTW;
- (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit;
- (8) Any special agreements the Director chooses to continue or develop between the City and user;
- (9) Compliance schedules;
- (10) Other conditions as deemed appropriate by the Director to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

3.11 Wastewater Discharge Permit Appeals

Any person, including the user, may petition the Director to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If the Director fails to act within sixty (60) days of the receipt of an appeal, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.
- E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a petition for review with the Snohomish County Superior Court within thirty (30) days following the final administrative wastewater discharge permit decision.

3.12 Wastewater Discharge Permit Duration

Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire. The wastewater discharge permit will expire at 11:59 PM on the specified date. Wastewater discharge permits may be extended or renewed by the Director on the Director's own initiative or upon timely application by the permit holder.

3.13 Wastewater Discharge Permit Modification

The Director may modify the wastewater discharge permit for good cause including, but not limited to, the following:

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the wastewater discharge permit; or
- I. To reflect a transfer of the facility ownership and/or operation to a new owner/operator.
- J. Any Permit Modification may be appealed under Section 3.11 of this ordinance.

3.14 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least ninety (90) days advance notice to the Director and the Director approves the wastewater discharge permit transfer. The notice to the Director must include a written certification by the new owner and/or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur;
- C. Acknowledges full responsibility for complying with the existing wastewater discharge permit; and
- D. States that a copy of the existing permit has been provided to the new owner or operator.

Provided that the above occurs and that there were no significant changes to the manufacturing operation or wastewater discharge, the new owner will be considered an existing user and be covered by the existing limits and requirements in the previous owner's permit. Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable as of the date of facility transfer.

3.15 Wastewater Discharge Permit Revocation

Wastewater discharge permits may be revoked for the following reasons:

- A. Failure to notify the City of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the City of changed conditions;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the City timely access to the facility premises and records;

- G. Failure to meet discharge limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of a permitted facility;
- M. If the City has to invoke its emergency provision as cited in Section 9.7 of the Ordinance;
- N. Violation of any pretreatment standard or requirement;
- O. Violation of any terms of the wastewater discharge permit;
- P. Violation of any provisions of this ordinance; or
- Q. Violation of any terms of an order of the Director issued under this ordinance.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

3.16 Wastewater Discharge Permit Re-issuance

A user, required to have a wastewater discharge permit, shall apply for wastewater discharge permit re-issuance by submitting a complete wastewater discharge permit application or other data the Director deems adequate for renewal, in accordance with Section 3.7 of this ordinance, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit. A user, whose existing wastewater discharge permit has expired and has submitted its re-application in the time period specified herein, shall be deemed to have an effective wastewater discharge permit until the City issues or denies the new wastewater discharge permit. A user, whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified herein, will be deemed to be discharging without a wastewater discharge permit.

SECTION 4 - REPORTING REQUIREMENTS

4.1 *Baseline Monitoring Reports*

- A. Within either one hundred and eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4) (whichever is later) existing categorical users currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the City a report which contains the information listed in Section 3.7 of this ordinance.

At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the City a report which contains the information listed in Section 3.7 of this ordinance.

A new source may be required to submit an engineering report to the Director and comply with WAC 173-240; the report should explain the method of pretreatment a new source intends to use to meet applicable categorical standards. A new source shall give estimates of its anticipated flow and quantity of pollutants discharged.

4.2 *Final Compliance Report (Initial Compliance Report)*

- A. Within 90 days following the date for final compliance by the SIU with applicable pretreatment standards and requirements set forth in this ordinance, in a wastewater discharge permit, or within 30 days following commencement of the introduction of wastewater into the POTW by a new source or new users considered by the City to fit the definition of SIU, the affected user shall submit to the City a report containing the information outlined in Paragraph (D)-(F) of Section 3.7 of this ordinance.
- B. For users subject to equivalent mass or concentration limits established by the City in accordance with procedures established in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the user's long term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

4.3 Periodic Compliance Report

A. Any user that is issued a permit under this ordinance and performs self-monitoring shall submit to the City during the months of June and December, unless required on other dates or more frequently by the City, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be as prescribed within the permit. At a minimum (except for zero discharge users, Middle Tier Categorical Industrial Users and Non-Significant Categorical Industrial Users) users shall sample their discharge at least twice per year. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by the Director or the Pretreatment Standard necessary to determine the compliance status of the user.

B. The report shall include a record of the concentrations (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and a record of all flow measurements (average and maximum) taken at the designated sampling locations and shall also include any additional information required by this ordinance or the wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported when required by the control mechanism.

If a user sampled and analyzed more frequently than what was required by the City or by this ordinance, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge during the reporting period.

C. Any user subject to equivalent mass or concentration limits established by the City or by unit production limits specified in the applicable categorical standards, shall report production data as outlined in Section 4.2 (B) of this ordinance.

D. Zero discharge users shall submit periodic reports as required by the Director stating that no process waste has been discharged to the POTW.

E. Middle Tier Categorical Industrial Users and -Non-Significant Categorical Industrial Users shall submit reports as required in their control mechanisms.

F. If the City calculated limits to factor out dilution flows or non-regulated flows, the user will be responsible for providing flows from the regulated process flows, dilution flows and non-regulated flows.

G. Flows shall be reported on the basis of actual measurement; provided, however,

that the City may accept reports of average and maximum flows estimated by verifiable techniques if the City determines that an actual measurement is not feasible.

- H. Sampling shall be representative of the user's daily operations and shall be taken in accordance with the requirements specified in Section 5 of this ordinance.
- I. The City may require reporting by users that are not required to have an industrial wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent or determine any other factor that is related to the operation and maintenance of the sewer system.
- J. The City may require self-monitoring by the user or, if requested by the user, may agree to perform the periodic compliance monitoring needed to prepare the periodic compliance report required under this section. If the City agrees to perform such periodic compliance monitoring, it may charge the user for such monitoring, based upon the costs incurred by the City for the sampling and analyses. Any such charges shall be added to the normal sewer charge and shall be payable as part of the utility bills. The City is under no obligation to perform periodic compliance monitoring for a user.
- K. All periodic compliance reports must be signed and certified in accordance with section 3.8 and their applicable discharger classification.

4.4 *Compliance Schedules for Meeting Applicable Pretreatment Standards*

In any situation where a compliance schedule is issued by the City, the following conditions shall be met.

- A. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
- B. No increment referred to in paragraph (A) of this section shall exceed nine (9) months.
- C. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the City including, at a minimum, whether or not it complied with the increment of progress to be met

on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports.

4.5 *Notification of Significant Production Changes*

Any user operating under a wastewater discharge permit incorporating mass or concentration limits based on production levels shall notify the City within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not providing a notice of such anticipated change will be required to comply with the existing limits contained in its wastewater discharge permit.

4.6 *Dangerous and Hazardous Waste Notification*

Dangerous waste may potentially be discharged to the sewer under the Washington Department of Ecology Domestic Sewage Exclusion. Waste must not exhibit hazardous or dangerous waste characteristics and cannot exceed the dangerous waste concentration thresholds in WAC 173-303-090. All wastes discharged must be treatable by the WPCF. Any user that intends to discharge dangerous waste that meets the appropriate requirements (see WAC 173-303-070 through WAC 173-303-100) must contact the City to obtain an industrial waste discharge permit. Any dangerous waste discharged to the WPCF without a permit is prohibited and will be enforced as an unpermitted discharge. Pharmaceutical waste specifically cannot be sewerred and cannot be approved under the domestic sewage exclusion.

The discharge of hazardous waste is strictly prohibited. If a user discharges hazardous waste then the user shall notify the City verbally immediately, within a minimum of 24 hours, by contacting Public Works during business hours or City of Everett Dispatch after hours and weekends. The user must follow up the initial notification with written notification to the City, the EPA RCRA Director and State Hazardous Waste and Toxics Reduction (HWTR) regional office, in writing within 90 days of the discharge of any substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261 or WAC 173-303. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, the quantity discharged, and the type of discharge (continuous, batch, or other).

Whenever the EPA or State of Washington publish new RCRA rules identifying additional dangerous or hazardous wastes, or new characteristics of existing dangerous and hazardous wastes, any affected user or Permittee must notify the City, EPA RCRA

Director and State HWTR regional office if any of these wastes are discharged to the City's treatment system. The notification must occur within 90 days of the effective date of the published regulation. To continue discharge, the wastes shall meet the requirements of Washington Department of Ecology Domestic Sewage Exclusion Guidance and be individually permitted by the City for suitability for discharge.

4.7 *Notice of Potential Problems, Including Accidental Spills, Slug Loadings*

Any user shall notify the City immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined in Section 1.3 of this ordinance. The notification shall include the concentration and volume and corrective action. Steps being taken to reduce any adverse impact should also be noted during the notification. Any user who discharges a slug (or slugs) of pollutants shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed by the City or on the City under state or federal law.

4.8 *Noncompliance Reporting*

If monitoring or sampling performed by a user indicates a violation, the user shall notify the City within 24 hours of becoming aware of the violation. The user shall also repeat the sampling within five (5) days and submit the results of the repeat analysis to the City within 30 days after becoming aware of the violation, except the user is not required to resample if:

- A. The City performs sampling at the user at a frequency of at least once per month, or
- B. The City performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling, or
- C. The user's required sampling frequency is twice per month or more frequent. This includes parameters such as flow or pH that are continuously monitored.

