

STANDARD LICENSE TO USE CITY PROPERTY

This Standard License to Use City Property ("**License**") is made as of the Effective Date in Part A below and is between the City of Everett, a Washington municipal corporation (*the "City"*), and the person identified as Licensee in Part A below ("**Licensee**"). In consideration of the covenants, terms and conditions set forth below, and for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Licensee agree as follows:

A. SPECIFIC LICENSE PROVISIONS

The following definitions and provisions apply and are part of this License:

Licensee	Whenever Watersports LLC
	1381 North St
	Suffield, Connecticut, 06078
	contact@wheneverwatersports.com
Effective Date	May 1, 2025
Term	from May 1, 2025 to May 1, 2026
Licensed Property	Designated area within Thornton A. Sullivan Park adjacent to the former guard house on the beach.
Rent	\$ 100/month during active rental months
Approved Use	Facilitate rentals of water vessels for public use.
City Notice Address	Real Property Manager City of Everett 2930 Wetmore Ave., Suite 8A Everett, WA 98201
Licensee Insurance Contact Information	Startstone Specialty Insurance Company
	844-722-7827
	claims@corespecialty.com

Additional Provisions	N/A
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B. GENERAL LICENSE CONDITIONS

Unless specifically provided otherwise in the Specific License Provisions, the following provisions apply:

1. LICENSED PROPERTY. The City licenses to Licensee the Licensed Property. Licensee has examined the Licensed Property and is in all respects familiar with the Licensed Property and the improvements in the Licensed Property. Licensee accepts the Licensed Property and its improvements in their “as is” condition.

2. TERM. The Term of this License is as set forth in Part A, unless terminated earlier as set forth in this License.

3. TERMINATION. The City may terminate this License at any time and for any reason effective upon 30-days prior written notice to Licensee. The City may also terminate this License effective upon written notice to Licensee in the event of material breach of this License. These rights are in addition to any other rights at law or in equity.

4. RENT. During the term of this License, Licensee shall pay the Rent stated in Part A by the first day of each calendar month of the Term to:

Treasurer
City of Everett
2930 Wetmore Avenue
Everett, WA 98201

or such other place as the City may from time to time designate in writing. This amount includes Leasehold Excise Tax, if applicable.

5. USE. Licensee shall use the Licensed Property only for the Approved Use stated in Part A. Licensee shall not use or permit the use of the Licensed Property for any other use without the prior written consent of the City, which may be withheld at the City’s sole discretion. The Approved Use shall not interfere in any way with any the City use of the Licensed Property, including without limitation utilities and travel.

6. COMPLIANCE WITH LAW. Licensee shall not do anything or permit anything to be done in or about the Licensed Property which will in any way violate or conflict with any applicable federal, state or local law. Unless otherwise agreed in writing by the City, Licensee must at Licensee’s sole cost acquire all permits required by law or regulation necessary for the Approved Use.

7. INSPECTION AND RIGHT-OF-ENTRY. The City and its agents shall have the right, but not the duty, to inspect the Licensed Property at any time to determine whether Licensee is complying with the terms of this License.

8. MAINTENANCE OF LICENSED PROPERTY. Licensee shall at all times throughout the Term keep the Licensed Property in good order, condition and repair. Licensee shall maintain the Licensed Property in a clean, orderly and neat appearance, and shall not permit any offensive odors to emit from the Licensed Property and shall not commit waste nor permit any waste to be committed in the Licensed Property. Except to the extent this License specifically states otherwise, Licensee is responsible for maintenance of the Licensed Property. Licensee shall use care to avoid damaging or destroying the City property by reason of its operations pursuant to this License. Any damage caused by Licensee to the City or other property shall be promptly repaired or replaced by Licensee.

9. THE CITY'S ACCESS FOR REPAIRS. The City reserves the right to make repairs, alterations, connections or extensions to the Licensed Property as the City deems necessary, and Licensee shall permit the City to enter the Licensed Property for this purpose at any time.

10. ALTERATIONS; SIGNS. Licensee shall not make or permit to be made any alterations, additions, improvements or installations in or to the Licensed Property (including telecommunication facilities), or place signs or other displays visible from outside of the Licensed Property, without first obtaining the written consent of the City, which may be withheld in the City's sole discretion. Prior to any alteration of the Licensed Property, the Licensee will supply the City with a drawing and any necessary specifications relating to its proposed alteration of the Licensed Property. The City's review, comments, and approval shall not create any City liability for any action or inaction relating to such review, and Licensee shall remain wholly responsible for the safety, adequacy, suitability, utility, and constructability of its alteration.

