



REGULAR MEETING AGENDA SEQUIM CITY COUNCIL

Sequim Civic Center
152 West Cedar Street
Sequim, WA
September 26, 2016
5:00 PM

Times are approximate and subject to change. All agenda items including public hearings may be addressed at any time once the meeting begins.

WORK SESSION

1. Ordinance No. 2016-15 Dealing with Wireless Communication Facilities

PLEDGE OF ALLEGIANCE

ROLL CALL

CHANGES TO THE AGENDA

CEREMONIAL

- Greeting by Mr. Kobayaski from Mayor Shouzou Fukumoto, Shiso City
- Introduce Shiso City chaperones

REPORTS

Committee, Board and Liaison

Presiding Officer

City Manager

2. 2017 Budget Overview
3. Review of 2017 Rates and Fees

Student Liaison Report

PUBLIC COMMENTS *Please limit comments to 3 minutes. Please see "Public Comments" rules attached.*

INFORMATION/COUNCIL QUESTIONS INVITED

PUBLIC HEARINGS (Legislative)

4. Ordinance No. 2016-10 Amending Title 17 for Plat Vacation/Alterations
5. Ordinance No. 2016-11 Amending SMC 5.28 "For Hire Vehicles"

CONSENT AGENDA

6. Approve/Acknowledge
 - a. City Council Meeting Minutes – September 12, 2016
 - b. Claim Voucher Recap Dated 9/26/16 Total Payments \$494,499.57

TBD BUSINESS

UNFINISHED BUSINESS

NEW BUSINESS

7. Resolution R2016-23 Declaring Police Dog as Surplus and Authorizing Transfer to his Handler
8. Discuss Proposed Designation as a Tree City

GOOD OF THE ORDER

PUBLIC COMMENTS *(Please limit comments to 3 minutes each)*

EXECUTIVE SESSION

NEXT MEETING DATE October 10, 2017 (5:00 p.m.); October 17, 2016 (5:00 p.m. – Joint Meeting with Jamestown S’Klallam Tribe); October 24, 2016 (6:00 p.m.) *These times are subject to change. Please check our website for any updates. You may also sign up for email notifications at <http://sequimwa.gov/list.aspx>.*

ADJOURNMENT

PUBLIC HEARING PROCEDURES

- 1) Members of the public wishing to comment at the public hearing are to sign in with the Clerk giving their names, address, and the agenda item.
- 2) The Mayor may limit the speaker time for each speaker subject to council concurrence and may also change the order of testimony to maintain a logical sequence.
- 3) All comments by speakers shall be made from the speaker’s rostrum and any individual making comments shall first give their name and address for the official record.
- 4) No comments shall be made from any other location and anyone making “out of order” comments shall be subject to removal from the meeting.
- 5) There will be no demonstrations during or at the conclusion of anyone’s presentation.
- 6) These rules are intended to promote an orderly system of holding a public hearing, to give every person an opportunity to be heard and to ensure that no individuals are embarrassed by exercising their right of free speech.

NOTE: Items presented by members of the public during the Council meeting become a public document. Please submit them to the Clerk or her representative. Copies of public documents from Council meetings are available at the City Clerk’s Office.

PUBLIC COMMENTS

Although *no* public comment is *required* to be provided for at City Council meetings, City Council members have provided for two public comment periods.

Not all agenda items are appropriate for public comment. Matters which are or were the subject of a public hearing for which required notice was given are topics where public comment outside of the public announced hearing are not allowed by law. Matters that may affect liability for the City are not appropriate for comments from the public even though it may be an agenda item. Frequently questions from the audience to the council or to staff or to consultants are not appropriate to answer at a council meeting. The chairperson will explain when public comment is not appropriate as the need may arise. If you wish to comment on a Public Hearing item, please sign up on the specific Public Hearing sign up sheet.

Public Comment Rules:

1. Come to the lectern; state your name, address, and topic for the record.
2. Please limit your comments to 3 minutes.
3. Please refer to the sign-in sheet for additional rules.

SEQUIM CITY COUNCIL AGENDA COVER SHEET

MEETING DATE: September 26, 2016

FROM: Kristina Nelson-Gross, City Attorney/Chris Hugo, Community Development Director

SUBJECT/ISSUE: Wireless Communications Facilities (WCFs)

Discussion dates	Sept. 26, 2016			
CATEGORY	<input type="checkbox"/> City Manager Report	<input type="checkbox"/> Information Only	Time Needed for Presentation 45 minutes	
	<input type="checkbox"/> Public Hearing	<input type="checkbox"/> Consent Agenda		
	<input type="checkbox"/> Unfinished Business	<input type="checkbox"/> New Business		
Reviewed by			Initials	Date
Charles P. Bush, City Manager			CPB	9/21/16
Barbara Hanna			BCH	9/21/16
Chris, Hugo, Director of Community Development				

PROBLEM/ISSUE STATEMENT: The Federal Communications Commission (FCC) regulates wireless communications facilities and imposes limitations on the authority local jurisdictions have over WCFs. The City currently does not have an ordinance on WCFs and has adopted a moratorium to give staff time to draft one that complies with federal law. The moratorium expires October 25, 2016.

LIST OF ATTACHMENTS:

1. Presentation
2. DRAFT Ordinance 2016-15 Wireless Communications Facilities
3. Zoning Chart

DISCUSSION / ANALYSIS: The major sources of federal regulation are from the 1996 Telecommunications Act and the 2012 Middle Class Tax Relief and Job Creation Act (aka "Spectrum Act"). These laws work together to limit a local agency's ability to regulate wireless facilities.

The 1996 Telecommunications Act

This Act preserves the authority of state and local governments over decisions regarding the placement, construction, and modification of WCFs *unless* an exception applies. These exceptions are: regulations shall not unreasonably discriminate among providers or prohibit or have the effect of prohibiting the provision of personal wireless services. Local agencies are also required to process new WCF applications within a “reasonable time”; the FCC has interpreted this to mean no more than 150 days. A decision to deny any request must be in writing and supported by “substantial evidence” in the record. Appeals in WCF decisions are brought under LUPA, the Land Use Petition Act and filed in Superior Court.

Perhaps the most controversial aspect of the Act is the FCC prohibition against any local regulation based “directly or indirectly” on radio frequency (RF) emissions. The Act “expressly pre-empts” any attempt to regulate a provider that is in compliance with the FCC’s RF emission standards. This means that a city’s permit application for new or modified WCFs may not require stricter standards on emissions than those set forth by the FCC. To act otherwise invites legal challenges. For example, a provider sued a city in California because the city’s application required projected RF exposure levels, a statement indicating whether exposure was controlled or uncontrolled, general population limits, calculation of the minimum distance of proposed emissions, etc. The court held that these types of requirements demonstrated attempts to regulate based upon RF emissions, which is expressly prohibited by the FCC.

In an effort to assist local governments, the FCC developed the “Local Government Official’s Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance”. You will see a reference to this publication in the draft Sequim Municipal Code 18.61A, Eligible Facilities Modifications.

The Spectrum Act

This Act followed on the heels of litigation throughout the country concerning the pre-emption of local regulatory authority. The Spectrum Act further restricted the ability of local governments to deny modifications/collocations on *existing* WCFs. The major provision this Act imposed is the presumption that all “eligible” facilities must be approved; “eligible” facilities are those that do not present a “substantial change” to the existing structure.

Due to some uncertainty regarding these provisions, the FCC issued a Regulatory Order in 2015 that clarified local authority under the law. The FCC created the “deemed approved” and 60-day “shot clock” provisions, meaning that if a local jurisdiction fails to issue a decision within 60 days of *receiving* the application, it is “deemed approved”. The Order also defined what constitutes a “substantial change”, which as a general rule is an enlargement of the base or tower of more than 10% or installing up to four cabinets. The Order exempts eligible facilities from State Environmental Protection Act (SEPA) review and limits what local jurisdictions can require as part of the application process. For example, local jurisdictions may only request documentation that is “reasonably related to determining whether the application meets the requirements” of

the Spectrum Act. Local jurisdictions are prohibited from requiring documentation demonstrating a “need” for business case for the proposed modification.

The Draft Ordinance

The attached draft Ordinance is currently being reviewed at the Planning Commission. Chapter 18.61, dealing with new sites, is derived from the City of Spokane, which amended its code in late 2015. Chapter 18.61A, Eligible Facilities, is based upon a model ordinance obtained from MRSC.

The Planning Commission was initially provided with a sample ordinance with highlighted portions depicting those sections that are pre-empted by FCC regulations and cannot be changed in any substantive manner by a local jurisdiction. The remaining portions were those areas in which the City has some authority – provided that the City does not unreasonably discriminate, actually or effectively prohibit WCFs, or request “unauthorized” information.

The Planning Commission has scheduled a Public Meeting on the proposed ordinance for October 4, 2016. A Commission recommendation to Council is anticipated at the conclusion of the Meeting.

BUDGET IMPLICATIONS: None.

RECOMMENDATION: None at this time. This is for your review only, and it will be brought back at a subsequent meeting for a public hearing and Council action.

WIRELESS COMMUNICATIONS FACILITIES

Limits on
Local
Regulatory
Authority with
regard to Wi Fi
and Cell
Phone Towers

**FEDERAL LAW
AND
WIRELESS
COMMUNICATIONS
FACILITIES**

**New
Facilities**

The
1996 Act

**Existing
Facilities**

The
Spectrum Act

**FCC
Order**

THE 1996 TELECOMMUNICATIONS ACT

In 1996 the United States Congress amended the Communications Act of 1934 to implement regulations applicable to both wireless and wireline communications facilities.

The purpose of the 1996 amendment was to remove barriers to entry into the telecommunications market while preserving local government zoning authority except where specifically limited by federal law.



THE “SPECTRUM ACT”



In 2012, the United States Congress passed the “Middle Class Tax Relief and Job Creation Act of 2012” (aka “Spectrum Act”).

Section 6409 of the Spectrum Act implements additional limits on the authority of state and local governments to regulate modification of existing wireless antenna support structures and base stations.

FCC ORDER

The Federal Communications Commission Order...

- Defines key terms used in the federal laws
- Establishes limits on what information can be required from a permit applicant seeking to site or modify a wireless communications facility
- Sets time limits for a local government to respond to an applicant, and consequences for failing to meet those deadlines
- Establishes “deemed approved” permits for failure to act in timely manner
- Requires approval of a permit application for modification of an existing facility if there is no substantial change to physical dimensions
- Establishes development standards that govern proposed modifications

RADIO FREQUENCY EMISSIONS

Any applicant or licensee who wishes to construct or operate a facility that may cause human exposure to RF emissions in excess of the Federal Communications Commission's guideline limits must file an Environmental Assessment (EA) with the FCC.

Nearby towers and antennas must be considered when determining maximum exposure levels. Compliance at an existing site = shared responsibility of all licensees producing greater than 5% of the applicable exposure limit



Section 332(c) (7)(iv) of the Communications Act provides:

“No State or local government ... may regulate the placement, construction, and modification of personal wireless service facilities on the basis of the environmental effects of radio frequency emissions to the extent that such facilities comply with the [Federal Communications] Commission’s regulations concerning such emissions.”

Meaning...If a wi fi or cell tower is in compliance with FCC rules on RF emissions, a city may not premise its decision to delay or deny a permit *directly or indirectly* on the environmental effects of RF emissions.

LOCAL GOVERNMENT AND WIRELESS COMMUNICATIONS FACILITIES

What powers do cities have with regard to siting or modifying Wireless Communication Facilities?

May cities regulate or ban RF emissions?