4.9 *Notification of Changed Discharge*

All users shall promptly notify the City in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, or any other change that will substantially change their discharge. Formal written notification to the City shall be made 30 days

prior to such introduction and the user shall obtain approval from the City to do so.

4.10 *TTO Reporting*

Categorical users which are required by EPA to eliminate and/or reduce the levels of toxic organics (TTOs) discharged into the sewer system must follow the Categorical Pretreatment Standards for that industry. Those users must also meet the following requirements:

- A. Must sample, as part of the initial application requirements, for the organics listed under the TTO limit;
- B. May submit a statement that no TTOs are used at the facility and/or develop a solvent management plan in lieu of continued monitoring for TTO, if authorized by the Director:

If allowed to submit a statement or develop a solvent management plan, the user must routinely submit a certification statement as part of its self-monitoring report that there has been no dumping of concentrated toxic organic into the wastewater and that it is implementing a solvent management plan as approved by the City. The Director may require the development and implementation of a solvent management plan in addition to monitoring for TTO.

4.11 *Reports from Unpermitted Users*

Any user not required to obtain a wastewater discharge permit shall provide appropriate reports to the City as the Director may require.

4.12 *Record Keeping*

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or POTW, or where the user has been

specifically notified of a longer retention period by the Director.

4.13 *Timing*

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

4.14 *Electronic Reporting*

The City may implement electronic reporting for users. Until the electronic reporting system is approved under the Cross-Media Electronic Reporting Rule (CROMERR) and the individual user has complied with identity certification requirements, electronic reports must be followed up with original paper reports. Electronically submitted reports will be deemed to have been submitted on the date they are posted to the electronic reporting system. Electronic reporting does not preclude the City from requiring a user to continue submitting paper reports, if the City deems it is still necessary.

SECTION 5 - SAMPLING AND ANALYTICAL REQUIREMENTS

5.1 *Sampling Requirements for Users.*

All samples shall be taken in a manner so they are representative of the wastestream being sampled.

- A. Where the discharge is continuous, a minimum of four (4) grab samples shall be taken for cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples shall be obtained through flow-proportional composite sampling techniques where feasible. The City may waive flow-proportional composite sampling for any user that demonstrates that flow-proportional is not feasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. Multiple grab samples for cyanide, total phenols, and sulfides may be composited in the field, volatile organics and oil and grease should be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Director, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.
- B. Samples shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the City and/or contained in the user's wastewater discharge permit. For categorical users, if other wastewaters are mixed with the regulated wastewater prior to pretreatment the user shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the Applicable Categorical Pretreatment Standards. For other SIUs, for which the City has adjusted its local limits to factor out dilution flows, the user shall measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standard(s).
- C. In the case of batch discharges, the samples shall be obtained in a manner that ensures they are representative of the batch.
- D. All sample results shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges from the user. If a user sampled and analyzed more frequently than what was

required in its wastewater discharge permit, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report.

5.2 *Analytical Requirements*

All pollutant analyses, including sampling techniques, shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

All analyses performed to establish compliance and used in compliance reporting shall be performed by a laboratory accredited by the Washington State Department of Ecology, Quality Assurance Division in accordance with 173-50 WAC. Laboratories must be accredited for the analyses for which they are performing.

To ensure that the reported data is valid for determining compliance with requirements, all data shall have a detection level (DL) no greater than twenty-five percent (25%) of the regulatory limit included in this ordinance or applicable State or Federal regulation.

SECTION 6 - COMPLIANCE MONITORING

6.1 *Inspection and Sampling*

Continued connection and use of the Everett Municipal sewer system shall be contingent on the right of the City to inspect and sample all discharges into the system. The City shall have the right to enter the facilities of any user for the purpose of the enforcement of this ordinance and other provisions of the Everett Municipal Code, as amended, and to determine that any wastewater discharge permit or order issued hereunder, is being met and whether the user is complying with all requirements thereof. Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Director shall have the right to set up on the user's property, or require installation of such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the user.
- D. Unreasonable delays in allowing the Director access to the user's premises shall be a violation of this ordinance.

6.2 *Monitoring Facilities*

Each user may be required to provide and operate at its own expense a monitoring facility to allow inspection, sampling, and flow measurements of each sewer discharge to the City. Each monitoring facility shall be situated on the user's premises, except where such a location would be impractical or cause undue hardship on the user, the City may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. The Director, whenever applicable, may require the construction and

maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line, wastewater treatment system).

There shall be ample room in or near such facility to allow accurate sampling, flow measurement and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. All monitoring facilities will remain unobstructed for ready access by City personnel.

The Director may require the user to install monitoring equipment as necessary. All devices used to measure wastewater flow and quality shall be maintained and calibrated in accordance with manufacturers' recommendations to ensure their accuracy.

6.3 *Search Warrants*

If the Director has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect as part of a routine inspection program of the City designed to verify compliance with this ordinance or any wastewater discharge permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director shall seek issuance of a search and/or seizure warrant from the Everett Municipal Court, the Everett District Court, or the Snohomish County Superior Court. Such warrant shall be served at reasonable hours by the Director and may be accomplished in the in the company of a uniformed police officer of the City.

6.4 *Vandalism*

No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW along with associated conveyance system and sampling equipment. Any person found in violation of this requirement shall be subject to the sanctions set out in this ordinance.

SECTION 7 - CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from City inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the City, that the release of such information would divulge information, processes or methods of production that are exempt from disclosure under the Public Records Act at Chapter 42.56 RCW, or as hereafter amended.

When requested and demonstrated by the user furnishing a report that such information should be held confidential, the City shall make reasonable efforts to protect the portions of a report which might disclose trade secrets or secret processes from inspection by the public; Such information, however, shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, in enforcement proceedings involving the person furnishing the report, or upon presentation of a duly issued subpoena or other court order.

Wastewater constituents, characteristics, and other effluent data as defined by 40 CFR 2.302, or the identity and address of the user will not be recognized as confidential information and will be available to the public without restriction.

SECTION 8 - PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The City shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users that, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. Significant noncompliance will be evaluated on a rolling quarter basis. The term significant noncompliance shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a pretreatment standard or requirement that the City believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of City personnel or the general public);
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s) that the City determines will adversely affect the

operation or implementation of the local pretreatment program.

SECTION 9 - ADMINISTRATIVE ENFORCEMENT REMEDIES

9.1 *Notification of Violation (Notice of Violation, NOV)*

When the Director finds that a user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may serve upon that user a written Notice of Violation. The Director may select any means of service which is reasonable under the circumstances.

Within seven (7) calendar days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

9.2 *Consent Orders*

The Director may enter into Consent Orders, assurances of voluntary compliance in "good faith," or other negotiated settlements between the City and the user establishing an agreement with any user who assumes responsibility for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 9.4 and 9.5 of this ordinance and shall be judicially enforceable. Use of a Consent Order shall not be a bar against, or prerequisite for, taking any other action against the user.

9.3 *Show Cause Hearing*

The Director may order a user which has violated or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten business (10) days prior to the hearing. Such notice may be served on any

authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

9.4 Compliance Orders

When the Director finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue an order to the user responsible for the discharge directing that the user come into compliance within a time specified in the order. Compliance Orders may require users to refrain from certain activities, install additional pretreatment equipment, increase self-monitoring, use best management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may be issued unilaterally, and the terms of the order need not be discussed with the user in advance. If the user does not come into compliance within the time specified in the order, sewer service may be discontinued. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

9.5 Cease and Desist Orders

When the Director finds that a user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

9.6 Administrative Fines

- A. When the Director finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director

may fine such user in an amount not less than \$250 and not to exceed \$10,000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. Said Administrative fines shall constitute a sewer service surcharge, and upon assessment, shall be subject to collection in the same manner as all other sewer utility rates, charges and penalties.

- B. Unless other arrangements have been made with, and authorized by the Director, unpaid charges, fines, and penalties shall accrue thereafter at a rate of one percent (1%) per month. After 90 days, if charges, fines, and penalties have not been paid, the City may revoke the user's discharge permit.
- C. Users desiring to appeal and dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within ten calendar (10) days of being notified of the fine. Upon receipt of a timely appeal, the Director shall set a date and time for an appeal hearing, but in no case shall the hearing be set more than sixty business (60) days from the receipt of the timely notice of appeal unless otherwise agreed upon in writing by the appellate and the Director. The appellant shall be notified in writing of the date, time, and place for the appeal hearing. The Director or the Director's designee shall serve as the Hearing Examiner. In the event the user's appeal is successful, any payments made shall be returned to the user. Affirmation or modification of an administrative fine by the Public Works Director shall relate back to the original date of assessment.
- D. The City shall recover the costs of preparing administrative enforcement actions, such as notices and orders, including the cost of additional inspections, sampling and analysis, and may add them to the fine. The City may also add to the fine the monetary value of any economic benefit the user gained through noncompliance to the fine.
- E. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.
- F. Users seeking judicial review of administrative fines must do so by filing a Petition for Review in the Snohomish County Superior Court within thirty calendar (30) days of the decision of the Director.

9.7 *Emergency Suspensions*

The Director may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial

endangerment to the health or welfare of persons, threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals.

The Director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed. If the Director does not allow the user to recommence its discharge within 15 days of the emergency suspension, the Director shall initiate termination proceedings pursuant to Section 9.8 of this ordinance.

- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director prior to the date of any show cause or termination hearing under Sections 9.3 and 9.8 of this ordinance.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

9.8 Termination of Discharge (Non-Emergency)

In addition to the provisions in Section 3.15 of this ordinance, any user that violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
- E. Violation of the pretreatment standards in Section 2 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity for hearing pursuant to Section 9.9 of this ordinance to dispute the proposed termination action. Initiation of a termination proceeding by the City shall not be a bar to, or a prerequisite for, taking any other action against the user.

9.9 *Appeal Procedures*

A. Appeals.

1. Any user who has been subject to an enforcement action by the City and who seeks to dispute a Notice of Violation, order, fine, or other action of the Director may file an appeal. No other person may appeal an enforcement action.
2. The notice of appeal must be filed in writing and received by the Director, in writing, within ten (10) calendar days of the receipt of the disputed action or proposed action. If the notice of appeal is not received by the Director within ten (10) days, the right to an appeal is waived. The notice of appeal shall state with particularity the basis on which appellant is disputing the action taken or proposed to be taken, including:
 - (a) The name and the address of the appellant;
 - (b) The nature of the decision or action being appealed;
 - (c) Why appellant believes the decision or action is unwarranted; and
 - (d) What the appellant believes the appropriate decision or action should be.
3. Upon receipt of a timely notice of appeal, the Director shall set a date and time for an appeal hearing, but in no case shall the hearing be set more than sixty (60) days from the receipt of the timely notice of appeal unless otherwise agreed upon in writing by the appellant and Director. The appellant shall be notified in writing of the date, time, and place for the appeal hearing. The Director or the Director's designee shall serve as the hearing examiner and be the presiding officer at the hearing.

B. Appeal Hearing.

1. Content of Notice of hearing. The notice of hearing shall include:
 - (a) Names and mailing addresses of all parties to whom notice is being given, and if known, the names and addresses of their representatives;
 - (b) If the City intends to appear, the mailing address and telephone

- number of the office designated to represent the City in the proceeding;
- (c) The official file or other reference number and name of proceeding;
 - (d) The name, official title, mailing address and telephone number of the presiding officer, if known;
 - (e) A statement of the time, place and nature of the proceeding;
 - (f) A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - (g) A reference to the particular section of the ordinance or regulations involved;
 - (h) A short and plain statement of the matters asserted by the agency; and
 - (i) A statement that a party who fails to attend or participate in a hearing or other stage of an appeal hearing may be held in default.
2. Procedures at hearing. The hearing examiner/presiding officer, who may be the Director, or the Director's designee, shall regulate the course of the hearing. The presiding officer shall afford to all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence; provided, however, the presiding officer may control the manner and extent of cross-examinations and rebuttal. In the discretion of the presiding officer, all or part of the hearing may be conducted by telephone or other electronic means as long as each party in the hearing has an opportunity to effectively participate and hear.
3. Rules of evidence. Evidence, including hearsay evidence, is admissible if in the judgment of the presiding officer it is the kind of evidence on which reasonably prudent persons are accustomed to rely in the conduct of their affairs. The presiding officer shall exclude evidence that is excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this state. The presiding officer may exclude evidence that is irrelevant, immaterial, or unduly repetitious. All testimony of parties and witnesses shall be made under oath or affirmation. Documentary evidence may be received in the form of copies or excerpts or by incorporation by reference. Official notice may be taken of (a) any judicially cognizable facts, (b) technical or scientific facts within the City's specialized knowledge, and (c) codes or standards that have been adopted by an agency of the United States, this state or another state, or by a nationally recognized organization or association. A party proposing that official notice be taken may be required to produce a copy of the material to be noticed.

4. Default. If a party fails to attend or participate in any stage of a hearing, the presiding officer may serve upon all parties a default or other dispositive order, which shall include a statement of grounds for the order. Within seven (7) calendar days after service of a default order, the party against whom it was entered may file a written motion requesting that the order be vacated, stating the grounds for the motion. If the party against whom the default order is entered fails to timely file a motion to vacate or the motion to vacate is not granted, the default order will be the final decision of the City.
5. Burden of proof. The appellant shall have the burden of proof by a preponderance of the evidence.

C. Appeal Conclusion.

After the conclusion of the hearing, the hearing examiner shall determine if the disputed action was proper, and shall approve, modify, or rescind the disputed action. The final determination of the hearing examiner shall be in writing, and all parties shall be provided a copy of the final determination within ten (10) days (or such longer time as the hearing examiner may determine in writing). This decision will include findings of fact that are supported by and based on the record. These findings will be entitled to deference on any judicial review.

D. Judicial Review of Appeal.

1. Any party, including the City, the Washington State Department of Ecology, the United States Environmental Protection Agency, or the user/appellant, is entitled to review of the final determination of the hearing examiner in the Snohomish County Superior Court. Provided, that any petition for review shall be filed no later than thirty (30) calendar days after date of the final determination.
2. Copies of the petition for review shall be served as in all civil actions.
3. The filing of the petition shall not stay enforcement of the final determination except by order of the superior court and on posting of a bond to be determined by the court naming the City as beneficiary.
4. The review shall be conducted by the court without a jury. The record shall be satisfied by a narrative report certified by the hearing examiner and no verbatim record of proceedings before the hearing examiner shall be required to be presented to the superior court.
5. The court may affirm the final determination or remand the matter for

further proceedings before the hearing examiner; or the court may reverse the final determination if the substantial rights of the petitioners may have been prejudiced because the final determination was:

- (a) In violation of constitutional provisions; or
- (b) In excess of the authority or jurisdiction of the hearing examiner;
- or
- (c) Arbitrary and capricious.

SECTION 10 - JUDICIAL ENFORCEMENT REMEDIES

10.1 *Injunctive Relief*

When the Director finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may petition the Snohomish County Superior Court through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the user.

The City may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user. Injunctive relief shall be nonexclusive to other remedies available to the City.

10.2 *Civil Penalties*

- A. A user which has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of \$10,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The Director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City. The City may also add the monetary value of any economic benefit the user gained through noncompliance to the penalty.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for taking any other action against a user.

10.3 Criminal Prosecution

- A. A user who violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a gross misdemeanor, punishable by a fine of not more than \$10,000 and/or one year in jail. Each day a violation occurs shall constitute a separate offense.
- B. A user who introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a gross misdemeanor and be subject to a penalty of not more than \$10,000 and/or one year in jail. Each day a violation occurs shall constitute a separate offense. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- C. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be guilty of a gross misdemeanor, and punished by a fine of not more than \$10,000 and/or one year in jail. Each day a violation occurs shall constitute a separate offense.

In addition, the user shall be subject to:

- (1) the provisions of 18 USC Section 1001 relating to fraud and false statements;
- (2) the provisions of Sections 309 (c) (4) of the Clean Water Act, as amended governing false statements, representation, or certification; and
- (3) the provision of Section 309 (c) (6) of the Clean Water Act, regarding responsible corporate officers.

10.4 Remedies Non-Exclusive

The provisions in Sections 8 through 11 of this ordinance are not exclusive remedies. The City reserves the right to take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the City's enforcement response plan. However, the City reserves the right to take other action against any user when the circumstances warrant. Further, the

City is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

SECTION 11 - SUPPLEMENTAL ENFORCEMENT ACTION

11.1 Performance Bonds

The Director may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this ordinance, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement unless such user first files a satisfactory bond, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance.

11.2 Financial Assurances

The Director may decline to issue or reissue a wastewater discharge permit to any user which has failed to comply with any provision of this ordinance, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to meet pretreatment requirements, and/or restore or repair damage to the POTW caused by its discharge.

11.3 Service Severance

Whenever a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, water and/or sewer service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

11.4 Public Nuisances

A violation of any provision of this ordinance, wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director.

11.5 Contractor Listing

Users which have not achieved compliance with applicable pretreatment standards and

requirements are not eligible to receive a contractual award for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the City.

11.6 Publication of Violations and/or Enforcement Actions.

The Director may publish violations and/or enforcement actions at any time, where monetary fines may be inappropriate in gaining compliance, or in addition to monetary fines. Violations and/or enforcement actions may also be published when the Director feels that public notice should be made, or at other appropriate times. The cost of such publications will be recovered from the user.

11.7 Penalties for Late Reports

A penalty of may be assessed to any user for each day that a report required by this ordinance, a permit or order issued hereunder is late, beginning one day after the date the report is due and shall escalate on 30 day intervals. Actions taken by the Director to collect late reporting penalties shall not limit the Director's authority to initiate other enforcement actions that may include penalties for late reporting violations.

11.8 Payment of Outstanding Fees and Penalties

The Director may decline to issue or reissue an individual wastewater discharge permit to any user who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this ordinance, a previous individual wastewater discharge permit, or any order issued hereunder.

SECTION 12 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

12.1 *Upset*

- A. For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with applicable pretreatment standards if the requirements of paragraph (C) are met.
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed or initialed contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the Director within twenty four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
 - (a) A description of the indirect discharge and cause of noncompliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of

an upset shall have the burden of proof.

- E. A User may appeal any enforcement action due to an upset as provided under Section 9.9 of this ordinance.
- F. Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

12.2 Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in Section 2.1 A and B (3) through (7) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either: (a) a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or (b) no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

12.3 Bypass

- A. For the purposes of this section,
 - (1) Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - (2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A user may allow any bypass to occur which does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for

essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.

- C.
 - (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Director, at least ten (10) days before the date of the bypass, if possible.
 - (2) A user shall submit oral notice to the City of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- D.
 - (1) Bypass is prohibited, and the Director may take an enforcement action against a user for a bypass, unless
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The user submitted notices as required under paragraph (C) of this section.
 - (2) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

SECTION 13 - MISCELLANEOUS PROVISIONS

13.1 Pretreatment Charges and Fees

The City of Everett may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program. These fees will be set by ordinance.