11. SUBLETTING AND ASSIGNMENT. This License is personal to the Licensee and may not be transferred, assigned, subletted, conveyed, pledged, inherited, encumbered, or hypothecated.

12. SURRENDER OF LICENSED PROPERTY. Licensee shall, at the expiration or earlier termination of this License, surrender and deliver the Licensed Property to the City (i) in as good condition as when received by Licensee from the City or as later improved, reasonable use and wear excepted, and (ii) free from any occupancy by any person.

13. INDEMNIFICATION.

(a) Indemnity. Licensee shall indemnify, defend and hold harmless the City against and from any and all claims, actions, damages, liability, costs and expenses, including attorney's fees, arising out of or relating to (a) Licensee's use of the Licensed Property or from the conduct of Licensee's business or from any activity, work, or other things done or permitted by Licensee in or about the Licensed Property, (b) any breach or default in the performance of any obligation on Licensee's part to be performed under the terms of this License, (c) any act or omission, negligence or willful misconduct of Licensee, or any officer, agent, employee, guest, or invitee of Licensee, and from all costs, damages, attorneys' fees and liabilities incurred in defense of any such claim in any action or proceeding brought thereon. Licensee, as a material part of the consideration to the City, hereby assumes all risk of damage to property or injury to persons in, upon or about the Licensed Property from any cause other than and to the extent of the City's gross negligence or willful misconduct. Licensee shall give prompt notice to the City in case of

casualty or accident in the Licensed Property. This Section shall survive the expiration or termination of this License. For the purposes of this License, the claims, actions, damages, liability and expenses for which Licensee must indemnify, defend and hold harmless the City are referred to as “**Covered Claims**”.

(b) Concurrent Fault. This Section does not purport to indemnify the City against liability for Covered Claims caused by or resulting from the sole gross negligence or willful misconduct of the City, its officers, employees and agents. If Covered Claims are caused by or result from the concurrent negligence of (i) the City, its officers, employees or agents, and (ii) Licensee, its agents, servants, employees, officers, subcontractors, sublicensees, sublicensees, successors or assigns, then this Section will provide the City the maximum indemnification permitted by law.

(c) Washington Law. This Section is specifically and expressly intended to constitute a waiver of Licensee's immunity under Washington's Industrial Insurance Act, RCW Title 51, to the full extent necessary to provide the City with a full and complete indemnity from claims made by Licensee and its employees, to maximum extent allowed by law. THE CITY AND LICENSEE ACKNOWLEDGE THAT THE INDEMNIFICATION PROVISIONS OF THIS SECTION WERE SPECIFICALLY NEGOTIATED AND AGREED UPON BY THEM.

(d) Waiver and Release. The City shall not be liable to Licensee, or its directors, officers, shareholders, agents, employees, invitees, sublicensees, contractors or licensees, for any loss, injury or damage to Licensee or any other person, or to its or their property, irrespective of the cause of such injury, damage or loss, unless, and then only to the extent, it is caused by or results from the gross negligence or willful misconduct of the City or its employees without contributory negligence on the part of Licensee or any of its directors, officers, shareholders, employees, agents, invitees, sublicensees, licensees or contractors. As a material part of the consideration to the City for this License, Licensee hereby waives and releases all claims against the City with respect to all matters for which the City has disclaimed liability pursuant to the provisions of this License.

14. INSURANCE/WAIVER OF SUBROGATION.

(a) Licensee Insurance. Licensee shall, throughout the Term, at its own expense, keep and maintain in full force and effect the following policy, which shall be endorsed as needed to provide that the insurance afforded by the policy is primary and that all insurance or self-insured retention carried or maintained by the City is strictly excess and secondary and shall not contribute with Licensee's liability insurance:

A policy of commercial general liability insurance insuring against claims of bodily injury and death or property damage or loss with a combined single limit at the Effective Date of this License of not less than Two Million Dollars (\$2,000,000.00) per occurrence. Licensee shall include the City as an additional insured.