Within the limits imposed by federal law, local governments generally have jurisdiction over:

- Construction
- Siting
- Permits
- Inspection
- Zoning
- Environmental review
- Placement of antenna facilities

Local governments may

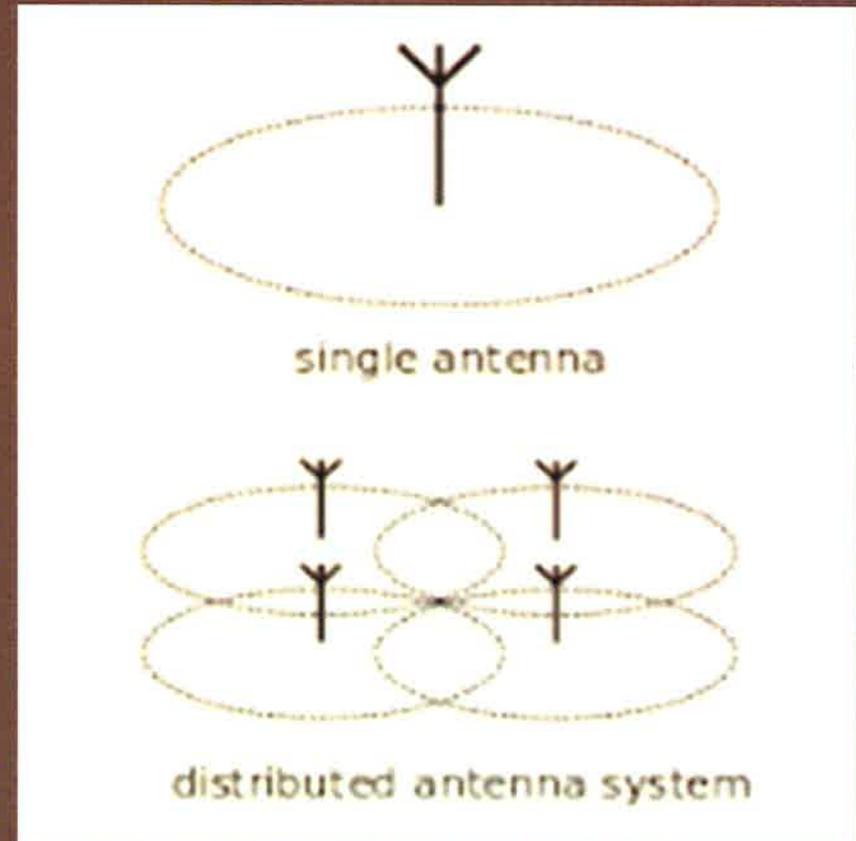
- establish “preferred” sites
- require co-location where possible
- establish height restrictions, setbacks, and landscaping requirements
- require proof of RF compliance for new facilities
- require consideration of aesthetics, lighting, noise; require “stealth technology” i.e. camouflage, distributed antenna systems (DAS) or “small cells”



DISTRIBUTED ANTENNA SMALL CELL SYSTEMS

A Distributed Antenna System (DAS) is a network of separate antenna nodes connected to a common source to provide wireless service within a geographic area.

They can be indoors or outdoors and are designed to minimize clutter.



Local governments may also

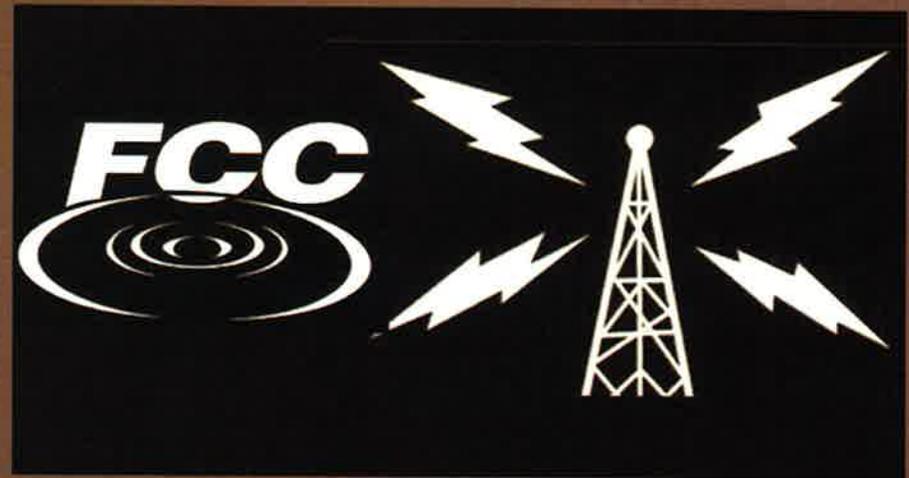
- Follow the FCC's "Local Government Official's Guide to Transmitting Antenna RF Emission Safety" to define and promote locally-adaptable procedures that provide adequate assurance of compliance without imposing unnecessary burdens on local government or applicants
- Use Checklists such as those in the LGO's Guide to identify "categorically excluded" facilities that are unlikely to cause RF exposures in excess of the FCC's guidelines and "worst case scenario[s] beyond which there is no realistic possibility that exposure could exceed the FCC's guidelines"

Local governments may not

- ban wireless communications facilities outright
- impose restrictions that amount to a ban
- discriminate among providers of functionally equivalent services
- unreasonably delay applications to place, construct or modify wireless communications facilities
- deny permits for new wireless communications facilities or modifications for existing facilities based on RF emissions when applicant's project meets FCC guidelines on emissions
- deny a permit unless that denial is based on substantial evidence set forth in a written record
- fail to follow the processes set forth under federal law and the FCC Rule, including deadlines

IN SUMMARY

- A city's authority over wireless communications facilities is limited by federal law
- A city must not unreasonably delay or deny wireless communications facility permits
- A city has no legal ability to regulate RF emissions if a facility's emissions are within FCC limits



CITY OF SEQUIM

ORDINANCE NO. 2016-15

An Ordinance Relating to Wireless Communication Facilities; amending parts of SMC Chapters 18.20, 18.56 and 18.57 relating to towers, adopting two new chapters, Chapter 18.61 and SMC 18.61A, Relating to Regulations Effecting Wireless Communication Facilities;

WHEREAS, Chapters SMC 18.20, 18.44, 18.56 and 18.57 currently govern the City's regulation of all towers; and

WHEREAS, some of the existing regulations which apply to wireless communication facilities are more than ten years old and federal laws, regulations and court decisions, wireless technology and consumer usage have reshaped the environment within which Wireless Communications Facilities are permitted and regulated; and

WHEREAS, federal laws and regulations that govern local zoning standards and procedures for wireless communications have substantially changed since the City adopted its zoning codes related to towers; and

WHEREAS, in 1934, Congress enacted the Communications Act of 1934, creating the FCC and granting it authority over common carriers engaged in the provision of interstate or foreign communications services; and

WHEREAS, in 1996 Congress enacted Pub. L. No. 104-104, 110 Stat. 70 (the "1996 Act"), amending the Communications Act of 1934 and implementing regulations applicable to both wireless and wireline communications facilities for the purpose of removal of barriers to entry into the telecommunications market while preserving local government zoning authority except where specifically limited under the 1996 Act; and

WHEREAS, in the 1996 Act, Congress imposed substantive and procedural limitations on the traditional authority of state and local governments to regulate the location, construction, and modification of wireless facilities and incorporated those limitations into the Communications Act of 1934; and

WHEREAS, in 2012 Congress passed the "Middle Class Tax Relief and Job Creation Act of 2012" (the "Spectrum Act") (PL-112-96; codified at 47 U.S.C. § 1455(a)); and

WHEREAS, Section 6409 (hereafter "Section 6409") of the Spectrum Act implements additional substantive and procedural limitations upon state and local government authority to regulate modification of existing wireless antenna support structures and base stations; and

WHEREAS, Congress through its enactment of Section 6409 of the Spectrum Act, has mandated that local governments approve, and cannot deny, an application requesting modification of an existing tower or base station if such modification does not substantially change the physical dimensions of such tower or base station; and

WHEREAS, the 1996 Act empowers the Federal Communications Commission (the "FCC") to prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of the 1996 Act, and subsequently added portions of the 1996 Act such as Section 6409; and

WHEREAS, the City Council finds that it is required under Section 6409 of the Spectrum Act and the FCC's 2015 Report and Order clarifying Eligible Facility Request Rules, to adopt and implement local development and zoning regulations that are consistent with Section 6409 and the Order; and

WHEREAS, This Chapter also implements Section 6409(a) of the Spectrum Act and the FCC's Report & Order, which requires a state or local government to approve any Eligible Facilities Request for a modification of an existing tower or base station that does not result in a substantial change to the physical dimensions of such tower or base station.

WHEREAS, on October 26, 2015, the City Council adopted Ordinance No. 2015-018 imposing a moratorium on applications for new wireless communications support towers in the City's residential zones; and

WHEREAS, following the adoption of the moratorium, the City adopted findings after a public hearing regarding and supporting the moratorium and has other cities' regulations relating to wireless communications facilities, particularly the City of Spokane's regulations; and

WHEREAS, following appropriate procedures and public notice, on _____, the Sequim Planning Commission conducted a meeting on proposed amendments to the City's wireless communication facility regulations and recommended that the City Council approved the proposed amendments; and

WHEREAS, at the conclusion of its public meeting, the Planning Commission approved written findings, conclusions, and recommendation (the "Planning Commission Recommendation") which is incorporated into this Ordinance as if set forth fully herein; and

WHEREAS, on _____, the City Council conducted a lawfully-noticed public hearing and received the report and recommendation of the Planning Commission regarding the Ordinance which modifies existing and establishes new code sections relating to wireless communication facilities; and

WHEREAS, the City Council finds that the proposed development and zoning regulations are reasonable and necessary in order bring the City's development regulations into compliance with the mandate imposed upon the City by Congress pursuant to Section 6409 and the regulations imposed upon the City by the FCC pursuant to its Report and Order, and are therefore in the public interest; and

WHEREAS, the City Council of the City of Sequim desires to update its local standards and procedures to protect and promote the public health, safety and welfare of the City of Sequim community, to reasonably regulate wireless communication facilities aesthetics, to protect and promote the City's unique character in a manner consistent with State and federal laws and regulations;

NOW, THEREFORE, THE CITY OF Sequim DOES ORDAIN:

SECTION 1. That Chapters 18.20, 18.56 and 18.57 of the Sequim Municipal Code are hereby amended to read as set forth in Exhibit "A."

Exhibit "A"

18.20.020 Residential districts and uses.

The following residential districts shall be designated consistent with the city of Sequim comprehensive plan optimum land use map:

A. R-II, Single-Family Residences. The intent of the R-II zoning district is to provide land for lower residential densities within the city. The R-II zone provides for consistency and predictability in established single-family neighborhoods. New subdivisions shall provide a minimum of three and a maximum of five dwelling units per acre. The minimum number of units may be reduced based on access constraints or the presence of critical areas.

1. Permitted uses in the R-II zone include the following: Agriculture; bed and breakfast inns (home business) (up to and including two guest rooms); churches or religious places of worship; day care, family day care homes (up to 12 charges); group homes (other), 12 or fewer persons; group homes for the functionally disabled (12 or fewer persons); residences, single-family; electric vehicle charging station – private.

2. Conditional uses in the R-II zone include the following:

a. Major. Day care centers (more than 12 charges); group homes for the functionally disabled (13 or more persons); mobile home and manufactured home parks consistent with Chapter 18.62 SMC; special needs housing; towers, antennas (including amateur radio), and supporting structures 65 feet or less as set forth in SMC 18.61.

b. Minor. Agricultural processing, light; bed and breakfast inns (three to six guest rooms); equestrian facilities; nursing homes and congregate care facilities (up to 10 residents); residences, multifamily, in conformance with R-II densities.

3. Special uses in the R-II zone include the following: Cemeteries; communication relay or transmission facilities; hospitals and sanitariums (except animal clinics, hospitals); parks, playgrounds, golf courses, recreation or community centers, swimming pools, public and private; schools, public; towers, antennas, and supporting structures, including amateur radio towers, 65 feet or more as set forth in SMC 18.61; electric vehicle charging station – public.

B. R-III. The intent of the R-III zoning district is to allow moderate density residential development within the city. New subdivisions shall provide a minimum of six and a maximum of 10 dwelling units per acre. Medium density single-family homes and multifamily residential developments are allowed in the R-III zoning designation.

1. Permitted uses within the R-III zone include the following: Bed and breakfast inns (home business) (up to and including two guest rooms); churches or religious places of worship; day care, family day care homes (up to 12 charges); group homes (other), 12 or fewer persons; group homes for the functionally disabled (12 or fewer persons); nursing homes and congregate care facilities (up to 10 residents); residences, single-family; electric vehicle charging station – private; residences, multifamily in conformance with R-III densities; residences, manufactured homes, consistent with Chapter 18.62 SMC.

2. Conditional uses within the R-III zone include the following:

a. Major. Agricultural process, light; clinics; convenience stores, neighborhood; day care center (more than 12 charges); nursing home and congregate care facilities (over 10 residents); towers, antennas (including amateur radio), and supporting structures less than 65 feet as set forth in SMC 18.61; electric vehicle charging station – public.

b. Minor. Bed and breakfast inns (three to six guest rooms); bakeries, retail.

3. Special uses within the R-III zone include the following: Cemeteries; communication relay or transmission facilities; group homes for the functionally disabled (13 or more persons); hospitals and sanitariums (except animal clinics, hospitals); parks, playgrounds, golf courses, recreation or community centers, swimming pools, public and private; schools, public; special needs housing; towers, antennas, and supporting structures, including amateur radio, more than 65 feet as set forth in SMC 18.61; electric vehicle charging station – public.

C. R-IV. The intent of the R-IV zoning district is to provide for high density multifamily development (including duplexes, triplexes, and apartments) and small lot, single-family cluster/cottage-style residential development. New subdivisions shall provide a minimum of 11 and a maximum of 16 dwelling units per acre.