These fees relate solely to the matters covered by this ordinance and are separate from all other rates or charges for sewer service, provided that the City shall collect said charges in the same manner as other sewer utility rates are collected, including but not limited to the sewer lien procedures provided under 35.67 RCW.

Fees may include, but are not limited to:

- A. Fees for wastewater discharge permits, including the cost of processing the permit applications, public noticing, issuing and administering the permit, and reviewing monitoring reports submitted by users;
- B. Fees for modifying or transferring permits;
- C. Fees for monitoring, inspection, surveillance and enforcement procedures including the cost of collection and analyzing a user's discharge;
- D. Fees for reviewing and responding to accidental discharge procedures and construction;
- E. Fees for preparing and executing enforcement action;
- F. Fees for filing appeals;
- G. Fees for High Strength Waste and Industrial Process flow; and
- H. Other fees as the City may deem necessary to carry out the requirements contained herein.
- I. Any user establishing a pattern of noncompliance, or having a history of noncompliance, or suspected of being in noncompliance, may require additional monitoring visits as deemed appropriate by the Director. Any additional inspections, sampling, surveillance monitoring activities, and analysis performed which detect noncompliance will be billed directly to the user.
- J. Enforcement Actions: All expenses in preparing enforcement actions may be

billed directly to the User.

- K. High Strength Waste Fees: Users having effluent concentrations of BOD and/or TSS in excess of 300 mg/L, and/or FOG concentrations in excess of 50 mg/L may be billed a High Strength Waste Surcharge. Surcharge rates will be established by the Director and based on cost of conveyance and treatment in the POTW.
- L. Industrial Flow Surcharge: An Industrial flow surcharge will be billed to all applicable Users based upon the amount of industrial waste flow.
- M. Cost Recovery: The City may recover any incurred expenses incurred due to noncompliance by a user, including, but not limited to; costs of opening a plugged sewer, costs of repairing a damaged sewer, costs of determining the cause of a SSO or CSO, and costs of cleaning up and mitigating a SSO or CSO.

All fees or charges will be collected by direct billing. Unless the Director has been made aware of extenuating circumstances that would prevent prompt payment, all fees are payable within 30 days of the billing. Fees past due will be considered a violation of this ordinance. Users not paying fees within 60 days of the billing period will be subject to permit suspension or termination of service.

13.2 Non-Liability

It is expressly the purpose of this ordinance to comply with the September 13, 1985 order of the Washington State Department of Ecology requiring the City of Everett to establish an industrial pre-treatment program and to provide for and promote the health, safety and welfare of the general public. It is not the intent of this ordinance to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms or requirements of this ordinance.

It is the specific intent of this ordinance to place the obligation of complying with these regulations upon the applicant or Discharger and no provision nor any term used in this ordinance is intended to impose any duty whatsoever upon the City or any of its officers, employees or agents, except as provided under the Act or other related statutes of the United States or the State of Washington.

Nothing contained in this ordinance is intended to be nor shall be construed to create or form the basis for any tort liability on the part of the City or its officers, employees or agents, for any injury or damage resulting from the failure of an applicant or Discharger to comply with the provisions of this ordinance, or by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement of this ordinance, or

inaction on the part of the City related in any manner to the implementation or the enforcement of this ordinance by its officers, employees or agents.

Project title: An Ordinance Creating a Special Construction Project Entitled “Main Library HVAC Replacement Project”, Fund 342, Program 041, to Accumulate Design and Engineering Costs for the Project

Council Bill #

CB 2404-98

Agenda dates requested:

Briefing

1st Reading 4/24/2024

Proposed action 5/01/2024

Consent

Action 5/08/2024

Ordinance **X**

Public hearing

Yes **X** No**Budget amendment:**Yes **X** No**PowerPoint presentation:**Yes **X** No**Attachments:**

Funding Ordinance

Department(s) involved:

Parks and Facilities

Administration

Library

Contact person:

Bob Leonard

Phone number:

425-257-8335

Email:

bleonard@everettwa.gov

Initialed by:*RML*

Department head

Administration

Council President

Project: Main Library HVAC Replacement Project**Partner/Supplier:** N/A**Location:** 2702 Hoyt Ave**Preceding action:** None**Fund:** 342, Program 041 (CIP 1)**Fiscal summary statement:**

The proposed Funding Ordinance will provide funding for the design, engineering, and construction administration costs for the Main Library HVAC Replacement. The funds will be appropriated to Fund 342, Program 041 (CIP-1).

All related design and engineering costs are estimated at \$360,000.

Project summary statement:

The Main library’s approximately 30 plus years heating, ventilation and air conditioning (HVAC) system has reached its useful life and requires replacement. Park and Facilities intends to acquire professional services for architectural and engineering services to provide design, permitting, and construction documents for the replacement of the HVAC system at the Main Library.

Upon completion of the design work, Parks & Facilities staff will return to City Council to amend the Ordinance for construction.

Recommendation (exact action requested of Council):

Adopt an Ordinance creating a Special Construction Project entitled “Main Library HVAC Replacement Project”, fund 342, program 041, to accumulate design and engineering costs for the project.



ORDINANCE NO. _____

An Ordinance creating a special construction project entitled “Main Library HVAC Replacement Project”, Fund 342, Program 041, to Accumulate Design and Engineering Costs for the Project

WHEREAS,

- A.** The City Council recognizes the need to provide adequate facilities for its employees and the public.
- B.** The City Council recognizes the need to maintain existing City owned properties.
- C.** The City council recognizes the need to meet the new legislative requirements pertaining to the reduction in energy use in commercial buildings.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. A special construction project is hereby established as Fund 342, Program 041, and shall be entitled “Main Library HVAC Replacement Project” to accumulate design and engineering costs for the project.

Section 2. Authorization is hereby given to accumulate costs and distribute payments from Fund 342, Program 041 for the special construction project.

Section 3. Authorization is hereby granted to the Parks and Facilities Director, under the direction of the Mayor, to assume full and complete responsibility for conducting all tasks and all necessary steps to accomplish the actions authorized in this ordinance.

Section 4. The sum of \$360,000 is hereby appropriated to Fund 342, Program 041, “Main Library HVAC Replacement Project” as follows:

| | | |
|-------------------------------|-------------------------------|------------------|
| A. Use of Funds | | |
| | <u>Design and Engineering</u> | <u>\$360,000</u> |
| | Total | \$360,000 |
| B. Source of Funds | | |
| | <u>CIP 1</u> | <u>\$360,000</u> |
| | Total | \$360,000 |

Section 5. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 6. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 7. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 8. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST:

City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____

Project title: An Ordinance Creating a Special Construction Project Entitled “South Police Precinct HVAC Controls Replacement Project”, Fund 342, Program 044, to Accumulate Design and Engineering Costs for the Project

Council Bill #

CB 2404-99

Agenda dates requested:

Briefing

1st Reading 4/24/2024

Proposed action 5/01/2024

Consent

Action 5/08/2024

Ordinance ☒ X

Public hearing

Yes ☒ X No**Budget amendment:**Yes ☒ X No**PowerPoint presentation:**Yes ☒ X No**Attachments:**

Funding Ordinance

Department(s) involved:

Parks and Facilities

Administration

Library

Contact person:

Bob Leonard

Phone number:

425-257-8335

Email:

bleonard@everettwa.gov

Initialed by:*RML*

Department head

Administration

Council President

Project: South Police Precinct HVAC Controls Replacement Project**Partner/Supplier:** N/A**Location:** 1121 South East Everett Mall Way**Preceding action:** None**Fund:** 342, Program 044 (CIP 1)**Fiscal summary statement:**

The proposed Funding Ordinance will provide funding for the design, engineering and construction administration costs for the South Police Precinct HVAC controls replacement. The funds will be appropriated to Fund 342, Program 044 (CIP 1).

All related design costs are estimated at \$97,000.

Project summary statement:

Parks and Facilities intends to replace the controls systems and make modifications to the existing heating and ventilation systems at South Police Precinct. The current controls systems are unreliable and do not function properly preventing heat from reaching all the spaces on the west side of the first floor. The existing systems are over 20 years old and do not respond to user inputs. Architectural and Engineering services will provide schematic, architectural and engineering designs, permitting, and construction documents for the replacement of the controls system at the South Police Precinct along with adding heat to currently unheated spaces.

Upon completion of the design work, Parks & Facilities staff will return to City Council to amend the Ordinance for construction.

Recommendation (exact action requested of Council):

Adopt an Ordinance creating a Special Construction Project entitled “South Police Precinct HVAC Controls Replacement Project”, fund 342, program 044, to accumulate design and engineering costs for the project.



ORDINANCE NO. _____

An Ordinance creating a special construction project entitled “South Police Precinct HVAC Controls Replacement Project, Fund 342, Program 044, to Accumulate Design and Engineering Costs for the Project

WHEREAS,

- A. The City Council recognizes the need to provide adequate facilities for its employees and the public.
- B. The City Council recognizes the need to maintain existing City owned properties.
- C. The City council recognizes the need to meet the new legislative requirements pertaining to the reduction in energy use in city buildings.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. A special construction project is hereby established as Fund 342, Program 044, and shall be entitled “South Police Precinct HVAC Controls Replacement Project” to accumulate design and engineering costs for the project.