The insurance policy required under this Section shall be with companies having a rating according to Best's Insurance Key Rating Guide for Property – Casualties of no less than A- Class VIII. The policy shall provide that it is not subject to cancellation, lapse or reduction in coverage

except after thirty (30) days' written notice to the City. Licensee shall deliver to the City, prior to the commencement of its occupation of the Licensed Property and from time to time thereafter, at the City's request, certificates evidencing the existence and amounts of such policy and copies of such insurance policy. Receipt by the City or the City's designee of any certificate or other insurance document showing less coverage than required is not a waiver of Licensee's obligations to fulfill the requirements of this Section. No statement on a third-party website (such as a Trustlayer) that a requirement is "waived" or "overridden" is a waiver of Licensee's obligations to fulfill the requirements of this Section.

(b) Waiver of Subrogation. Licensee intends that its property loss risks shall be borne by its insurance carriers to the extent above provided, and Licensee hereby agrees to look solely to, and seek recovery only from, its respective insurance carriers in the event of a property loss to the extent that such coverage is agreed to be provided hereunder. Licensee hereby waives all rights and claims for such losses, and waives all rights of subrogation of its respective insurers, provided such waiver of subrogation shall not affect the rights to the insured to recover thereunder. Licensee agrees that its respective insurance policies are now, or shall be, endorsed such that the waiver of subrogation shall not affect the right of the insured to recover thereunder, so long as no material additional premium is charged therefor.

15. HAZARDOUS MATERIALS.

(a) Licensee shall not cause or permit any storage, use, sale, release, generation or disposal of any Hazardous Materials (as defined below) in, on or about the Licensed Property; provided, however, Licensee shall be permitted without notice or the City's written consent to handle, store, use or dispose of products containing small quantities of Hazardous Materials, such as ordinary cleaning and ordinary maintenance products used by Licensee for cleaning and maintenance in the reasonable and prudent conduct of the Approved Use on the Licensed Property. Licensee further covenants and agrees that at all times during the Term of this License, Licensee shall comply with all applicable Environmental Laws (as defined below), now or hereafter in effect, regulating Licensee's occupation and/or operation and/or use of the Licensed Property.

(b) **"Hazardous Materials"** means any waste, pollutant, contaminant, chemical, petroleum product, pesticide, fertilizer, substance, or material that is defined, classified, or designated as hazardous, toxic, radioactive, dangerous, or other comparable term or category under any Environmental Laws (as defined below), including, but not limited to, gasoline, oil or any byproducts or fractions thereof, polychlorinated biphenyls, per- and polyfluoroalkyl substances, asbestos, paints, solvents, lead, cyanide, radioactive material, or any other materials which have adverse effects on the environment or the health and safety of persons.

(c) **"Environmental Laws"** means all federal, state, and local laws, statutes, rules, regulations, ordinances, and codes, and any judicial or administrative interpretation thereof or requirement thereunder, now or hereafter in effect, relating, to the regulation or protection of human health, safety, the environment and natural resources, including without limitation, the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. §§ 9601 et seq.), the Hazardous Substances Transportation Act (49 U.S.C. §§ 5101 et seq.),

the Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Clean Water Act (33 U.S.C. §§ 1251 et seq.), the Solid Waste Disposal Act (42 U.S.C. §§ 6901 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. §§ 6901 et seq.), the Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), the Emergency Planning and Community Right-To-Know Act (42 U.S.C. §§ 11001 et seq.), and any similar or comparable state or local laws, including without limitation, the Model Toxics Control Act (Chapter 70A.030 RCW, formerly codified at Chapter 70.105D RCW) and the Hazardous Waste Management Act (Chapter 70A.029 RCW, formerly codified at Chapter 70.105 RCW).

(d) All portions of this Section shall survive the expiration or termination of this License.

16. MISCELLANEOUS

(a) Notices. All notices to be given by the parties shall be in writing and may either be served personally, delivered by overnight courier (such as UPS or Fed Ex) or deposited in the United States mail, postage prepaid, by either registered or certified mail to the notice addresses provided in Part A of this License. A party may change its notice address effective on written notice to the other party. All such notices shall be deemed delivered and effective on the earlier of (i) the date received or refused for delivery, or (ii) five (5) calendar days after having been deposited in the United States Postal Service, postage prepaid. In lieu of the foregoing, the City may deliver any notice to the Licensee's email address in Part A, in which case the notice shall be deemed delivered and effective upon sending.