1. Permitted uses within the R-IV zone include the following: Bed and breakfast inns (home business) (up to and including two guest rooms); churches or religious places of worship; day care, family day care homes (up to 12 charges); group homes (other), 12 or fewer persons; group homes for the functionally disabled (12 or fewer persons); small lot, single-family cluster/cottage-style residential development in conformance with R-IV densities; electric vehicle charging station – private; residences, multifamily; residences, manufactured homes, consistent with Chapter 18.62 SMC.

2. Conditional uses within the R-IV zone include the following:

a. Major. Agricultural processing, light; clinics; convenience store, neighborhood; nursing homes and congregate care facilities (over 10 residents); towers, antennas (including amateur radio), and supporting structures less than 65 feet as set forth in SMC 18.61; electric vehicle charging station – public.

b. Minor: Bakeries, retail; barber and beauty shops; bed and breakfast inns (three to six guest rooms); day care centers (more than 12 charges).

3. Special uses in the R-IV zone include the following: Communication relay or transmission facilities; group homes for the functionally disabled (13 or more persons); hospitals and sanitariums (except animal clinics, hospitals); parks, playgrounds, golf courses, recreation or community centers, swimming pools, public and private; schools, public; special needs housing; towers, antennas, and supporting structures, including amateur radio, more than 65 feet as set forth in SMC 18.61. (Ord. 2012-002 § 2 (Exh. B); Ord. 2011-012 § 1 (Exh. A); Ord. 2011-003 § 1 (Att. 3); Ord. 2010-012 § 1 (Exh. 1); Ord. 2006-016 § 3; Ord. 97-019 § 4, Exh. B)

18.20.030 Commercial districts.

The following commercial districts shall be designated consistent with the city of Sequim comprehensive plan optimum land use map:

A. C-I(NC) – Neighborhood Commercial. The intent of the C-I(NC) zoning district is to provide commercial convenience services, limited in size and uses, for neighborhood residences. Single-family and multifamily residential uses are permitted when located above ground-floor commercial uses and shall meet International Building Code standards. Residential densities shall not exceed the density allowed in the R-IV zoning district.

1. Permitted uses in the C-I(NC) zone include the following: Alcoholic beverage sale (packaged); bakeries, retail; barbers and beauty shops; churches or religious places of worship; convenience stores, neighborhood; day care centers (more than 12 charges); dry cleaners and laundries; hardware stores; nursery, landscape material; lumber yards; offices, including professional offices, agencies and services; pharmacy, dispensing; photographic studios; private gymnasiums, fitness centers, tanning salons, dance studios, body building, and martial arts, etc.; radio, television and small electronics repair and service; restaurants; schools, private; towers, antennas (including amateur radio), and supporting structures 65 feet or less as set forth in SMC 18.61; veterinary hospitals; electric vehicle charging stations, public and private.

2. Conditional uses in the C-I(NC) zone include the following:

a. Major. Bars and taverns; communication relay or transmission facilities; towers, antennas, and supporting structures, including amateur radio towers, 65 feet or more as set forth in SMC 18.61.

b. Minor. Agricultural processing, light; bed and breakfast inns (three to six guest rooms); bed and breakfast inns (home business) (up to and including two guest rooms); espresso stands (drive-through).

3. Special uses in the C-I(NC) zone include the following: Cemeteries; essential public facilities and utilities; parks, playgrounds, golf courses, recreation or community centers, swimming pools, public and private.

B. C-II(G) – General Retail District. The intent of the C-II(G) zoning district is to allow retail and service sector businesses. Single-family and multifamily residential uses are permitted when located above ground-floor retail and service sector commercial uses and shall meet International Building Code standards. Residential densities shall not exceed the density allowed in the R-IV zoning district.

1. Permitted uses in the C-II(G) zone include the following: Alcoholic beverage sale (packaged); bakeries, retail; bakeries, wholesale; banks and financial institutions; barbers and beauty shops; car washes; churches or religious places of worship; clinics; convenience stores; day care centers (more than 12 charges); dry cleaners and laundries; equipment rental and repair; espresso stands (drive-through); hardware stores; laboratories for research and testing; lock and gunsmiths; lumber yards; Washington State Liquor Control Board licensed marijuana (recreational/medical use) retail store; nursery, landscape material; offices, including professional offices, agencies and services; pharmacy, dispensing; photographic studios; plumbing shops and yards; printing, publishing and reproduction establishments; private gymnasiums, fitness centers, tanning salons, dance studios, body building, and martial arts, etc.; radio, television and small electronics repair and service; recycling, low intensity; repair shops (not auto); restaurants; retail stores less than 5,000 square feet; schools, private; sign manufacture, painting and maintenance; towers, antennas (including amateur radio), and supporting structures, less than 65 feet as set forth in SMC 18.61; undertaking establishments; vehicle repair and service; veterinary hospitals; electric vehicle infrastructure.

2. Conditional uses in the C-II(G) zone include the following:

a. Major: Bars and taverns; communication relay or transmission facilities; mini-storage; nursing homes and congregate care facilities (over 10 residents); recreational vehicle parks, seasonal (up to 180-day stay); recreational vehicle parks, transient (up to 30-day stay); theaters, drive-in; transient accommodations (including hotels and motels); towers, antennas, and supporting structures, including amateur radio towers, 65 feet or more as set forth in SMC 18.61.

b. Minor: Agricultural processing, light; bed and breakfast inns (three to six guest rooms); bed and breakfast inns (home business) (up to and including two guest rooms); espresso stands (sidewalk); group homes (other), 12 or fewer persons; group homes for the functionally disabled (12 or fewer persons); nursing homes and congregate care facilities (up to 10 residents).

3. Special uses in the C-II(G) zone include the following: Cemeteries; essential public facilities and utilities; group homes (other), 13 or more persons; group homes for the functionally disabled (13 or more persons); hospitals and sanitariums (except animal clinics, hospitals); parks, playgrounds, golf courses, recreation or community centers, swimming pools, public and private; special needs housing.

C. C-II(M) – Medical and Professional Offices. The intent of the C-II(M) zoning district is to provide for medical and professional offices and supporting services. Single-family and multifamily residential uses are permitted when located above ground-floor permitted uses and shall meet International Building Code standards. Residential densities shall not exceed the density allowed in the R-IV zoning district.

1. Permitted uses in the C-II(M) zone include the following: Banks and financial institutions; barbers and beauty shops; churches or religious places of worship; clinics; espresso stands (sidewalk); hospitals and sanitariums (except animal clinics, hospitals); laboratories for research and testing; nursing homes and congregate care facilities (up to 10 residents); nursing homes and congregate care facilities (over 10 residents); offices, including professional offices, agencies and services; pharmacy, dispensing; private gymnasiums, fitness centers, tanning salons, dance studios, body building, and martial arts, etc.; recycling, low intensity; restaurants; towers, antennas (including amateur radio), and supporting structures 65 feet or less as set forth in SMC 18.61; undertaking establishments; veterinary hospitals; electric vehicle infrastructure.

2. Conditional uses in the C-II(M) zone include the following:

a. Major. Communication relay or transmission facilities; day care centers (more than 12 charges); group homes (other), 13 or more persons; group homes for the functionally disabled (13 or more persons); special needs housing; towers, antennas, and supporting structures, including amateur radio, 65 feet or more as set forth in SMC 18.61.

b. Minor. Bakeries, retail; group homes (other), 12 or fewer persons; group homes for the functionally disabled (12 or fewer persons).

3. Special uses in the C-II(M) zone include the following: Cemeteries; essential public facilities and utilities; parks, playgrounds, golf courses, recreation or community centers, swimming pools, public and private.

D. C-II(S) – Shoreline Commercial District. The intent of the C-II(S) zoning district is to provide for commercial, retail, and service uses related to or dependent upon the shoreline. Transient accommodations supporting tourism are also intended uses. Single-family and multifamily residential uses are permitted when located above ground-floor permitted uses and shall meet International Building Code standards. Residential densities shall not exceed the density allowed in the R-IV zoning district.

1. Permitted uses within the C-II(S) zone include the following: Alcoholic beverage sale (packaged); aquaculture; bakeries, retail; barbers and beauty shops; boat building and repair, commercial; boat marinas; churches or places of worship; convenience stores, neighborhood; espresso stands (sidewalk); private gymnasiums, fitness centers, tanning salons, dance studios, body building, and martial arts, etc.; restaurants; towers, antennas (including amateur radio), and supporting structures 65 feet or less as set forth in SMC 18.61; transient accommodations (including hotels and motels); electric vehicle infrastructure.

2. Conditional uses within the C-II(S) zone include the following:

a. Major. Bed and breakfast inns (three to six guest rooms); communication relay and transmission facilities; recreational vehicle parks, seasonal (up to 180 days); recreational vehicle parks, transient (up to 30 days); towers, antennas, and supporting structures, including amateur radio, 65 feet or more as set forth in SMC 18.61.

b. Minor. Offices, including professional offices, agencies, and services.

3. Special uses within the C-II(S) zone include the following: Essential public facilities and utilities; parks, playgrounds, golf courses, recreation or community centers, swimming pools, public and private.

E. C-III – General Commercial. The intent of the C-III zoning district is to provide areas for diversified commercial activities that serve a more regional clientele. Single-family and multifamily residential uses are permitted when located above ground-floor permitted uses and shall meet International Building Code standards. Residential densities shall not exceed the density allowed in the R-IV zoning district.

1. Permitted uses within the C-III zone include the following: Alcoholic beverage sale (packaged); bakeries, retail; bakeries, wholesale; banks and financial institutions; barbers and beauty shops; boat building and repair, commercial; bus stations and terminals; car washes; churches or religious places of worship; convenience stores; dry cleaners and laundries; equipment rental and repair; espresso stands (sidewalk); gas stations; grocery stores; hardware stores; kennels; laboratories for research and testing; lock and gunsmiths; Washington State Liquor Control Board licensed marijuana (recreational/medical use) retail store; nursery, landscape material; offices, including professional offices, agencies and services; pawnshops or secondhand stores; pharmacy, dispensing; photographic studios; plumbing shops and yards; printing, publishing and reproduction establishments; private gymnasiums, fitness centers, tanning salons, dance studios, body building, and martial arts, etc.; radio, television and small electronics repair and service; radio, television broadcasting; recycling, low intensity; regional retail; repair shops (not auto); restaurants; restaurants, fast food; retail stores; schools, private; sign manufacture, painting and maintenance; theaters, excluding drive-in theaters; towers, antennas (including amateur radio), and supporting structures 65 feet or less as set forth in SMC 18.61; transient accommodations (including hotels and motels); undertaking establishments; vehicle repair and service; veterinary hospitals; warehousing associated with retail uses; electric vehicle infrastructure.

2. Conditional uses within the C-III zone include the following:

a. Major. Agricultural processing, light; bars and taverns; communication relay or transmission facilities; construction yards; day care centers (more than 12 charges); recreational vehicle parks, seasonal (up to 180-day stay); recreational vehicle parks, transient (up to 30-day stay); towers, antennas, and supporting structures, including amateur radio, 65 feet or more as set forth in SMC 18.61.

b. Minor. Espresso stands (drive-through).

3. Special uses within the C-III zone include the following: Essential public facilities and utilities; group homes (other), 13 or more persons; group homes for the functionally disabled (13 or more persons); parks, playgrounds, golf courses, recreation or community centers; swimming pools, public and private; special needs housing. (Ord. 2015-012 § 1 (Exh. A); Ord. 2014-003 § 1 (Exh. A); Ord. 2012-002 § 2 (Exh. B); Ord. 2011-012 § 1 (Exh. A); Ord. 2011-003 § 1 (Att. 3); Ord. 2005-028 § 2; Ord. 97-019 § 4, Exh. B)

18.20.050 Mixed use district.

The following mixed use district shall be designated consistent with the city of Sequim comprehensive plan optimum land use map:

A. MU – Mixed Use. The intent of the mixed use zoning district is to allow campus-style business parks, industrial parks (light), professional offices, general retail, restaurants, and residential uses under specified conditions to create shared settings of living and working.

B. Permitted uses within the MU zone include the following: Agricultural processing, light; agriculture; bakeries, retail and wholesale; boat building and repair, commercial; construction yards; churches/religious places of worship; industrial parks; industrial uses, light; laboratories for research and testing; nursery, landscape material; professional offices; printing, publishing and reproduction; radio, television broadcasting; recycling, low intensity; general retail; restaurants, including fast food; residential use subject to the provisions of subsection (B)(1) of this section; sign manufacture, painting and maintenance; theaters; towers, (including amateur radio towers), antennas, supporting structures, 65 feet or less as set forth in SMC 18.61; vehicle repairs and service; vehicle sales, repair, and service; warehousing associated with retail uses; and wholesale; electric vehicle infrastructure*.