Section 2. Authorization is hereby given to accumulate costs and distribute payments from Fund 342, Program 044 for the special construction project.

Section 3. Authorization is hereby granted to the Parks and Facilities Director, under the direction of the Mayor, to assume full and complete responsibility for conducting all tasks and all necessary steps to accomplish the actions authorized in this ordinance.

Section 4. The sum of \$97,000 is hereby appropriated to Fund 342, Program 044, “South Police Precinct HVAC Controls Replacement Project” as follows:

| | |
|--------------------|-----------------|
| A. Use of Funds | |
| <u>Design</u> | <u>\$97,000</u> |
| Total | \$97,000 |
| B. Source of Funds | |
| <u>CIP 1</u> | <u>\$97,000</u> |
| Total | \$97,000 |

Section 5. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener’s/clerical errors, references, ordinance numbering, section/subsection numbers, and any internal references.

Section 6. The City Council hereby declares that should any section, paragraph, sentence, clause or phrase of this ordinance be declared invalid for any reason, it is the intent of the City Council that it would have passed all portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

Section 7. The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending in any court or in any way modify any right or liability, civil or criminal, which may be in existence on the effective date of this Ordinance.

Section 8. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Cassie Franklin, Mayor

ATTEST:

City Clerk

PASSED: _____

VALID: _____

PUBLISHED: _____

EFFECTIVE DATE: _____



Project title: Water Filtration Plant (WFP) Phase 2 Capital Upgrades

Council Bill # *interoffice use*

Agenda dates requested:

05/08/2024

Briefing

Proposed action

Consent

Action ☒ X

Ordinance

Public hearing

Yes

☒ x

No

Budget amendment:

Yes

☒ x

No

PowerPoint presentation:

Yes

☒ x

No

Attachments:

GMP Amendment

Department(s) involved:

Public Works, Legal

Contact person:

Souheil Nasr

Phone number:

425.257.7210

Email: Snasr@everettwa.gov

Initialed by:

RLS

Department head

Administration

Council President

Consideration: Guaranteed Maximum Price Amendment

Project: WFP Phase 2 Capital Upgrades

Partner/Supplier: IMCO General Construction

Location: 6133 Lake Chaplain Road, Monroe

Preceding action: Award of Progressive Design Build Contract (5.04.2022)

Fund: 336-Water& Sewer System Improvements

Fiscal summary statement:

The programmed available funding for this phase of the project, established by City Ordinance No. 4017-24, is \$38,000,000.

Project summary statement:

The WFP Phase 2 Capital Upgrades project consists of a suite of improvement projects that are being designed and constructed concurrently due to the criticality of the infrastructure being upgraded and the importance of maintaining uninterrupted water filter plant operations throughout construction efforts. This group of projects includes large diameter valve replacement, large diameter pipe construction, chemical storage tank replacement, water treatment process modifications, and deep soil excavation in locations with high groundwater.

On May 4, 2022, the City Council awarded the progressive design-build contract for this project to IMCO General Construction. Using the design-build process under RCW 39.10, the City and IMCO have worked together since then to develop design documents and construction pricing. The action for City Council approval now is an amendment to the initial progressive design-build contract, called the Guaranteed Maximum Price (GMP) amendment. This amendment inserts into the progressive design-build contract the final agreed construction price for the project, references to the construction drawings and specifications, and other items necessary for project construction, which totals \$25,707,420.86. The amendment also adds \$562,908.39 for additional completed design work.

Recommendation (exact action requested of Council): Authorize the Mayor to Sign the Guaranteed Maximum Price Amendment which will add a total of \$26,270,329.25, not including sales tax, to the WFP Phase 2 Capital Upgrades progressive design-build contract, in substantially the form provided.

CITY OF EVERETT

Water Filter Plant – Phase 2 Capital Upgrades GMP Amendment to Progressive Design-Build Contract Between Owner and Design-Builder

OWNER:

City of Everett
3200 Cedar Street
Everett, Washington 98201

DESIGN-BUILDER:

IMCO General Construction, Inc.
2116 Buchanan Loop
Ferndale, WA 98248

PROJECT:

City of Everett Water Filter Plant – Phase 2 Capital Upgrades

The Owner and Design-Builder hereby amend the Progressive Design-Build Contract (the "Contract") dated May 9, 2023, to establish a Guaranteed Maximum Price and other terms and conditions of the Contract. This Guaranteed Maximum Price Amendment ("GMP Amendment") is made as of date of last signature below.

Section A: Guaranteed Maximum Price

A.1 Guaranteed Maximum Price. As agreed by the Owner and Design-Builder, the Contract Price shall not exceed Twenty-Five Million Seven Hundred Seven Thousand Four Hundred Twenty and 86/100 Dollars (\$25,707,420.86), subject to additions and deductions by Change Order as provided in the Design-Build Documents.

A.2 Agreed Phase 2 Proposal. The Guaranteed Maximum Price is based on Design-Builder's Phase 2 Proposal, as agreed to by the Owner, and the scope of Phase 2 Work identified therein. A complete copy of the agreed Phase 2 Proposal is maintained by the City of Everett Clerk's Office as a single pdf and is available as follows ("Agreed Phase 2 Proposal"):

| | |
|-------------------------------------|---|
| Link to Agreed Phase 2 Proposal PDF | https://lfportal.everettwa.gov/WebLink/DocView.aspx?id=1695105&searchid=b2172133-0a6f-4850-9628-2be3f0055501&dbid=0 |
|-------------------------------------|---|

Design-Builder acknowledges that Design-Builder has downloaded and reviewed this pdf prior to signing this GMP Amendment. Owner and Design-Builder agree that this pdf contains the complete Agreed Phase 2 Proposal and that it is hereby incorporated into this GMP Amendment.

A.3 Elements of the Agreed Phase 2 Proposal. Section 2.3.1 and Exhibit C (Task 7) of the Contract contains a listing of the intended elements of the Phase 2 Proposal. The following table states the parties' resolution of each element of the Agreed Phase 2 Proposal. Each item has been bookmarked within the Agreed Phase 2 pdf.

| Contract Section(s) | Contract Section Text | Resolution in the Agreed Phase 2 Proposal |
|---------------------|---|---|
| 2.3.1.1 | "The Contract Price, subject to a GMP, shall be the sum of: | The Contract Price, subject to the GMP, is \$25,707,420.86, as shown in the Agreed Phase 2 Proposal pdf. |
| | i. Design-Build Fee as defined in as defined in Section 7.4 hereof; and | Design-Build Fee is \$1,616,193.71, as shown in the Agreed Phase 2 Proposal pdf. |
| | ii. Construction General Conditions Fee as defined in Section 7.3 hereof; and | Construction General Conditions Fee is \$1,750,000. |
| | iii. The Cost of the Phase 2 Work as defined in Section 7.5 hereof, inclusive of any Design-Builder's Contingency as defined in Section 7.6.2 hereof; and | Cost of the Phase 2 Work is \$20,202,421.34, which is inclusive of \$1,659,865.77 in contingency and allowances, all as shown in the Agreed Phase 2 Proposal pdf. |

| | | |
|--|--|---|
| | iv. Pass-Through Costs as defined in Section 7.5.3 hereof” | Pass-Through Costs is \$1,249,582.79, as shown in the Agreed Phase 2 Proposal pdf. |
| Task 7.3 | Pricing Submittal | COE – WFP Phase 2 Upgrades GMP Construction Cost Model; WFP Phase 2 Upgrades – Risk Register; Direct Cost of Work Report; 90% GMP Quotes; Phase 2 Construction Craftworker Labor Rates; Phase 2 Construction Equipment Billing Rates; KJ Construction Support Fee w IMCO Mark Ups; GeoEng Construction Support Fee w IMCO Mark Ups, contained in the Agreed Phase 2 Proposal pdf. |
| 2.3.1.2 (see also Task 7.1 a-c) | “The Basis of Design Documents, which shall include, by way of example, Owner’s Project Criteria (Exhibit B), as may have been modified pursuant to Section 2.1.2 hereof, drawings and specifications, all of which are set forth in detail and are attached to the Phase 2 Proposal;” | <p>The Agreed Phase 2 Proposal contains the following Basis of Design Documents:</p> <p>Modified Owner’s Project Criteria as shown with modifications in Tracked Changes, contained in the Agreed Phase 2 Proposal pdf</p> <p>90% Drawings, contained in the Agreed Phase 2 Proposal pdf</p> <p>90% Plans, contained in the Agreed Phase 2 Proposal pdf</p> |
| 2.3.1.3 | “A list of the assumptions and clarifications made by Design-Builder in the preparation of the Phase 2 Proposal, which list is intended to supplement the information contained in the drawings and specifications and is specifically included as part of the Basis of Design Documents.” | Phase 2 GMP Cost Clarifications & Assumptions, contained in the Agreed Phase 2 Proposal pdf. |
| 2.3.1.4 (see also Task 7.2.a) | “A Project Schedule for the Phase 2 Work based upon the Contract Time(s) set forth in Article 6 hereof;” | Phase 2 Construction Schedule and Schedule Narrative, contained in the Agreed Phase 2 Proposal pdf. |
| 2.3.1.5 | “If applicable, a list of Allowance Items, Allowance Values, and a statement of their basis;” | See Contract Section 2.3.1.1 – “COE – WFP Phase 2 Upgrades GMP Construction Cost Model |
| 2.3.1.6 | “If applicable, a schedule of alternate prices;” | Not applicable and not included in the Agreed Phase 2 Proposal pdf. |