(b) No Waiver of Covenants. No waiver of any default hereunder shall be implied from any omission by either party to take any action on account of such default if such default persists or is repeated and no express waiver shall affect any default other than the default specified in the express waiver and then only for the time and to the extent therein stated. The subsequent acceptance of Rent by the City shall not be deemed to be a waiver of any preceding breach by Licensee of any agreement, condition or provision of this License, other than the failure of Licensee to pay the particular Rent so accepted, regardless of the City's knowledge of such preceding breach at the time of acceptance of such Rent. One or more waivers of any breach of any covenant, term, or condition of this License shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition.

(c) No Consequential Damages. Notwithstanding any contrary provision herein, the City shall not be liable under any circumstances for injury or damage to, or interference with, Licensee's business, or for any consequential, incidental or special damages, including but not limited to, loss of profits, loss of rents or other revenues, loss of business opportunity, loss of goodwill or loss of use, in each case, however occurring.

(d) Joint and Several Liability. If Licensee is composed of more than one signatory to this License, each signatory shall be jointly and severally liable with each other signatory for payment and performance according to this License. The act of, notice to, notice from, refund to or signature of, any signatory to this License (including, without limitation, modifications of this License made by fewer than all such signatories) shall bind every other signatory as though every other signatory had so acted, or received or given the notice or refund, or signed.

(e) Nature of License. The City does not warrant its title or ownership of the Licensed Property. This License is not exclusive. The City is not prohibited from granting permission to others to occupy or use portions of the Licensed Property where such uses are not inconsistent with this License. No possessory interest is granted to Licensee in the Licensed Property. The City reserves all rights not expressly granted by this License. This License does not create any rights in any third party.

(f) Risk of Loss to Licensee's Property. Licensee bears all risk of any and all damage and loss to Licensee's property being on the Licensed Property.

(g) Entire Agreement; Amendment. This License represents the entire agreement between the parties relating to the Licensed Property and supersedes all other agreements and representations made prior hereto. No amendment hereof shall be binding on either party unless and until approved in writing by both parties, with the Mayor signing on behalf of the City and a representative of Licensee signing on behalf of Licensee.

(h) Severability. If any provision of this License or any application hereof shall be found to be invalid or unenforceable, for any reason, such provisions shall be enforceable to the maximum extent permitted by law and the remainder of this License and any other application of such provision shall not be affected thereby.

(i) Choice of Law and Venue. This License shall be administered and interpreted under the laws of the State of Washington. Exclusive venue for litigation arising from or relating to this License shall be in Snohomish County, Washington.

(j) Additional Provision(s). The parties will comply with any Additional Provision(s) in Part A. If an Additional Provision contains an obligation concerning events or conduct after the termination of this License, then the obligation survives the termination.

(k) Survivability. All clauses of this License that require performance beyond the expiration of termination of the License shall survive such termination or expiration.

(l) No Third Party Beneficiary. This License is executed for the exclusive benefit of the signatory parties and their respective successors and assigns. Nothing herein shall be construed as creating any enforceable right, interest, claim or cause of action in or for any third-party.

(m) Regulatory Authority Reserved. Licensee expressly acknowledges that the City is a municipal corporation organized under the laws of the state of Washington and has executed this License in its capacity as owner of the Licensed Property. Nothing in this License shall be construed as waiving, abridging or otherwise limiting the City of Everett's regulatory authority, police power and/or legislative discretion, which are hereby expressly reserved in full. Without prejudice to the foregoing, nothing in this License shall be construed as entitling Licensee to receive any permit, license or other regulatory approval, or as waiving or excusing Licensee's compliance with any applicable regulatory process.

(n) Public Records Disclosure. Licensee expressly acknowledges that the City is an "agency" as defined by Chapter 42.56 RCW, and is fully subject to the provisions governing

the disclosure of public records codified in that statute. To the extent required or otherwise authorized by said statutes or other applicable law:

➤ Any public records submitted to or generated by City in connection with this License are potentially subject public to inspection and copying upon request. Licensee expressly waives any claim or cause of action against City arising out of such disclosure.