1. Residential use is allowed in the MU zone subject to the following conditions:

a. Residential density and development standards shall be as provided for the R-IV zone;

b. Residential use is only permitted if developed as an element of a common site plan and developed at the same time with a permitted nonresidential use, whether integrated vertically within a common building or integrated horizontally in a master-planned site development; and

c. To ensure the establishment of mixed use development, the minimum ratio of commercial use, either retail or office, to residential use is 1,000 square feet of commercial use per 10 residential units, developed concurrently or in use-balanced phases of development.

C. Conditional uses within the MU zone include the following:

1. Major. Communication relay or transmission facilities; day care centers (over 12 charges); mini-storage; recreational vehicle park, seasonal (up to 180 days); recreational vehicle park, transient (up to 30 days); schools, private; theaters, drive-in; towers, antennas, supporting structures, including amateur radio, 65 feet or more as set forth in SMC 18.61.

2. Minor. Bed and breakfast inns (three to six guest rooms); bed and breakfast inns (home business) (up to and including two guest rooms).

D. Special uses within the MU zone include the following: Cemeteries; hazardous waste treatment and storage facilities – moderate and high risk; hospitals and sanitariums (except animal clinics); parks, playgrounds, golf courses, recreation centers; swimming pools; schools, public. (Ord. 2012-013 § 1 (Exh. A); Ord. 2012-002 § 2 (Exh. B); Ord. 2011-012 § 1 (Exh. A); Ord. 2011-003 § 1 (Att. 3); Ord. 2005-028 § 3; Ord. 97-019 § 4, Exh. B)

*Code reviser's note: Ordinance 2012-013 amended this section inadvertently not taking into account the amendments of Ordinance 2012-002, adding electric vehicle infrastructure as a permitted use.

18.20.060 Other districts.

The following other districts shall be designated consistent with the city of Sequim comprehensive plan optimum land use map:

A. PF – Public Facilities. The intent of the public facilities zoning district is to provide lands for publicly owned parks, government buildings, civic buildings, utilities, schools, and fire stations, and other similar public uses.

1. Permitted uses in the PF zone include the following: Airports and airfields; boat marinas; bus stations and terminals; cemeteries; communication relay or transmission facilities; construction yards; correctional institutions; essential public facilities and utilities; government buildings; group homes (other), 13 or more persons; group homes for the functionally disabled (13 or more persons); hazardous waste treatment and storage facilities – high risk; hazardous waste treatment and storage facilities – moderate risk; hospitals and sanitariums (except animal clinics); laboratories for research and testing; parks, playgrounds, golf courses, recreation centers; swimming pools; recycling, high intensity; recycling, low intensity; schools, public; special needs housing; towers, antennas (including amateur radio), supporting structures, 65 feet or less as set forth in SMC 18.61; towers, antennas, supporting structures, including amateur radio, 65 feet or more as set forth in SMC 18.61; electric vehicle infrastructure.

B. RDP – Research and Development Park. The intent of the research and development park zoning district is to establish a land use designation that allows campus-style research and development facilities, which includes but is not limited to environmental, biotechnology, energy efficiency, and marine and coastal security research. Furthermore, the RDP zone also allows private and public educational partnerships, which may also provide on-site educational facilities.

1. Permitted uses within the RDP zone include the following: Accessory uses; aquaculture; day care centers for on-site personnel; laboratories for research and testing; offices, professional; towers, antennas (including amateur radio), supporting structures, 65 feet or less as set forth in SMC 18.61; electric vehicle infrastructure.

2. Conditional uses within the RDP zone include the following:

a. Major. Communication relay or transmission facilities; towers, antennas, supporting structures, including amateur radio, 65 feet or more as set forth in SMC 18.61. (Ord. 2012-002 § 2 (Exh. B); Ord. 2011-012 § 1 (Exh. A); Ord. 2011-003 § 1 (Att. 3); Ord. 2009-046 § 4 (Exh. D); Ord. 97-019 § 4, Exh. B)

18.44.030 Exceptions.

The bulk, dimensional and general requirements found in SMC [18.44.020](#) shall apply to specifically permitted and conditional uses tabulated in Chapter [18.60](#) SMC, excepting the following:

A. The maximum building height provided in SMC [18.44.020](#) shall not apply to towers and antennas as set forth in SMC 18.61; provided, that towers and antennas are set back from all exterior property lines at a minimum ratio of one foot of setback for every three feet of vertical height as measured from grade.

B. Antennas as set forth in SMC 18.61, satellite dishes, or other communication devices shall not be located in the front setback area.

C. All structures excepting fences, hedges, and berms shall not be established within the front setback area.

D. Maximum building height in the C-II(G), C-III, and MU zones may be exceeded only under the following exceptions:

1. Elevator towers, HVAC equipment, solar and wind energy facilities, building maintenance equipment, and communications antennas or dishes may exceed the height limit of the zone or the greatest height of the finished roof, whichever is less, by up to 12 feet; provided, that HVAC equipment and screening and antennas/dishes shall be set back from the roof perimeter a distance equal to the height of these features above the finished roof; and

2. One incidental roof and its supports covering not more than the lesser of 256 square feet or five percent of the total roof area and standing not more than 12 feet high over a single, fully open roof-top patio is permitted; provided, that the roof covering cannot be more than 48 inches high in cross section at any point, the covering structure cannot be more than 20 feet in any dimension, and the roof design must be consistent with the building architecture in material and design. (Ord. 2013-008 § 1 (Exh. A); Ord. 2012-018 § 1 (Exh. A); Ord. 97-019 § 4, Exh. B)

18.56.030 Permitted uses.

The council may permit the following uses in districts from which they are now prohibited by this title:

A. Airport and airfields.

B. Government buildings.

C. Educational institutions.

D. Hospitals and sanitariums (except animal clinics and hospitals.)

E. Nursing homes and boarding homes for the aged.

F. Correctional institutions.

G. Towers and antennas over 100 feet in height, subject to the requirements of SMC 18.61.

H. Essential public facilities and utilities.

I. Parks, playgrounds, recreation or community centers.

J. Group homes, alcoholism or drug treatment centers, detoxification centers, work release facilities for convicts or ex-convicts, or other housing serving as an alternative to incarceration with 12 or more residents.

K. Energy facilities.

L. Hazardous waste treatment and storage facilities.

M. Shelters for the transient or for the homeless.

N. Master planned resorts.

O. Solid waste facilities

P. Sewage treatment facilities.

Q. Bus stations and transit facilities. (Ord. 97-019 § 4, Exh. B)

18.57.020 Downtown zones allowed and prohibited uses.

A. Because these districts are intended to encourage a wide mixture of uses, all uses listed in Chapter 18.20 SMC, except those listed in subsection D of this section, are permitted, subject to the additional use requirements of subsections B and C of this section. Nonetheless, the director of the department of community development retains the authority to determine if any proposed use does not comport with the intent of the district.

B. Conditional uses within the DC, DMU-I, and DMU-II zones include the following:

1. Major. Agricultural processing, light; bars and taverns; communication relay or transmission facilities; construction yards; day care centers (more than 12 charges); recreational vehicle parks, seasonal (up to 180-day stay); recreational vehicle parks, transient (up to 30-day stay); towers, antennas, and supporting structures, including amateur radio, 65 feet or more as set forth in SMC 18.61.

2. Minor. Espresso stands (drive-through).

C. Special uses within the DC, DMU-I, and DMU-II zones include the following: essential public facilities and utilities; group homes (other), 13 or more persons; group homes for the functionally disabled (13 or more persons); parks, playgrounds, golf courses, recreation or community centers; swimming pools, public and private; special needs housing.

D. Prohibited Uses in the Downtown Zones.

1. Uses Prohibited in All Three Districts. Adult entertainment; gasoline stations and car washes; halfway houses and rehabilitation centers; jails and other detention or correction facilities; kennels; manufacturing and fabrication; sales, leasing, servicing, or repair of vehicles, unless entirely within a structure;

warehousing, including mini-storage; battery exchange stations; marijuana (recreational or medical use) retail store.

2. Additional Uses Prohibited in the Downtown Core and Mixed Use 1 Districts. Outdoor storage of inventory, materials or supplies, unless behind a building or along an alley.

3. Additional Uses Prohibited in the Downtown Core. Residential use on the ground level (except in rear 40 percent of commercial building or in a rear, secondary building); commercial uses with drive-through windows or service kiosks. (Ord. 2015-012 § 1 (Exh. A); Ord. 2014-003 § 1 (Exh. A); Ord. 2012-006 § 1 (Exh. A); Ord. 2012-002 § 2 (Exh. B); Ord. 2011-017 § 2; Ord. 2011-016 § 2 (Exh. B))

SECTION 2. That there is adopted a new Chapter SMC 18.61 of the Sequim Municipal Code to read as follows:

Section 18.61.010 Purpose

Section 18.61.020 Additional Definitions

Section 18.61.030 Towers

Section 18.61.040 Collocation of Antennas, DAS, and Small Cells

Section 18.61.050 Tower Sharing, Collocation and Preferred Tower Locations

Section 18.61.060 Application Submittal Requirements

Section 18.61.070 General Development Standards Applicable to WCFs

Section 18.61.080 Regulations for Facilities Subject to a Conditional Use Permit

Section 18.61.090 Exception from Standards

Section 18.61.100 Final Inspection

Section 18.61.110 Maintenance/FCC Permit Revocation

Section 18.61.120 Discontinuation of Use

Section 18.61.130 Independent Technical Review

Section 18.61.140 Exempt Facilities

Section 18.61.150 Indemnification

Chapter 18.61

Wireless Communication Facilities

Section 18.61.010 Purpose

The purpose of this Chapter is to regulate the development and operation of wireless communication facilities within the City and accommodate the balanced provision of wireless communication services that meet community's needs while promoting and protecting the public health, safety and welfare, including the community's natural beauty, visual quality and environmental health.

Section 18.61.020 Definitions Specific to Wireless Communication Facilities

In addition to the definitions provided in SMC 18.08, the definitions set forth below shall apply to this Chapter.

Section 18.61.0201

“Antenna” means one or more rods, panels, discs or similar devices used for wireless communication, which may include, but is not limited to, omni-directional antenna (whip), directional antenna (panel), and parabolic antenna (dish).

“Antenna Array” means a single or group of antenna elements and associated mounting hardware, transmission lines, or other appurtenances which share a common attachment device such as a mounting frame or mounting support structure for the sole purpose of transmitting or receiving electromagnetic waves.

Section 18.61.0202

“Base Station” means a structure or equipment at a fixed location that enables Commission-licensed or authorized wireless communications between user equipment and a communications network. The term does not encompass a tower as defined in this chapter or any equipment associated with a tower.

1. The term includes, but is not limited to, equipment associated with wireless communications services such as private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
2. The term includes, but is not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration (including Distributed Antenna Systems and small cell networks).
3. The term includes any structure other than a tower that, at the time the relevant application is filed with the City under this section, supports or houses equipment described in this section that has been reviewed and approved under the applicable zoning or siting process, or under Washington or local regulatory review process, even if the structure was not built for the sole or primary purpose of providing such support.
4. The term does not include any structure that, at the time the relevant application is filed with Washington or the City under this section, does not support or house equipment described in this section.

Section 18.61.0203

“Collocation” means the mounting or installation of transmission equipment on an eligible support structure for the purpose of transmitting and/or receiving radio frequency signals for communications purposes.

“Commission” means the Federal Communications Commission (“FCC”).

Section 18.61.0204

“Deemed approved” means and refers to an eligible facilities modification application that has been deemed approved upon the City’s failure to act, and has become effective, as provided pursuant the FCC Eligible Facilities Request Rules.

“Distributed Antenna System” or “DAS” means a network consisting of transceiver equipment at a central hub site to support multiple antenna locations throughout the desired coverage area.

Section 18.61.0205

“Eligible Facilities Request” means any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving collocation of new transmission equipment; removal of transmission equipment; or replacement of transmission equipment.

“Eligible Support Structure” means any tower or base station as defined in this section, provided that it is existing at the time the relevant application is filed with the City under this section.

“Existing” means a constructed tower or base station is existing for purposes of this Chapter if it has been reviewed and approved under the applicable zoning or siting process, or under another State or local regulatory review process, provided that a tower that has not been reviewed and reviewed because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this section.

Section 18.61.0206

“Site” means for towers other than towers in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.