| | | |
|--|---|--|
| 2.3.1.7 | "If applicable, a schedule of unit prices;" | Not applicable and not included in the Agreed Phase 2 Proposal pdf. |
| 2.3.1.8 | "If applicable, a statement of Additional Services which may be performed but which are not included in the Phase 2 Proposal, and which, if performed, shall be the basis for an increase in the GMP and/or Contract Time(s);" | Not applicable and not included in the Agreed Phase 2 Proposal pdf. |
| 2.3.1.9 | "An expiration date for the Phase 2 Proposal provided that Design-Builder shall not make the Phase 2 Proposal subject to expiration or withdrawal for at least ninety (90) days after submission and Owner shall provide its initial review and comment on the Phase 2 Proposal within thirty (30) days of submission;" | Unless this GMP Amendment is signed by both parties prior to July 17, 2024, the Phase 2 Proposal shall expire. |
| 2.3.1.10 (see also Task 7.1.d) | "A Permits and Approvals list detailing the permits and governmental approvals not otherwise addressed in the Contract Documents that Owner and Design-Builder will need and assigning responsibility for each;" | Not applicable and not included in the Agreed Phase 2 Proposal pdf. |
| 2.3.1.11 | "A preliminary training plan;" | Not applicable and not included in the Agreed Phase 2 Proposal pdf. |
| 2.3.1.12 (see also Task 7.2.b) | "A construction safety plan; and" | Phase 2 Health and Safety Plan, contained in the Agreed Phase 2 Proposal pdf. |
| 2.3.1.13 (see also Task 7.2.c) | "A construction quality plan." | Phase 2 QC Plan with Appendices, contained in the Agreed Phase 2 Proposal pdf. |
| Task 7.2.d | "Revised Self-Performance and Subcontracting Plan, identifying work packages planned to be self-performed and subcontracted, whether those packages are being procured competitively or sole sourced, description of approach to procurement for competitive | Self-Performance and Subcontracting Plan, contained in the Agreed Phase 2 Proposal pdf. |

| | | |
|-------------------|---|---|
| | packages, and identity of subcontractor for sole sourced packages.” | |
| Task 7.2.e | “Descriptive summary of all engineering, procurement, materials, construction labor and equipment, and other services necessary to perform the Phase 2 Work as required under this PDB Contract.” | Not applicable and not included in the Agreed Phase 2 Proposal pdf. |
| Task 7.2.f | “A Phase 2 scope of work for engineering services during construction, describing the work tasks and activities to be provided by the Engineer of Record and other engineering or geotechnical firms during Phase 2.” | KJ Construction Support Scope of Work (Engineer of Record) and GeoEngineers Construction Support Scope of Work (Geotechnical Firm), contained in the Agreed Phase 2 Proposal pdf. |
| Task 7.2.g | “A Phase 2 staffing plan describing the construction oversight activities to be completed by the Design-Builder, by the Engineer of Record, by other engineering or geotechnical firms, and by the City. The intent of this document is to demonstrate a shared understanding of oversight roles and responsibilities during construction, and to minimize duplication of efforts.” | Phase 2 Staffing Plan, contained in the Agreed Phase 2 Proposal pdf. |

Section B: Substantial Completion

Pursuant to Section 6.2.4 of the Contract, the required date of Substantial Completion for the Phase 2 Services as established by this GMP Amendment is April 30, 2026.

Section C: Other Changes

C.1 Phase 1 Completion. The completion date for Phase 1 Services in Contract Section 6.1.1 is amended from April 1, 2023 to May 31, 2024.

C.2 Phase 1 Price. The Phase 1 price in Contract Section 7.1 is amended as shown in the table below, which is exclusive of Washington state sales tax. A breakdown of the Phase 1 amount added by this GMP Amendment is attached to this GMP Amendment.

| | |
|---|----------------|
| Original Phase 1 Price in Contract | \$2,723,318.68 |
| Amount added by this GMP Amendment | \$562,908.39 |
| New Phase 1 Price | \$3,286,227.07 |

C.3 Key Personnel. The personnel table in Section 10.3 of the Contract is replaced with the following table:

| Position Title | Name of Individual |
|---|-------------------------------|
| Design-Builder Senior Representative / Project Manager | CJ Handforth |
| Design-Builder Representative / Preconstruction Manager | Todd Pike, DBIA |
| Design Manager | Brad Florentin, PE |
| Structural Engineer | PJ Bourdaniotis, PE, SE, DBIA |
| Civil Engineer | Jon Honda, PE |
| Building Mechanical Engineer | Ryan Ray, PE |
| Process Mechanical Engineer | Jonathan Anderson, PE |
| Construction Project Manager | Mitchell Sorestad |
| Construction Superintendent | James Janda |
| Geotechnical Engineer | Deb Overbay, PE |
| Hydrogeologist | Steven Thomas, LHG |

[signatures on following page]

This GMP Amendment entered into as of the date of last signature below. This GMP Amendment is signed by the parties using AdobeSign, which is fully binding.

OWNER:

City of Everett,
a Washington municipal corporation

Cassie Franklin, Mayor

DESIGN-BUILDER:

IMCO General Construction,
a Washington corporation

(Signature)

(Printed Name)

(Title)

Date: _____

Date: _____

ATTACHMENT
PHASE 1 PRICE BREAKDOWN
[to be inserted]



COE - WFP PHASE 2 UPGRADES COST MODEL

| Biditem | Description | Quantity | Units | Bid Total |
|--|--|--------------|-------|----------------------------|
| PHASE 2 COST MODEL | | | | |
| 10000 | MOBILIZATION | 1.00 | EST | 983,701.98 |
| 11000 | SITE CIVIL | 1.00 | EST | 284,886.38 |
| 12000 | LARGE DIAMETER VALVES | 1.00 | EST | 667,000.00 |
| 13000 | PUD VALVES & SCREENHOUSE VALVE/AIR GAP | 1.00 | EST | 1,671,724.70 |
| 14000 | FLOCCULATION BASIN IMPROVEMENTS | 1.00 | EST | 7,329,145.26 |
| 15000 | CHEMICAL BUILDING CONSTRUCTION | 1.00 | EST | 4,396,073.18 |
| 16000 | CFDS VALVE REPLACEMENTS | 1.00 | EST | 307,792.40 |
| 17000 | CFDS SLIDE GATES | 1.00 | EST | 373,958.69 |
| 18000 | EAST CLEARWELL GATE IMPROVEMENTS | 1.00 | EST | 438,159.70 |
| 19000 | BWPS GATE IMPROVEMENTS | 1.00 | EST | 238,498.98 |
| 20000 | BYPASS SYSTEMS | 1.00 | EST | 1,136,559.88 |
| 21000 | FLUORIDE BUILDING IMPROVEMENTS | 1.00 | EST | 579,096.89 |
| 22000 | EXISTING ALUM/POYMER BUILDING RETROFIT | 1.00 | EST | 135,957.53 |
| DIRECT COST TOTAL | | | | \$18,542,555.57 |
| 30000 | CONTINGENCY | 1.000 | EST | \$908,575.00 |
| 31000 | ALLOWANCE | 1.000 | EST | \$ 751,290.77 |
| | 72" PUD Line Valve Purchase and Install (Excluding Excavation,Shoring, | \$195,014.10 | | |
| | Owner's Contingency Allowance (3% of Direct Cost) | \$556,276.67 | | |
| CONTINGENCY/ALLOWANCE | | | | \$1,659,865.77 |
| 32000 | PHASE 2 DB FEE 8% | 1.000 | EST | \$1,616,193.71 |
| TOTAL INC FEE | | | | \$21,818,615.04 |
| 33000 | ENGINEERING CONSTRUCTION SUPPORT | 1.000 | NTE | \$889,223.03 |
| 34000 | GENERAL CONDITIONS FEE | 1.000 | EST | \$1,750,000.00 |
| 35000 | PASS THRU COST | 1.000 | EST | \$ 1,249,582.79 |
| | Permits/Licenses | \$- | | |
| | Performance/Payment Bond - 1.2% | \$303,898.95 | | |
| | Retainage Bond - .5% | \$122,289.19 | | |
| | B&O Tax - .65% | \$158,975.95 | | |
| | Builders Risk - .6% | \$146,747.03 | | |
| | Liability/Company Insurance - 2.04% | \$517,671.68 | | |
| NON-FEE APPLIED COSTS | | | | \$3,888,805.82 |
| TOTAL PHASE 2 CONSTRUCTION COST | | | | NTE \$25,707,420.86 |

Pricing does not include Sales Tax.

Proposal Expiration - 90 days from April 18th , 2024

From: Robin Thomas <stopbreathing@icloud.com>
Sent: Monday, May 6, 2024 5:49 PM
To: Angela Ely
Subject: Re: [EXTERNAL] Fwd: Off Leash dog park needs a big push right now!!

Of course! My name is Robin Thomas and my city is Everett. Thank you.
Sent from my iPhone

On May 6, 2024, at 11:26 AM, Angela Ely <AEly@everettwa.gov> wrote:

Category 2: Sensitive information

Thank you for submitting your email to Council.

If you are wanting your email to be submitted as written comment for the record at next Council meeting, I would need your city of residence and confirmation of your name.

The written comment process consists of your email being shared with the city clerk, legal, and administration. The city clerk would include it in the online packet that they post online and would become a permanent record. We typically submit written communication pertaining to a current agenda item as written comment, but it is not required.