➤ Licensee shall fully cooperate with and assist City with respect to any request for public records received by City and related to any public records generated, produced, created and/or possessed by City and related to this License. Upon written demand by City, Licensee shall furnish City with full and complete copies of any such records within ten business days. Licensee's failure to timely provide such records upon demand shall be deemed a breach of this License. To the extent that City incurs any monetary penalties, attorneys' fees, and/or any other expenses as a result of such breach, Licensee shall fully indemnify and hold harmless City therefor.

For purposes of this subsection, the term "public records" shall have the same meaning as defined Chapter 42.56 RCW, as such chapter has been construed by Washington courts. The provisions of this subsection shall survive the expiration or termination of this License.

(o) Counterparts / Signatures. This License may be executed in counterparts with the same effect as if both parties hereto had executed the same document. Both counterparts shall be construed together and shall constitute a single License. Both parties agree that electronic signatures, copies of signatures by photocopy, email, pdf or fax shall be considered equivalent to handwritten signatures executed on paper. Scanned copies of a signature will be considered the same as a handwritten signature. AdobeSign signatures are fully binding.

[signatures on following pages(s)]

IN WITNESS WHEREOF, the City and Licensee have executed this License.

**CITY OF EVERETT
WASHINGTON**

WHENEVER WATERSPORTS LLC



Cassie Franklin, Mayor

05/20/2025

Date

Michael Ulitsch

Signature: _____

Name of Signer: Michael Ulitsch

Signer's Email Address:

contact@wheneverwatersports.com

Title of Signer: Co-Founder

05/19/2025

ATTEST



Office of the City Clerk



STANDARD DOCUMENT
APPROVED AS TO FORM
OFFICE OF THE CITY ATTORNEY
JULY 3, 2024











Whenever Watersports License Form_5.6.25_SD

Final Audit Report

2025-05-20

Created:	2025-05-19
By:	Ashleigh Scott (AScott@everettwa.gov)
Status:	Signed
Transaction ID:	CBJCHBCAABAA7uX2T4FYFZb2qtcdvVlrYKjw-MoJWeUT

"Whenever Watersports License Form_5.6.25_SD" History

-  Document created by Ashleigh Scott (AScott@everettwa.gov)
2025-05-19 - 7:05:17 PM GMT
-  Document emailed to Cory Rettenmier (crettenmier@everettwa.gov) for approval
2025-05-19 - 7:06:00 PM GMT
-  Email viewed by Cory Rettenmier (crettenmier@everettwa.gov)
2025-05-19 - 8:24:36 PM GMT
-  Document approved by Cory Rettenmier (crettenmier@everettwa.gov)
Approval Date: 2025-05-19 - 8:25:05 PM GMT - Time Source: server
-  Document emailed to contact@wheneverwatersports.com for signature
2025-05-19 - 8:25:07 PM GMT
-  Email viewed by contact@wheneverwatersports.com
2025-05-19 - 8:25:34 PM GMT
-  Signer contact@wheneverwatersports.com entered name at signing as Michael Ulitsch
2025-05-19 - 8:26:17 PM GMT
-  Document e-signed by Michael Ulitsch (contact@wheneverwatersports.com)
Signature Date: 2025-05-19 - 8:26:19 PM GMT - Time Source: server
-  Document emailed to Tim Benedict (TBenedict@everettwa.gov) for approval
2025-05-19 - 8:26:21 PM GMT
-  Email viewed by Tim Benedict (TBenedict@everettwa.gov)
2025-05-19 - 8:27:08 PM GMT



Document approved by Tim Benedict (TBenedict@everettwa.gov)

Approval Date: 2025-05-19 - 8:27:18 PM GMT - Time Source: server



Document emailed to Cassie Franklin (cfranklin@everettwa.gov) for signature

2025-05-19 - 8:27:19 PM GMT



Email viewed by Cassie Franklin (cfranklin@everettwa.gov)

2025-05-20 - 2:11:24 PM GMT



Document e-signed by Cassie Franklin (cfranklin@everettwa.gov)

Signature Date: 2025-05-20 - 2:11:34 PM GMT - Time Source: server



Document emailed to Ashleigh Scott (AScott@everettwa.gov) for signature

2025-05-20 - 2:11:36 PM GMT



Document e-signed by Ashleigh Scott (AScott@everettwa.gov)

Signature Date: 2025-05-20 - 5:05:59 PM GMT - Time Source: server



Agreement completed.

2025-05-20 - 5:05:59 PM GMT