“Small Cells” mean compact wireless base stations containing their own transceiver equipment and function like cells in a mobile network but provide a smaller coverage area than traditional macrocells. Small cells will meet the two parameters in subsections (a) and (b). For purposes of these definitions, volume is a measure of the exterior displacement, not the interior volume of the enclosures. Antennas or equipment concealed from public view in or behind an otherwise approved structure or concealment are not included in calculating volume.

- (a) Small Cell Antenna: Each antenna shall be no more than three (3) cubic feet in volume.
- (b) Small Cell Equipment: Each equipment enclosure shall be no larger than seventeen (17) cubic feet in volume. Associated conduit, mounting bracket or extension arm, electric meter, concealment, telecommunications demarcation box, ground-based enclosures, battery back-up power systems, grounding equipment, power transfer switch, and cut-off switch may be located outside the primary equipment enclosure(s) and are not included in the calculation of equipment volume.

“Stealth design” means technology that minimizes the visual impact of wireless communications facilities by camouflaging, disguising, screening, and/or blending into the surrounding environment. Examples of stealth design include but are not limited to facilities disguised as trees, flagpoles, bell towers, and architecturally screened roof-mounted antennas.

Section 18.61.0207

“Tower” means any structure built for the sole or primary purpose of supporting any Commission-licensed or authorized antennas and their associated facilities, including structures that are constructed for wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site.

“Tower Height” means the vertical distance measured from the base of the tower structure at grade to the highest point of the structure including the antenna.

“Transmission Equipment” means equipment that facilitates transmission for any Commission-licensed or authorized wireless communication service, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless communications services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.

Section 18.61.0208

“Utility Support Structure” means utility poles or utility towers, supporting electrical, telephone, cable or other similar facilities; street light standards; pedestrian light standards; traffic light structures; traffic sign structures; or water towers.

18.61.0209

“Wireless Communication Facilities” or “WCF” means a staffed or unstaffed facility or location for the transmission and/or reception of radio frequency (RF) signals or other wireless communications or other signals for commercial communications purposes, typically consisting of one or more antennas or group of antennas, a tower or attachment support structure, transmission cables and other transmission equipment, and an equipment enclosure or cabinets.

Section 18.61.030 Towers

A. Towers shall be located only in those areas and pursuant to the process described in SMC Tables 18.61.0301 and 18.61.0302, provided that towers that are proposed to be located in a residential zone or within 150 feet of a residential zone shall be subject to the siting priorities set forth for preferred tower locations in SMC 18.61.050.

**Table 18.61.0301
New Wireless Communication Tower Criteria
Allowed by Type A-1 Permit**

<u>Zone Category</u>	<u>Located in Public Right-of-way (ROW)</u>	<u>Maximum Tower Height</u>	<u>Stealth Design</u>	<u>Setback from Property Lines (does not apply within ROW)[2]</u>
<u>C-I (NC)</u>	<u>Yes</u>	<u>60'</u>	<u>Optional[1]</u>	<u>N/A</u>
<u>C-II (all), C-III [1]</u>	<u>Yes or No</u>	<u>70'</u>	<u>Optional[1]</u>	<u>20'</u>
<u>DC, DMU-I, DMU-II</u>	<u>Yes or No (allowed in ROW only if less than or equal to 70')</u>	<u>150'</u>	<u>Optional[1]</u>	<u>20'</u>
<u>MU[1]</u>	<u>Yes or No (allowed in ROW only if</u>	<u>150'</u>	<u>Optional[1]</u>	<u>20'</u>

	<u>less than or equal to 70')</u>			
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[1] If an applicant wants to construct a tower in a residential zone or within 50' of a residential zone, then a Type III process and stealth design are required. If an applicant wants to construct a tower within 51' - 150' of a residential zone, then a Type II process and stealth design are required. If an applicant wants to construct a tower beyond 150' of a residential zone, then the review process is that which is required in the zone in which the tower is to be located.

[2] See exception for locations adjacent to a residence in SMC 18.61.070(B).

**Table SMC 18.61.0302
New Wireless Communication Tower Criteria
Allowed by Type C-2 Conditional Use Permit**

<u>Zone Category</u>	<u>Located in Public Right-of-way (ROW)</u>	<u>Maximum Tower Height</u>	<u>Stealth Design</u>	<u>Setback from Property Lines[2] (does not apply within ROW)</u>
<u>R4-8[1]</u>	<u>Yes or No</u>	<u>60'</u>	<u>Required</u>	<u>20'</u>
<u>C-I [1]</u>	<u>Yes or No</u>	<u>61' - 70'[3]</u>	<u>Optional[1]</u>	<u>20'</u>
<u>CB & GC[1]</u>	<u>Yes or No</u>	<u>71' - 90'[4]</u>	<u>Optional[1]</u>	<u>20'</u>

[1] If an applicant wants to construct a tower in a residential zone or within 50' of a residential zone, then stealth design is required.

[2] See exceptions for locations adjacent to a residence in SMC 18.61.070(B).

[3] An additional 20 feet in height is allowed if applicant uses stealth design.

[4] An additional 30 feet in height is allowed if applicant uses stealth design.

Section 18.61.040 Collocation of Antennas, DAS, and Small Cells

- A. To the extent not otherwise covered by Chapter 18.61A (Eligible Facilities Requests), collocation and new wireless communication antenna arrays are permitted in all zones via administrative approval provided that they are attached to or inside of an existing structure that provides the required clearances for the array's operation without the necessity of constructing a tower or other apparatus to extend the antenna array more than 15 feet above the structure.
- B. Installation requires the granting of development permits prescribed by Chapter 20.01 and Title 15 SMC.
- C. For antenna arrays on City-owned property, the execution of necessary agreements is also required.
- D. If any support structure must be constructed to achieve the needed elevation or if the attachment adds more than 15 feet above the existing structure, the proposal is subject to Type A-1 review. The limitation to 15 feet applies to cumulative increases and any previously approved additions to height made under this section must be included in its measurement.
- E. Any equipment shelter or cabinet and other ancillary equipment are subject to the general development standards of SMC 18.61.070.
- F. Distributed Antenna Systems and Small Cells.
 - 1. Distributed Antenna Systems (DAS) and Small Cells are allowed in all land use zones, regardless of the siting preferences listed in SMC 18.61.050.

2. DAS and small cells are subject to approval via administrative review only if their installation requires the construction of a new utility support structure or building. Type A-1 review is required when the applicant proposes a new utility support structure or building.

3. Multiple Site DAS and Small Cells.

a. A single permit may be used for multiple distributed antennas that are part of a larger overall DAS network.

b. A single permit may be used for multiple small cells spaced to provide wireless coverage in a contiguous area.

Section 18.61.050 Tower Sharing, Collocation and Preferred Tower Locations

A. Tower Sharing and Collocation. New WCF facilities must, to the maximum extent feasible, collocate on existing towers or other structures of a similar height to avoid construction of new towers, unless precluded by zoning constraints such as height, structural limitations, inability to obtain authorization by the owner of an alternative location, or where an alternative location will not meet the service coverage objectives of the applicant. Applications for a new tower must address all existing towers or structures of a similar height within 1/2 mile of the proposed site as follows: (a) by providing evidence that a request was made to locate on the existing tower or other structure, with no success; or (b) by showing that locating on the existing tower or other structure is infeasible.

B. Preferred Tower Locations. All new towers proposed to be located in a residential zone or within 150 feet of a residential zone are permitted only after application of the following siting priorities, ordered from most-preferred (1) to least-preferred (8):

1. City-owned or operated property and facilities, not including right-of-way and right-of-way facilities, that are not in residential zones or located within 150 feet of residential zones;

2. industrial zones and downtown zones;

3. City-owned or operated property and facilities in any zone, as long as the tower is inconspicuous from a public street, public open areas, or property that is being used for residential purposes;

4. Community Business and General Commercial zones (CB & GC);

5. office and other commercial zones;

6. other City-owned or operated property and facilities;

7. parcels of land in residential zones;

8. sites in residential zones on or within 150 feet of a designated historic structure or district.

The applicant for a tower located in a residential zone or within 150 feet of a residential zone shall address these preferences in an alternative sites analysis meeting the requirements of section 18.61.060 below.

Section 18.61.060 Application Submittal Requirements

In addition to the application materials identified in SMC 20.01.120, Type II and Type III applications submitted under this chapter shall include the following materials.

- A. Requirement for FCC Documentation. The applicant shall provide a copy of:
1. its documentation for FCC license submittal or registration, and
 2. the applicant's FCC license or registration.
- B. Site plans. Complete and accurate plans and drawings to scale, prepared, signed and sealed by a Washington-licensed engineer, land surveyor and/or architect, including (1) plan views and all elevations before and after the proposed construction with all height and width measurements called out; (2) a depiction of all proposed transmission equipment; (3) a depiction of all proposed utility runs and points of contact; and (4) a depiction of the leased or licensed area with all rights-of-way and/or easements for access and utilities in plan view.
- C. Visual analysis. A color visual analysis that includes to-scale visual simulations that show unobstructed before-and-after construction daytime and clear-weather views from at least four angles, together with a map that shows the location of each view.
- D. Statement of Purpose / RF Justification. A clear and complete written Statement of Purpose shall minimally include: (1) a description of the technical objective to be achieved; (2) a to-scale map that identifies the proposed site location and the targeted service area to be benefited by the proposed project; and (3) full-color signal propagation maps with objective units of signal strength measurement that show the applicant's current service coverage levels from all adjacent sites without the proposed site, predicted service coverage levels from all adjacent sites with the proposed site, and predicted service coverage levels from the proposed site without all adjacent sites. These materials shall be reviewed and signed by a Washington-licensed professional engineer or a qualified employee of the applicant. The qualified employee of the applicant shall submit his or her qualifications with the application.
- E. Design justification. A clear and complete written analysis that explains how the proposed design complies with the applicable design standards under this chapter. A complete design justification shall identify all applicable design standards under this chapter and provide a factually detailed reason why the proposed design either complies or cannot comply.
- F. Collocation and alternative sites analysis.
1. All Towers. All applications for a new tower will demonstrate that collocation is not feasible, consistent with SMC 18.61.050.
 2. Towers in a residential zone or within 150 feet of a residential zone.
 - a. For towers in or within 150 feet of a residential zone, the applicant must address the City's preferred tower locations in SMC 18.61.050 with a detailed explanation justifying why a site of higher priority was not selected. The City's tower location preferences shall be addressed in a clear and complete written

alternative site analysis that shows at least five (5) higher ranked, alternative sites considered that are in the geographic range of the service coverage objectives of the applicant, together with a factually detailed and comparative analysis between each alternative candidate and the proposed site that explains the substantive reasons why the applicant rejected the alternative candidate. An applicant may reject an alternative tower site for one or more of the following reasons:

1. preclusion by structural limitations;
2. inability to obtain authorization by the owner;
3. failure to meet the service coverage objectives of the applicant;
4. failure to meet other engineering requirements for such things as location, height and size;
5. zoning constraints, such as the inability to meet setbacks;
6. analysis or documented evidence of physical or environmental constraints, such as unstable soils or wetlands, that qualify sites as unsuitable Critical Areas; and / or
7. being a more intrusive location despite the higher priority in this chapter as determined by the Planning Director or Hearing Examiner, as applicable.

b. A complete alternative sites analysis provided under this subsection (F)(2) may include less than five (5) alternative sites so long as the applicant provides a factually detailed written rationale for why it could not identify at least five (5) potentially available, higher ranked, alternative sites.

3. Required description of coverage objectives. For purposes of disqualifying potential collocations and/or alternative sites for the failure to meet the applicant's service coverage objectives, the applicant shall provide (a) a description of its objective, whether it be to close a gap or address a deficiency in coverage, capacity, frequency and/or technology; (b) detailed technical maps or other exhibits with clear and concise RF data to illustrate that the objective is not met if using the alternative (whether it be collocation or a more preferred location); and (c) a written statement based on the site analyses of why the alternative (collocation or a more preferred location) does not meet the objective.

G. DAS and small cells. As identified in SMC 18.61.010, the City encourages but does not require the use of DAS and small cells. Each applicant will submit a statement that explains how it arrived at the structure and design being proposed.

H. Radio frequency emissions compliance report. A written report, prepared, signed and sealed by a Washington-licensed professional engineer or a competent employee of the applicant, which assesses whether the proposed WCF demonstrates compliance with the exposure limits established by the FCC. The report shall also include a cumulative analysis that accounts for all emissions from all WCFs located on or adjacent to the proposed site, identifies the total exposure

from all facilities and demonstrates planned compliance with all maximum permissible exposure limits established by the FCC. The report shall include a detailed description of all mitigation measures required by the FCC.