If your purpose was mainly to share your thoughts with Council, then there is no additional information needed from you.

Sincerely,
Angela

<image005.png>

Angela Ely

Executive Assistant | Everett City Council
425.257.8703 | 2930 Wetmore Ave, Ste 9A, Everett, WA 98201
everettwa.gov | [Facebook](#) | [Twitter](#)

Note: Emails and attachments sent to and from the City of Everett are public records and may be subject to disclosure pursuant to the Public Records Act.

Category 2: For official use only / disclosure permissible by law.

From: Robin Thomas <stopbreathing@icloud.com>
Sent: Friday, May 3, 2024 12:59 PM
To: DL-Council <Council@everettwa.gov>
Subject: [EXTERNAL] Fwd: Off Leash dog park needs a big push right now!!

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Sent from my iPhone

Begin forwarded message:

From: Halo Hounds <mariegpnw+hh@gmail.com>
Date: May 3, 2024 at 11:05:56 AM GMT-7
To: Jane McClure <jmcclure01@gmail.com>
Cc: Jane Ternes <halohounds2021@gmail.com>, Emily Wells <playfulpibblepaws@gmail.com>, Robin Thomas <stopbreathing@icloud.com>
Subject: Re: Off Leash dog park needs a big push right now!!

Done... here's my "spin" on presentation. Feel free to cut-&-paste. 😊

- - - - -

I support Everett Parks and Facilities plans to revitalize Bayside's Clark Park. The plans are for a beautifully fenced, off-leash dog park with an arched gated entrance, and new park lighting. I believe this will help elevate the feel of the environs and attract a healthier, more positive energy and utilization of the space for the community.

I also support having the gazebo removed and placed in storage until funds can be raised for its beautification and relocation at a future date.

[<image001.png>](#)

[<~WRD0605.jpg>](#)

[<~WRD0605.jpg>](#)

Marie / (425) 374-1853 / www.halohounds.com

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Read about our services and rates [here](#).

On Wed, May 1, 2024 at 6:12 PM Jane McClure <jmcclure01@gmail.com> wrote:

<image002.png>

<image003.png>

Dear Friends of Bark in the Park!

Please copy and paste the message in the "talk balloon" above and email it to the Everett City Council address as shown on or before WEDNESDAY MAY 7TH.

We need your support to help Bayside Neighborhood Association secure a wonderful brand new off leash dog park for our urban furry friends. We can bring Clark Park back the wonderful outdoor space it once was and "man's best friend" is going to help make that happen. It's possible ground breaking could begin this month. The city council will vote to pass this measure on Wednesday evening.

YOU CAN HELP MAKE THIS HAPPEN.

PLEASE SEND YOUR MESSAGE OF SUPPORT ASAP.

Your Friends at Bark in the Park,

Jane C McClure & Betsey Mullen

From: Zaira I Arana <zaira_ileana@hotmail.com>
Sent: Monday, May 6, 2024 3:13 PM
To: Angela Ely
Subject: Re: [EXTERNAL] Clark Park

Hello, my residence is in Everett, you can share my email zaira_ileana@hotmail.com
Zaira Acompa

On May 6, 2024, at 12:09 PM, Angela Ely <AEly@everettwa.gov> wrote:

Category 2: Sensitive information

Thank you for submitting your email to Council.

If you are wanting your email to be submitted as written comment for the record at next Council meeting, I would need confirmation of your city of residence.

The written comment process consists of your email being shared with the city clerk, legal, and administration. The city clerk would include it in the online packet that they post online and would become a permanent record. We typically submit written communication pertaining to a current agenda item as written comment, but it is not required.

If your purpose was mainly to share your thoughts with Council, then there is no additional information needed from you.

Sincerely,

<image003.png>

Angela Ely

Executive Assistant | Everett City Council
425.257.8703 | 2930 Wetmore Ave, Ste 9A, Everett, WA 98201
everettwa.gov | [Facebook](#) | [Twitter](#)

Note: Emails and attachments sent to and from the City of Everett are public records and may be subject to disclosure pursuant to the Public Records Act.

Category 2: For official use only / disclosure permissible by law.

From: Zaira I Arana <zaira_ileana@hotmail.com>
Sent: Friday, May 3, 2024 10:38 AM
To: DL-Council <Council@everettwa.gov>
Subject: [EXTERNAL] Clark Park

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

"I support Everett Parks & Facilities plans to revitalize Bayside's Clark Park. The plans are for a beautifully fenced, off-leash dog park, with a arched gated entrance, and new park lighting.
I support having the gazebo removed and placed in storage until funds can be raised for its rehabilitation and relocation at a future date."
Zaira Acompa

From: Victoria Brill <victoriabrill@icloud.com>
Sent: Monday, May 6, 2024 12:27 PM
To: Angela Ely
Subject: Re: [EXTERNAL] Clark Park

Angela;

My address is 1908 22nd St, Everett WA 98201, United States

Do you need a document to support that?

Victoria

Sent from my iPhone

> On May 6, 2024, at 11:29 AM, Angela Ely <AEly@everettwa.gov> wrote:

>

> Category 2: Sensitive information

>

> Thank you for submitting your email to Council.

>

> If you are wanting your email to be submitted as written comment for the record at next Council meeting, I would need confirmation of your city of residence.

>

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> Sincerely,

>

> Angela Ely

> Executive Assistant | Everett City Council 425.257.8703 | 2930 Wetmore

> Ave, Ste 9A, Everett, WA 98201 everettwa.gov | Facebook | Twitter

>

>

> Category 2: For official use only / disclosure permissible by law.

> -----Original Message-----

> From: Victoria Brill <victoriabrill@icloud.com>

> Sent: Saturday, May 4, 2024 12:04 PM

> To: DL-Council <Council@everettwa.gov>

> Subject: [EXTERNAL] Clark Park

>

> CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

>

>

> I support Everett Parks and Facilities plans to revitalize Bayside's Clark Park. The plans are for a beautifully fenced, off-leash dog park, with an arched gated entrance, and new park lighting.

>

> Thank you,

>

> Victoria Brill

From: L M <luismb534@gmail.com>
Sent: Friday, May 3, 2024 10:09 PM
To: DL-Council; Deb Williams
Cc: Elizabeth Vogeli; Nichole Webber; Cassie Franklin; Brenda Stonecipher; Ben Zarlingo; Mary Fosse; Judy Tuohy; Donald Schwab; Paula Rhyne; Scott Bader; sophia.gates@heraldnet.com
Subject: [EXTERNAL] Letter in support of property taxes increase

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council,

I am writing to you to show my support for the property tax increase (a little late).
I read in the Everett Herald that one of the concerns with increasing property taxes is that:

[City leaders “need to look through the lens of all the families of Everett” when looking at the lid lift, Tuohy said, adding the tax will be passed on to renters.](#)

I certainly hope that the taxes get passed on to the renters.
For example:

My next door neighbor, the 10311 Dakota Way residence, is a rental property. According to Zillow, the property is worth north of \$700K.



Zillow Edit Save Share More

4 bd | 2 ba | 1,776 sqft
10311 Dakota Way, Everett, WA 98204

● Off market

Zestimate®: **\$767,900** Rent Zestimate®: **\$3,151**

Est. refi payment: \$4,666/mo [Refinance your loan](#)

According to google, to own a home this expensive the household income should be around \$150K per year.

\$151,200

Income to afford a \$700K house

Here's how the rule works for the **annual income of \$151,200**, as determined above. Dividing by 12 for a monthly amount comes to \$12,600, and 28 percent of \$12,600 is \$3,528 — almost exactly equal to the monthly principal and interest figure roughly determined above.

Sep 6, 2023

It sounds like the owner or tenant at this price point should be a decent, educated human being. After all, \$151K income is nothing to laugh about, it is \$50K more than the county average, according to the [Everett Herald](#)

Everett's median household income was \$77,806 in 2022, about 25% lower than the county median of \$104,083, according to census data. This school year, 39% of students in the Everett school district are receiving free and reduced lunches, according to state data.

However, the inhabitants of this residence make sure that the neighborhood feels like a dumpster. My next door neighbor uses the home as a gun range. I took this picture from my property. Some of the pellets came to my property and hit my daughter's playhouse.



I have confronted the neighbor about this since the EPD is called but not much is done.

<https://youtube.com/shorts/fE7hXu2a00E>

You can imagine how frightening this is:

<https://www.nbcnews.com/news/us-news/texas-shooting-suspect-captured-after-manhunt-rcna82214>

Oropesa is accused of killing five people, including a 9-year-old boy, in Cleveland, Texas, on Friday night after a member of the family asked him to stop firing his rifle because an infant was trying to sleep, officials have said.

It is always a pleasure to look at the neighbors property, See the pellet holes on the fence.



Pellets can kill people. Discharging a pellet gun is illegal in Everett.



Everett Herald

<https://www.heraldnet.com> > news > pellet-gun-shootin... ⋮

[Pellet gun shooting leaves 1 dead after argument in south ...](#)

Feb 9, 2024 — After a deadly shooting on Sunrise Drive, the suspected gunman remained behind bars this week, with bail set at \$25000.

We have had fireworks, more than once. Which are illegal.

<https://youtu.be/qW6W7-KfW88?si=ZzQnxb0miObsJWmH>

https://www.youtube.com/watch?v=Gt_KF46_4bY

<https://youtu.be/SegmtYhyPE4>


Loud music, more than once, which is a violation of the code if heard over the fence.