- I. Noise study. A noise study, prepared, signed and sealed by a Washington-licensed engineer, for the proposed WCF and all associated equipment in accordance with the Sequim Municipal Code.
- J. Collocation consent. A written statement, signed by a person with the legal authority to bind the applicant and the property owner, allowing the applicant to collocate on facilities.
- K. Collocation engineering requirements. All applications for collocations must include a site determination by an engineer licensed to conduct business within Washington State that the structure is designed to accommodate the additional load. The determination must take into account, at a minimum, all facilities currently located on the roof/structure, the cumulative load after accounting for all existing facilities, and the cumulative load with the proposed facilities, and any required engineering changes to the structure needed to accommodate additional load.

Section 18.61.070 General Development Standards Applicable to WCFs

The following criteria shall be applied in approving, approving with conditions or denying a WCF. Unless otherwise provided in this chapter, WCF construction shall be consistent with the development standards of the zoning district in which it is located.

- A. Height. Refer to SMC Tables 18.61.0301 and 18.61.0302.
- B. Setback Requirements. Refer to SMC Tables 18.61.0301 and .0302 for towers. All equipment shelters, cabinets or other on-the-ground ancillary equipment shall be buried or meet the setback requirement of the zone in which located. Notwithstanding the setbacks provided for in Tables 18.61.0301 and .0302, when a residence is located on an adjacent parcel, the minimum side setback from the lot line for a new tower must be equal to 110 percent of the height of the proposed antenna support structure, unless the following are met:
 - 1. The tower is constructed with breakpoint design technology. If the tower has been constructed using breakpoint design technology, the minimum setback distance shall be equal to 110 percent (110%) of the distance from the top of the structure to the breakpoint level of the structure, or the applicable zone's minimum side setback requirements, whichever is greater. (For example, on a 100-foot tall monopole with a breakpoint at eighty [80] feet, the minimum setback distance would be twenty-two [22] feet [110 percent of twenty (20) feet, the distance from the top of the monopole to the breakpoint] or the minimum side yard setback requirements for that zone, whichever is greater.)
 - 2. The issuance of building permits for the tower shall be conditioned upon approval of the tower design by a structural engineer.
- C. Landscaping. All landscaping shall be installed and maintained in accordance with this chapter. Existing on-site vegetation shall be preserved and/or improved, and disturbance of the existing topography shall be minimized. The director may grant a minor deviation from the required landscaping based on written findings and conclusions that a different design better serves the intent of this chapter.

1. Tower bases, when fenced (compounds), or large equipment shelters (greater than three feet by three feet by three feet), shall be landscaped following the provisions of this section. In all R zones, all C zones (including HC and RC), -Downtown zones, and all other non-residential zones, landscaping shall consist of a six-foot wide strip of landscaping as described in SMC 18.24.130. Street Frontage and perimeter property landscaping where required shall follow all of these standards:
 - a. The six-foot wide strip of plantings shall provide a continuous three- to four-foot tall screen (the plants shall be evergreen when adjacent to parking areas in order to block headlights), while maintaining buffered views into and out of the site.
 - b. Shrubs of a species that will achieve a minimum approximate height of three feet and maximum approximate height of four feet shall be included for the entire length of the planting area.
 - c. Groundcovers shall be included as necessary to fill in the width of the planting area. Trees shall cover the length of the planting strip and be spaced at intervals resulting in touching of branches after ten years of normal growth.
2. If fencing is installed, it shall meet the standards of SMC 18.24.140.
3. Applicant shall ensure the full establishment of plantings for two years.
4. Landscaping and buffering requires Landscape design plans shall incorporate a mix of indigenous and native plants that are hardy and drought-tolerant, and shall include a minimum of 40 percent evergreen plantings (trees, shrubs, groundcovers, ornamental grasses, and evergreen herbs). Permanently installed irrigation systems are required.
56. Minimum planting specifications are:

<u>CATEGORY</u>	<u>SPECIFICATIONS</u>
<u>Deciduous shade trees</u>	<u>2½ to 3 inch caliper measured 6 inches above ground</u>
<u>Evergreen trees</u>	<u>6 to 8 feet in height</u>
<u>Small deciduous or ornamental trees</u>	<u>1 to 1½ inch caliper measured 6 inches above ground</u>
<u>Multi-trunk clusters (3 or more trunks)</u>	<u>the smallest trunk shall be ¾ inch</u>
<u>Deciduous and Evergreen Shrubs</u>	<u>24 inch high plant size. Spacing from 3 to 5 feet apart depending upon species</u>

76. The developer, its successor and/or subsequent owners and their agents, shall maintain landscaping on the property on a continuing basis for the life of the development.
78. The property owner shall maintain landscape areas in good condition and in a way that presents a healthy, neat and orderly appearance. This maintenance shall include weeding, watering, fertilizing, pruning, mowing, edging, mulching or other maintenance, in accordance with acceptable horticultural practices. Plant materials which exhibit evidence of insect pests, disease and/or damage shall be appropriately treated. Dead plants shall be promptly removed and replaced within the next planting season after installation.

D. Visual Impact. All WCFs in residential zones and within 150 feet of residential zones, including equipment enclosures, shall-must be sited and designed to minimize adverse visual impacts on

surrounding properties and the traveling public using all reasonable means of stealth technology, consistent with the proper functioning of the WCF. Such WCFs and equipment enclosures shall must be integrated through location and design to blend in with the existing characteristics of the site. Such WCFs shall-must also be designed to either resemble the surrounding landscape and other natural features where located in proximity to natural surroundings; be compatible with the urban, built environment, through matching and complimentary existing structures and specific design considerations such as architectural designs, height, scale, color and texture; and / or be consistent with other uses and improvements permitted in the relevant zone.

E. Use of Stealth Design/Technology. The applicant shall make an affirmative showing as to why they are not employing stealth technology. More specifically:

1. Stealth design is required in residential zones and to the extent shown in Tables A-1 and A-2. Stealth and concealment techniques must be appropriate given the proposed location, design, visual environment, and nearby uses, structures, and natural features. Stealth design shall-must be designed and constructed to substantially conform to surrounding building designs or natural settings, so as to be visually unobtrusive. Stealth design that relies on screening wireless communications facilities in order to reduce visual impact must screen all substantial portions of the facility from view. Stealth and concealment techniques do not include incorporating faux-tree designs of a kind that are not native to the Pacific Northwest.

F. Lighting. For new wireless communication support towers, only such lighting as is necessary to satisfy FAA requirements is permitted. All FAA-required lighting shall use lights that are designed to minimize downward illumination. Security lighting for the equipment shelters or cabinets and other on-the-ground ancillary equipment is also permitted as long as it complies with SMC 18.24.170 to keep light within the boundaries of the site.

G. Noise. At no time shall transmission equipment or any other associated equipment (including, but not limited to, heating and air conditioning units) at any wireless communication facility emit noise that exceeds the applicable limit(s) established in Washington Administrative Code 173-60-040 as currently enacted and as may be amended.

H. Signage. No facilities may bear any signage or advertisement(s) other than signage required by law or expressly permitted/required by the City.

I. Code compliance. All facilities shall at all times comply with all applicable federal, State and local building codes, electrical codes, fire codes and any other code related to public health and safety.

J. Building-mounted WCFs.

1. In residential zones, all transmission equipment shall be concealed within existing architectural features. Any new architectural features proposed to conceal the transmission equipment shall be designed to mimic the existing underlying structure, shall be proportional to the existing underlying structure or conform to the underlying use and shall use materials in similar quality, finish, color and texture as the existing underlying structure.

2. In residential zones, all roof-mounted transmission equipment shall be set back from all roof edges to preclude visibility from public streets and ground elevation of adjacent properties.
3. In all other zones, antenna arrays and supporting transmission equipment shall be installed so as to camouflage, disguise or conceal them to make them closely compatible with and blend into the setting and/or host structure.

K. WCFs in the public rights-of-way.

1. *Preferred locations.* Facilities shall be located as far from residential uses as feasible, and on main corridors and arterials to the extent feasible. Facilities in the rights-of-way shall maintain at least a two hundred (200) foot separation from other wireless facilities (except with respect to DAS or Small Cells), except when collocated or on opposite sides of the same street.
2. *Pole-mounted or tower-mounted equipment.* All pole-mounted and tower-mounted transmission equipment shall be mounted as close as possible to the pole or tower so as to minimize the overall visual profile to surrounding streets and properties. All pole-mounted and tower-mounted transmission equipment shall be painted with flat, non-reflective colors that blend with the visual environment.
3. For all WCFs to be located within the right-of-way, prior to submitting for a building permit, the applicant must have a valid municipal franchise or exemption otherwise granted by applicable law, to the extent consistent with RCW 35.21.860.

L. Accessory Equipment. In residential zones, all equipment shall be located or placed in an existing building, underground, or in an equipment shelter that is (a) designed to blend in with existing surroundings, using architecturally compatible construction and colors; and (b) located so as to minimize obtrusiveness while maintaining proper functioning of the WCF.

M. Spacing of Towers. Towers shall maintain a minimum spacing of one-half mile, unless it is proven that physical limitations (such as topography, terrain, tree cover or location of buildings) in the immediate service area prohibit adequate service by the existing facilities or that collocation is not feasible under SMC 18.61.050.

N. Site Design Flexibility. Individual WCF sites vary in the location of adjacent buildings, existing trees, topography and other local variables. By mandating certain design standards, there may result a project that could have been less intrusive if the location of the various elements of the project could have been placed in more appropriate locations within a given site. Therefore, the WCF and supporting equipment may be installed so as to best camouflage, disguise, or conceal them to make the WCF more compatible with and blend into the setting and/or host structure, upon approval by the Planning Director or the Hearing Examiner. The design flexibility allowed under this subsection includes additional height for a tower located within tall trees on (i) City property or (ii) other parcels at least 5 acres in size, so that the impact of the tower may be minimized by the trees while still allowing for the minimum clearance needed for the tower to achieve the applicant's coverage objectives. A formal exception from standards under SMC 18.61.090 is not required for proposals meeting this subsection by being a less intrusive design option.

- O. Structural Assessment. The owner of a proposed tower shall have a structural assessment of the tower conducted by a professional engineer, licensed in the State of Washington, which shall be submitted with the application for a building permit.

Section 18.61.080 Regulations for Facilities Subject to a Conditional Use Permit

- A. Approval criteria. In addition to the development standards in this chapter and the approval criteria in SMC 20.01.170, the following additional approval criteria apply:

1. The need for the proposed tower shall be demonstrated if it is to be located in a residential zone or within one hundred fifty feet of an existing residential lot. An evaluation of the operational needs of the wireless communications provider, alternative sites, alternative existing facilities upon which the proposed antenna array might be located, and collocation opportunities on existing support towers within one-half mile of the proposed site shall be provided. Evidence shall demonstrate that no practical alternative is reasonably available to the applicant.
2. The proposed tower satisfies all of the provisions and requirements of this chapter 18.61.

- B. Public Notice. In addition to the notice requirements of SMC 20.01.140, for proposals in residential zones and within 150 feet of a residential zone public notice shall include:

1. A black and white architectural elevation and color photo simulation rendering of the proposed WCF.
2. The sign required by SMC 20.01.140 shall include that same architectural elevation and color photo simulation combination selected by the City that depicts the visual impact of the WCF.

Section 18.61.090 Exception from Standards

- A. Applicability. Except as otherwise provided in this chapter (under Site Design Flexibility), no WCF shall be used or developed contrary to any applicable development standard unless an exception has been granted pursuant to this Section. These provisions apply exclusively to WCFs and are in lieu of the generally applicable variance and design deviation provisions in SMC Title 18, provided this section does not provide an exception from this chapter's visual impact and stealth design requirements or the approval criteria set forth in Section 18.61.080.

- B. Procedure Type. A wireless communications facility exception is a Type C-2 procedure.

- C. Submittal Requirements. In addition to the general submittal requirements for a Type C-2 application, an application for a wireless communication facility exception shall include:

1. A written statement demonstrating how the exception would meet the criteria.

2. A site plan that includes:

- a. Description of the proposed facility's design and dimensions, as it would appear with and without the exception.

- b. Elevations showing all components of the wireless communication facility as it would appear with and without the exception.
 - c. Color simulations of the wireless communication facility after construction demonstrating compatibility with the vicinity, as it would appear with and without the exception.
- D. Criteria. An application for a wireless communication facility exception shall be granted if the following criteria are met:
- 1. The exception is consistent with the purpose of the development standard for which the exception is sought.
 - 2. Based on a visual analysis, the design minimizes the visual impacts to residential zones through mitigating measures, including, but not limited to, building heights, bulk, color, and landscaping.
 - 3. The applicant demonstrates the following:
 - a. A significant gap in the coverage, capacity, or technologies of the service network exists such that users are regularly unable to connect to the service network, or are regularly unable to maintain a connection, or are unable to achieve reliable wireless coverage within a building;
 - b. The gap can only be filled through an exception to one or more of the standards in this chapter; and
 - c. The exception is narrowly tailored to fill the service gap such that the wireless communication facility conforms to this chapter's standards to the greatest extent possible.
 - 4. Exceptions in Residential Zones. For a new tower proposed to be located in a residential zone or within 150 feet of a residential zone, unless the proposal qualifies as a preferred location on City-owned or operated property or facilities under SMC 18.61.050(B)(3), the applicant must also demonstrate that the manner in which it proposes to fill the significant gap in coverage, capacity, or technologies of the service network is the least intrusive on the values that this chapter seeks to protect.