<https://youtube.com/shorts/ptY4NNTw23U?si=e0S4kARSZs8nsz8v>

Please have the EPD report on how many times they have come to this property since 2018. At some point, we had to call the EPD department every night for an entire week due to loud music. Again, EPD called multiple times and little is done.

| Police Incidents represent all calls for police responses. These include burglary and trespass reports, assaults, drug related calls, thefts, > | | | | | | | | | | | | More |
|---|------|-------------------------|----------------|---------------|------------------|----------------|-----------------|-------|-----|-------|-------|------------------|
| 2019-00125746 | 2019 | 2019 Nov 02 08:03:23 PM | NOISE COMPL... | ROUTINE | 911 CALL | 103XX DAKOT... | S SETTLED BY... | HOLLY | 041 | South | South | POINT (-122.2... |
| 2019-00125733 | 2019 | 2019 Nov 02 07:34:20 PM | NOISE COMPL... | ROUTINE | 911 CALL | 103XX DAKOT... | W WARNING (... | HOLLY | 041 | South | South | POINT (-122.2... |
| 2019-00119668 | 2019 | 2019 Oct 18 11:47:13 AM | ANIMAL COM... | NON-EMERGE... | 911 CALL | 103XX DAKOT... | W WARNING (... | HOLLY | 041 | South | South | POINT (-122.2... |
| 2019-00119620 | 2019 | 2019 Oct 16 05:15:00 AM | FOLLOW-UP | | | 103XX DAKOT... | | HOLLY | 041 | South | South | POINT (-122.2... |
| 2019-00099008 | 2019 | 2019 Aug 29 02:02:06 PM | ANIMAL COM... | NON-EMERGE... | OFFICER-INITI... | 103XX DAKOT... | W WARNING (... | HOLLY | 041 | South | South | POINT (-122.2... |
| 2019-00098326 | 2019 | 2019 Aug 27 08:17:20 PM | NOISE COMPL... | ROUTINE | 911 CALL | 103XX DAKOT... | G GONE ON A... | HOLLY | 041 | South | South | POINT (-122.2... |
| 2019-00088692 | 2019 | 2019 Aug 06 09:16:25 AM | FOLLOW-UP | NON-EMERGE... | 911 CALL | 103XX DAKOT... | E FOLLOW UP | HOLLY | 041 | South | South | POINT (-122.2... |
| 2019-00088645 | 2019 | 2019 Aug 06 05:05:48 AM | FOLLOW-UP | NON-EMERGE... | 911 CALL | 103XX DAKOT... | S SETTLED BY... | HOLLY | 041 | South | South | POINT (-122.2... |
| 2019-00088638 | 2019 | 2019 Aug 06 03:36:36 AM | NOISE COMPL... | ROUTINE | 911 CALL | 103XX DAKOT... | S SETTLED BY... | HOLLY | 041 | South | South | POINT (-122.2... |
| 2019-00088038 | 2019 | 2019 Aug 04 07:49:24 PM | NOISE COMPL... | ROUTINE | 911 CALL | 103XX DAKOT... | R CASE REPO... | HOLLY | 041 | South | South | POINT (-122.2... |
| 2019-00087864 | 2019 | 2019 Aug 04 10:06:23 AM | FOLLOW-UP | NON-EMERGE... | 911 CALL | 103XX DAKOT... | S SETTLED BY... | HOLLY | 041 | South | South | POINT (-122.2... |
| 2019-00087723 | 2019 | 2019 Aug 03 10:33:46 PM | FOLLOW-UP | NON-EMERGE... | 911 CALL | 103XX DAKOT... | S SETTLED BY... | HOLLY | 041 | South | South | POINT (-122.2... |
| 2019-00087713 | 2019 | 2019 Aug 03 10:12:44 PM | NOISE COMPL... | ROUTINE | 911 CALL | 103XX DAKOT... | S SETTLED BY... | HOLLY | 041 | South | South | POINT (-122.2... |
| 2019-00087689 | 2019 | 2019 Aug 03 09:33:02 PM | NOISE COMPL... | ROUTINE | 911 CALL | 103XX DAKOT... | S SETTLED BY... | HOLLY | 041 | South | South | POINT (-122.2... |
| 2019-00087280 | 2019 | 2019 Aug 02 08:22:33 PM | NOISE COMPL... | ROUTINE | 911 CALL | 103XX DAKOT... | S SETTLED BY... | HOLLY | 041 | South | South | POINT (-122.2... |
| 2019-00086877 | 2019 | 2019 Aug 01 10:52:04 PM | NOISE COMPL... | ROUTINE | 911 CALL | 103XX DAKOT... | G GONE ON A... | HOLLY | 041 | South | South | POINT (-122.2... |

The fire pit has been used to burn trash and the Everett Fire Department was called several times.



March 16, 2022

RESIDENT / PROPERTY OWNER
10311 DAKOTA WAY
EVERETT, WA. 98204

We have received complaints regarding open burning and recreational fires at the above address. Please review the enclosed Everett Municipal Code.

OPEN BURNING AND RECREATIONAL FIRES

307.1.1 Prohibited open burning. Open burning that is **offensive or objectionable because of smoke or odor emissions** or when atmospheric conditions or local circumstances make such fires hazardous shall be prohibited.


Recreational fires shall not be conducted within 25 feet of a structure or combustible material.

Fires shall be limited to three feet in diameter and two feet in height.

Please discontinue the illegal burning, any complaint from this point forward shall result in a violation fee of \$283.00 for each incident that doesn't comply with the Everett Municipal Code.

Please contact me directly if you have any questions.

Respectfully,
William Armstrong
Assistant Fire Marshal



9801 Oakme Ave

The dog keeps coming to our property, a little black and white dog, really cute. His name is Oreo. Another code violation.
<https://youtu.be/ODRB6f33PUM>
<https://youtu.be/et0DFLQFWnM>
<https://youtu.be/ibkEJ6pDZ6k>

This is the type of thing homeowners of homes that cost north of \$700K and who earn \$50K over the county average household income have to deal with. You can imagine how miserable it feels to live in Everett because of renters and people who have nothing invested in this community. I am a homeowner, and I have put all I have in my home. I want this community to be great. I am willing to pay extra taxes for the safety of my family.

If there is money for guns, nice stereos and fireworks, I am sure there is money to pay for taxes.

I believe that increasing taxes will make this city more appealing to better people and the EPD would be better trained. The city would be able to have a budget to make our city a nicer, safer place. Right now, it is not looking that great.

Luis M. Burbano
10305 Dakota Way resident since 2018.

From: Emily Wells <playfulpibblepaws@gmail.com>
Sent: Saturday, May 4, 2024 6:00 PM
To: DL-Council
Subject: [EXTERNAL] Clark Park Dog Park

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern:

I'm reaching out to the ever presenting problem of drug abuse and homelessness at Clark Park. I live about three blocks from this location and cannot take my daughters to this park of fear of needle usage and just homeless people that are openly using drugs in front of my children.

I have lost track of times. I have called the police to have them move people out when we've had vending events only to find that I'm on my own. This is so extremely frustrating as I love Clark Park. It's a beautiful location and park and I never go there.

I support Everett Parks and Facilities plans to revitalize Bayside's Clark Park. The plans are for a beautifully fenced, off-leash dog park with an arched gated entrance, and new park lighting. I believe this will help elevate the feel of the environs and attract a healthier, more positive energy and utilization of the space for the community.

I also support having the gazebo removed and placed in storage until funds can be raised for its beautification and relocation at a future date.

With Gratitude,

Emily Wells VSADT

Behavior Consultant
Pet Sitter
Homesteading

playfulpibblepaws@gmail.com
playfulpibblepaws.com
thespeckledpooch@gmail.com



EVERETT CITY COUNCIL Public Comment Form

Thank you for being here today. Please fill out this form to speak at the council meeting.

State your name and city of residence when you begin speaking. Each person is asked to limit comments to three minutes. This allows everyone a fair opportunity to speak. Return this form to the council administrator before the meeting begins.

All comments must be relevant and delivered to the Council as a whole in a respectful manner. The following comments are not allowed:

- Comments on any kind of campaigning, whether for or against ballot measures or candidates running for office
- Comments advertising any product
- Comments focused on personal matters that are unrelated to City business

You can also submit a comment and attend meetings online at [everettwa.gov/city council](http://everettwa.gov/city-council). Click on "Council meeting public comment sign up form." This must be done at least 30 minutes prior to the meeting. Additional instructions are available on the web page.

City staff may wish to contact you for follow up, therefore, your contact information is appreciated.

DATE: 5.8.24

NAME (required): CA Gray

CITY (required): Everett ZIP (required): 98207

EMAIL (optional): _____ PHONE (optional): _____

DISTRICT (circle one): 1 2 3 4 5 Not sure Don't live in city

When would you like to deliver your comments: Is your topic on today's agenda?

☐ During the comment period that will follow the agenda item
AGENDA ITEM #: _____

☒ During the general public comment. Please state the topic you would like to speak on: Attacks



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City staff may wish to contact you for follow up, therefore, your contact information is appreciated.

DATE: _____

NAME (required): Leo

CITY (required): Everett ZIP (required): _____

EMAIL (optional): _____ PHONE (optional): _____

DISTRICT (circle one): 1 2 3 4 5 Not sure Don't live in city

When would you like to deliver your comments: Is your topic on today's agenda?

☐ During the comment period that will follow the agenda item
AGENDA ITEM #: 60med

☐ During the general public comment. Please state the topic you would like to speak on: _____