Section 18.61.100 Final Inspection

- A. A Certificate of Occupancy will only be granted upon satisfactory evidence that the WCF was installed in substantial compliance with the approved plans and photo simulations. WCFs may not become operational until a Certificate of Occupancy has been granted.
- B. Failure to Comply. If it is found that the WCF installation does not substantially comply with the approved plans and photo simulations, the applicant immediately shall make any and all such changes required to bring the WCF installation into compliance.

Section 18.61.110 Maintenance FCC Permit Revocation

- ~~A. All wireless communication facilities must comply with all standards and regulations of the FCC and any other State or federal government agency with the authority to regulate wireless communication facilities.~~
- ~~B. The site and the wireless communication facilities, including all landscaping, fencing and related transmission equipment must be maintained at all times in a neat and clean manner and in accordance with all approved plans.~~
- ~~C. All graffiti on wireless communication facilities must be removed at the sole expense of the permittee after notification by the City to the owner / operator of the WCF as provided in SMC 8.07.050.~~
- ~~D. If any FCC, State or other governmental license or any other governmental approval to provide communication services is ever revoked as to any site permitted or authorized by the City, the permittee must inform the City of the revocation within thirty (30) days of receiving notice of such revocation.~~

Section 18.61.120 Discontinuation of Use

- ~~A. Any wireless communication facility that is no longer needed and its use is discontinued shall be reported immediately by the service provider to the planning director. Discontinued facilities shall be completely removed within six months and the site restored to its pre-existing condition.~~
- ~~B. There shall also be a rebuttable presumption that any WCF that is regulated by this chapter and that is not operated for a period of six (6) months shall be considered abandoned. This presumption may be rebutted by a showing that such WCF is an auxiliary back-up or emergency utility or device not subject to regular use or that the WCF is otherwise not abandoned. For those WCFs deemed abandoned, all equipment, including, but not limited to, antennas, poles, towers, and equipment shelters associated with the WCF shall be removed within six (6) months of the cessation of operation. Irrespective of any agreement among them to the contrary, the owner or operator of such unused facility, or the owner of a building or land upon which the WCF is located, shall be jointly and severally responsible for the removal of abandoned WCFs. If the WCF is not thereafter removed within ninety (90) days of written notice from the City, the City may remove the WCF at the owner of the property's expense or at the owner of the WCF's expense, including all costs and attorneys' fees. If there are two or more wireless communications providers collocated on a single support structure, this provision shall not become effective until all providers cease using the WCF for a continuous period of six (6) months.~~

Section 18.61.130 Independent Technical Review

~~Although the City intends for City staff to review administrative matters to the extent feasible, the City may retain the services of an independent, radio frequency technical expert of its choice to provide technical evaluation of permit applications for WCFs, including administrative and conditional use permits. The technical expert review may include, but is not limited to (a) the accuracy and completeness of the items submitted with the application; (b) the applicability of analysis and techniques and methodologies proposed by the applicant; (c) the validity of conclusions reached by the applicant; and (d) whether the proposed WCF complies with the applicable approval criteria set forth in this chapter. The applicant shall pay the cost for any independent consultant fees, along with applicable overhead recovery, through a deposit, estimated by the City, paid within ten (10) days of the City's request. When the City requests such payment, the application shall be deemed incomplete for purposes of application processing~~

timelines. In the event that such costs and fees do not exceed the deposit amount, the City shall refund any unused portion within thirty (30) days after the final permit is released or, if no final permit is released, within thirty (30) days after the City receives a written request from the applicant. If the costs and fees exceed the deposit amount, then the applicant shall pay the difference to the City before the permit is issued.

Section 18.61.140 Exempt Facilities

The following are exempt from this chapter:

- A. FCC licensed amateur (ham) radio facilities;
- B. Satellite earth stations, dishes and/or antennas used for private television reception not exceeding one (1) meter in diameter;
- C. A government-owned WCF installed upon the declaration of a state of emergency by the federal, state or local government, or a written determination of public necessity by the City; except that such facility must comply with all federal and state requirements. The WCF shall be exempt from the provisions of this chapter for up to one week after the duration of the state of emergency; and
- D. A temporary, commercial WCF installed for providing coverage of a special event such as news coverage or sporting event, subject to approval by the City. The WCF shall be exempt from the provisions of this chapter for up to one week before and after the duration of the special event.
- E. In locations more than 150 feet from a residential zone, other temporary, commercial WCFs installed for a period of 90 days, subject to renewals at the City's discretion; provided, that such temporary WCF will comply with applicable setbacks and height requirements.
- F. Eligible Facilities Requests permitted under Chapter SMC 18.61A.

Section 18.61.150 Indemnification

Each permit issued shall have as a condition of the permit a requirement that the applicant defend, indemnify and hold harmless the City and its officers, agents, employees, volunteers, and contractors from any and all liability, damage, or charges (including attorneys' fees and expenses) arising out of claims, suits, demands, or causes of action as a result of the permit process, granted permit, construction, erection, location, performance, operation, maintenance, repair, installation, replacement, removal, or restoration of the WCF on City property or in the public right-of-way.

SECTION 3. That there is adopted a new Chapter SMC 18.61A of the Sequim Municipal Code to read as follows:

Section 18.61A Eligible Facilities Modifications

18.61A.010 Adoption of Findings and Conclusions

18.61A.020 Definitions

18.61A.030 Applicability – Relationship to Other Rules and Regulations

18.61A.040 Permit Classification

18.61A.050 Submittal Requirements

18.61A.060 Application Review

18.61A.070 Non-Conforming Structure – Termination

18.61A.080 Enforcement; Violation

18.61A.010 Adoption of Findings and Conclusions. The recitals set forth in the ordinance adopting this code are adopted as findings and conclusions of the City Council.

18.61A.020 Definitions

Definitions applicable to this Chapter are included in SMC 18.61.

18.61A.030 Applicability - Relationship to other Rules and Regulations.

- A. Sole and Exclusive Procedure. Except as may be otherwise provided in this chapter, and not withstanding any other provisions in the City Code, the provisions of this chapter shall be the sole and exclusive procedure for review and approval of a proposed facilities modification which the applicant asserts is subject to review under Section 6409 of the Spectrum Act. To the extent that other provisions of the City Code establish a parallel process for review and approval of a project permit application for a proposed facilities modification, the provisions of this chapter shall control. In the event that any part of an application for project permit approval includes a proposed facilities modification, the proposed facilities modification portion of the application shall be reviewed under the provisions of this chapter. In the event that an application for project permit approval includes a proposal to modify an eligible support structure, and the applicant does not assert in the application that the proposal is subject to review under Section 6409 of the Spectrum Act, such proposal shall not be subject to review under this Chapter and may be subject to review under other applicable provisions of the City Code.
- B. Non-conforming Structures. This chapter shall not apply to a proposed facility modification to an eligible support structure that is not a legal conforming, or legal nonconforming, structure at the time a competed eligible facilities modification application is filed with the City. To the extent that the non-conforming structures and use provisions of the City code would operate to prohibit or condition approval of a proposed facilities modification application otherwise allowed under this chapter, such provisions are superseded by the provisions of this chapter and shall not apply.
- C. Replacement of Eligible Support Structure. This chapter shall not apply to a proposed facility modification to an eligible support structure that will involve replacement of the tower or base station.
- D. First Deployment; Base Station. This chapter shall not apply to a proposed facility modification to a structure, other than a tower, that does not, at the time of submittal of the application, already house or support transmission equipment lawfully installed within or upon, or attached to, the structure.
- E. Interpretation. Interpretations of this Chapter shall be guided by Section 6409 of the Spectrum Act; the FCC Eligible Facilities Request Rules, the FCC's Report and Order in, *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153; and other applicable laws, regulations, and associated guidance.
- F. SEPA Review. Unless otherwise provided by law or regulation, decisions pertaining to an eligible facilities modification application are not subject to, and are exempt from, the requirements of RCW 43.21C.030(2)(c), if:

1. The proposed facilities modification would not increase the height of the eligible support structure by more than ten percent, or twenty feet, whichever is greater; or
2. The mounting of equipment that would involve adding an appurtenance to the body of the eligible support structure would not protrude from the edge of the structure more than twenty feet, or more than the width of the structure at the level of the appurtenance, whichever is greater;* or
3. The authority to condition or deny an application pursuant to Chapter 43.21 RCW is preempted, or otherwise supplanted, by Section 6409 of the Spectrum Act.

*Note: See, RCW 43.21C.0384 and WAC 197-11-800(25)

G. Reservation of Authority. Nothing herein is intended or shall operate to waive or limit the City's right to enforce, or condition approval on, compliance with generally applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety.

18.61A.040 Permit Classification. An eligible facilities modification permit shall be classified as an administrative permit subject to review and approval or denial by the approval authority.

18.61A.050 Submittal Requirements. The purpose of the submittal requirements is to ensure that the City has all information and documentation that is reasonable necessary to determine if the applicant's proposed facilities modification will substantially change the physical dimensions of an eligible support structure. The submittal requirements are not intended to require the applicant to establish the need for the proposed modifications or to justify the business decision to propose such modifications. No eligible facilities modification application shall be deemed complete unless it is, in writing, accompanied by the applicable application and review fee, includes the required submittals, and is attested to by the authorized person submitting the application on behalf of the applicant, certifying the truth and accuracy of the information provided in the application. The application shall include the following submittals, unless waived by the approval authority:

1. The following contact information for the Authorized Person:
 - a. Name;
 - b. Title;
 - c. Mailing Address;
 - d. Phone Number; and
 - f. Electronic Mail Address (Optional).
2. The legal and dba names, mailing address, Washington tax number, and contact phone number(s) of Applicant.
3. If a corporation, the name and address of the registered agent of Applicant in the Washington State, and the state of incorporation of Applicant.
4. If Applicant is an entity, other than a corporation, such as a partnership or limited liability company, the names and business addresses of the principals.
5. An assertion that the proposed facilities modification is subject to review under Section 6409 of the Spectrum Act.
6. If the applicant is not the owner or person in control of the eligible support structure and/or site, the following shall be required:

An attestation that the owner or person in control of the eligible support structure and/or site has consented to the proposed facilities modification. If the eligible support structure is located in a public right of way, the applicant must also attest that applicant has authorization to install, maintain and operate transmission equipment in, under and above the public right of way.

7. If the applicant proposes a modification involving collocation of transmission equipment or the replacement of transmission equipment, the following shall be required:

- a. Complete copies of the underlying land use approvals for siting of the tower or base station proposed to be modified, establishing that, at the time of submittal of the application, such tower or base station constituted an eligible support structure.
- b. For collocations, proof of current compliance with the FCC's RF emissions standards before the collocation and written documentation signed under penalty of perjury under the laws of the State of Washington that the proposed collocation will still fall within the FCC's RF emissions standards after collocation. For purposes of this section, "current compliance" means documentation within one calendar year of the date of submittal. Such documentation must include a copy of the fully completed FCC form "A Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance: Appendix A" titled "Optional Checklist for Determination Of Whether a Facility is Categorically Excluded" for each frequency band of RF emissions to be transmitted from the proposed facility upon the approval of the application. All planned radio frequency emissions on all frequency bands must be shown on the Appendix A form(s) attached to the application. All planned radio frequency emissions are to be entered on each Appendix A form only in wattage units of "effective radiated power."
- c. All applications for collocations must include a site determination by an engineer licensed to conduct business within Washington State that the structure is designed to accommodate the additional load. The determination must take into account, at a minimum, all facilities currently located on the roof/structure, the cumulative load after accounting for all existing facilities, and the cumulative load with the proposed facilities, and any required engineering changes to the structure needed to accommodate additional load.

8. If the applicant proposes a modification that will result in an increase in height of the eligible support structure, the following shall be required:

Record drawings, as-built plans, or the equivalent, showing the height of the eligible support structure, (a) as originally constructed and granted approval by the City or other applicable local zoning or similar regulatory authority, or (b) as of the most recent modification that received city, or other local zoning or regulatory approval, prior to the passage of the Spectrum Act, whichever height is greater.

9. If the applicant proposes a modification to an eligible support structure, which structure, or proposed modification of the same, is subject to pre-existing restrictions or requirements imposed by a reviewing official or decision-making body pursuant to authority granted under the City Code, or an ordinance or a municipal code of another local government authority, the following shall be required:

A copy of the document (e.g., CUP or SUP) setting forth such pre-existing restrictions or requirements together with a certification that the proposed facilities modification conforms to such restrictions or requirements; provided that, such certification shall have no application to the extent the proposed facilities modification relates solely to an increase in height, increase in width, addition of cabinets, or new excavation, that does not result in a substantial change in the physical dimensions of the eligible support structure.

10. If the applicant proposes a modification to an eligible support structure, which structure, or proposed modification of the same, is subject to pre-existing concealment restrictions or requirements, or was constructed with concealment elements, the following shall be required:

Applicant shall set forth the facts and circumstances demonstrating that the proposed modification would not defeat the existing concealment elements of the eligible support structure. If the proposed modification will alter the exterior dimensions or appearance of the eligible support structure, applicant shall include a detailed visual simulation depicting how the eligible support structure will appear after the proposed modification is complete. The visual simulation shall depict to scale the eligible support structure in relation to the trees, landscaping and other structures adjacent to, or in the immediate vicinity of, the eligible support structure.

11. If the applicant proposes a modification that will protrude from the edge of a non-tower eligible support structure, the following shall be required:

Record drawings, as-built plans, or the equivalent, showing at a minimum the edge of the eligible support structure at the location of the proposed modification.

12. If the applicant proposes a modification to an eligible support structure that will (a) include any excavation, (b) would result in a protrusion from the edge of a tower that exceeds an existing protrusion of any transmission equipment attached to a tower, or (c) would protrude from the edge of a non-tower eligible support structure, the following shall be required:

A description of the boundaries of the site together with a scale drawing based on an accurate traverse, with angular and lineal dimensions, depicting the boundaries of the site in relation to the tower or base station proposed to be modified and depicting the proposed location, elevation and dimensions of the new or replacement transmission equipment. The city may require a survey by a land surveyor licensed in the state of Washington when, in the judgment of the approval authority, a survey is reasonably necessary to verify the boundaries of the site to determine if the proposed facilities modification would result in a substantial change in the physical dimensions of the eligible support structure.

13. If the applicant proposes a modification to the eligible support structure that includes hardening through structural enhancement, the following shall be required:

A technical report by a qualified engineer accredited by the state of Washington demonstrating that the structural enhancement is performed in connection with and is necessary to support the proposed collocation, removal, or replacement of transmission equipment and conforms to applicable code requirements. The City may retain the services of an independent technical expert to review, evaluate, and provide an opinion regarding the applicant's demonstration of necessity.

14. If the applicant proposes a modification to a tower, the following shall be required:

A stamped report by a state of Washington registered professional engineer demonstrating that the tower with the proposed modifications will comply with applicable structural, electrical and safety codes, including by way of example, and not limitation, EIA/TIA-222-Revision G, published by the American National Standards Institute (as amended), allowable wind speed for the applicable zone in which the tower is located, and describing the general structural capacity of the tower with the proposed modifications, including:

- a. The number and type of antennas that can be accommodated;
- b. The basis for the calculation of capacity; and
- c. A written statement that the proposal complies with all federal guidelines regarding interference and ANSI standards as adopted by the FCC, including but not limited to nonionizing electromagnetic radiation (NIER) standards. The City may retain the services of an independent technical expert to review, evaluate, and provide an opinion regarding the applicant's demonstration of compliance.

15. If the applicant proposes a modification to a base station, the following shall be required:

A stamped report by a state of Washington registered professional engineer demonstrating that the base station, with the proposed modifications, will comply with applicable structural, electrical and safety codes.

16. If the applicant proposes a modification requiring, alteration to the eligible support structure, excavation, installation of new equipment cabinets, or any other activities impacting or altering the land, existing structures, fencing, or landscaping on the site, the following shall be required:

A detailed site plan and drawings, showing the true north point, a graphic scale and, drawn to an appropriate decimal scale, indicating and depicting,

- (a) the location, elevation and dimensions of the existing eligible support structure,

- (b) the location, elevation and dimensions of the existing transmission equipment, (c) the location, elevation and dimensions of the transmission equipment, if any, proposed to be collocated or that will replace existing transmission equipment,
- (d) the location, elevation and dimensions of any proposed new equipment cabinets and the intended use of each,
- (e) any proposed modification to the eligible support structure,
- (f) the location of existing structures on the site, including fencing, screening, trees, and other significant site features, and
- (g) the location of any areas where excavation is proposed showing the elevations, depths, and width of the proposed excavation and materials and dimensions of the equipment to be placed in the area excavated.

17. Copies of any environmental documents required by any federal agency. These shall include the environmental assessment required by 47 C.F.R. Part 1 (PART 1 – PRACTICE AND PROCEDURE), Section 1.1307, as amended, or, in the event that an FCC environmental assessment is not required, a statement that described the specific factors that obviate the requirement for an environmental assessment.

C. Waiver of Submittal Requirement. The approval authority may waive any submittal requirement upon determination that the required submittal, or part thereof, is not reasonably related to the substantial change criteria. A waiver, to be effective, must be in writing and signed by the approval authority.

D. When Received. An eligible facilities modification application, and any supplemental submittals, shall be deemed received by the City upon the date such application, or supplemental submittal, is filed with the _____ . An application, and any supplemental submittals, must be filed in person during regular business hours of the City and must be accompanied by the applicable permit review fee(s). Any application received by the City without contemporaneous payment or prior deposit of the applicable permit review fees will be rejected.

18.61A.060 Application Review

1. Review. The approval authority shall review an eligible facilities modification application to determine if the proposed facilities modification is subject to this chapter, and if so, if the proposed facilities modification will result in a substantial change to the physical dimensions of an eligible support structure.
2. Application. The department shall prepare and make publicly available an application form which shall be limited to the information necessary for the department to consider whether an application is an Eligible Facilities Request. The application may not require the applicant to demonstrate a need or business case for the proposed modification.
3. Modification of Application. In the event that after submittal of the application, or as a result of any subsequent submittals, applicant modifies the proposed facilities modification described in the initial application, the application as modified will be considered a new application subject to commencement of a new application review period; provided that, applicant and the approval authority may, in the alternative, enter into a mutually agreeable tolling agreement allowing the City to request additional submittals and additional time that may be reasonably necessary for review of the modified application.
4. Approval; Denial.
 - a. An eligible facilities application shall be approved, and an eligible facilities permit issued, upon determination by the approval authority that the proposed facilities

modification is subject to this chapter and that it does not substantially change the physical dimensions of an eligible support structure.

- b. An eligible facilities application shall be denied upon determination by the approval authority that the proposed facilities modification is not subject to this chapter or will substantially change the physical dimensions of an eligible support structure. A denial of an eligible facilities modification application shall set forth in writing the reasons for the denial and shall be provided to the applicant. A proposed facilities modification will substantially change the physical dimensions of an eligible support structure if it meets any of the substantial change criteria.

5. Type of Review. Upon receipt of an application for an Eligible Facilities Request pursuant to this Chapter, the department shall review such application to determine whether the application so qualifies.

- a. Substantial Change. A modification substantially changes the physical dimensions of an eligible support structure if it meets any of the following criteria:

For towers other than towers in the public rights-of-way, it increases the height of the tower by more than 10% or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed twenty feet, whichever is greater; for other eligible support structures, it increases the height of the structure by more than 10% or more than ten feet, whichever is greater;

For towers other than towers in the public rights-of-way, it involves adding an appurtenance to the body of the tower that would protrude from the edge of the tower more than twenty feet, or more than the width of the Tower structure at the level of the appurtenance, whichever is greater; for other eligible support structures, it involves adding an appurtenance to the body of the structure that would protrude from the edge of the structure by more than six feet;

For any eligible support structure, it involves installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets; or, for towers in the public rights-of-way and base stations, it involves installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than 10% larger in height or overall volume than any other ground cabinets associated with the structure;

It entails any excavation or deployment outside the current site;

It would defeat the concealment elements of the eligible support structure; or

It does not comply with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided however that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in paragraphs (g)(i)-(g)(iv) of this section.

For purposes of this section, changes in height should be measured from the original support structure in cases where deployments are or will be separated horizontally, such as on buildings' rooftops; in other circumstances, changes in height should be measured

from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any modifications that were approved prior to the passage of the Spectrum Act. 47 CFR § 1.40001(b)(7)(i)(A).

6. Timeframe for Review. Within 60 days of the date on which an applicant submits an application seeking approval under this Chapter, the department shall approve the application unless it determines that the application is not covered by this Chapter.
7. Tolling of the Timeframe for Review. The 60-day review period begins to run when the application is filed, and may be tolled only by mutual agreement by the department and the applicant, or in cases where the department determines that the application is incomplete. The timeframe for review is not tolled by a moratorium on the review of applications. To toll the timeframe for incompleteness, the department must provide written notice to the applicant within 30 days of receipt of the application, specifically delineating all missing documents or information required in the application. The timeframe for review begins running again when the applicant makes a supplemental submission in response to the department's notice of incompleteness.
8. Following a supplemental submission, the department will notify the applicant within 10 days that the supplemental submission did not provide the information identified in the original notice delineating missing information. The timeframe is tolled in the case of second or subsequent notices pursuant to the procedures identified in paragraph (d) of this section. Second or subsequent notices of incompleteness may not specify missing documents or information that were not delineated in the original notice of incompleteness.
9. Interaction with Section 332(c)(7). If the department determines that the applicant's request is not covered by Section 6409(a) as delineated under this Chapter, the presumptively reasonable timeframe under Section 332(c)(7), as prescribed by the FCC's Shot Clock order, will begin to run from the issuance of the department's decision that the application is not a covered request. To the extent such information is necessary, the department may request additional information from the applicant to evaluate the application under Section 332(c)(7), pursuant to the limitations applicable to other Section 332(c)(7) reviews.
10. Failure to Act. In the event the department fails to approve or deny a request seeking approval under this Chapter within the timeframe for review (accounting for any tolling), the request shall be deemed granted. The deemed granted status does not become effective until the applicant notifies the applicable reviewing authority in writing after the review period has expired (accounting for any tolling) that the application has been deemed granted.
11. Deemed Approved Application. An application that has been deemed approved shall be and constitute the equivalent of an eligible facilities modification permit, except as may be otherwise determined by a court of competent jurisdiction, and shall be subject to generally applicable enforcement and compliance requirements in the same manner as an eligible facilities modification permit issued pursuant to this chapter.
12. Code Requirements. Any eligible facilities modification permit issued pursuant to this chapter, and any application that has been deemed approved, shall be and is conditioned upon compliance with any generally applicable building, structural, electrical, and safety codes and other laws codifying objective standards reasonably related to health and safety. Violation of any such applicable code or standard shall be deemed to be a violation of the eligible facilities modification or deemed approved application.

13. Term of Eligible Facilities Modification Permit. An eligible facilities modification permit issued pursuant to this chapter, and any deemed approved application, shall be valid for a term of 180 days from the date of issuance, or the date the application is deemed approved.

H. Remedies. Notwithstanding any other provisions in the City code, no administrative review is provided for review of a decision to condition, deny or approve an application. Applicant and the City retain any and all remedies that are available at law or inequity, including by way of example and not limitation, those remedies set forth in the FCC Eligible Facilities Request Rules and remedies available under the Land Use Petition Act. In the event no other time period is provided at law for bringing an action for a remedy, any action challenging a denial of an application or notice of a deemed approved remedy, shall be brought within thirty (30) days following the date of denial or following the date of notification of the deemed approved remedy.*

*Note: The FCC Report and Order in, *In re Acceleration of Broadband Deployment by Improving Wireless Facilities Siting Policies*, WT Docket Nos. 13-238, 13-32; WC Docket No. 11-59; FCC 14-153, Par's 234 – 236, provides that the City shall have 30 days from the date of notification by the applicant of a deemed granted remedy to bring a legal action in a court of competent jurisdiction to challenge the deemed granted remedy, and that the applicant shall have 30 days from the date of denial to bring a legal action in a court of competent challenging a denial of the application.

18.61A.070 Non-Conforming Structure; Termination.

1. Application. The provisions of this section XMC XX.XX.100 shall apply to any facilities modification constructed, installed, placed or erected pursuant to an eligible facilities modification permit, or pursuant to a deemed approved remedy, which facilities modification did not conform to zoning and/or development regulations, exclusive of this chapter, in effect at the time the completed eligible facilities modification application was filed.

2. Non-Conforming Structure Determination. A facilities modification to which this section applies is subject to termination as a non-conforming structure upon the following conditions:

a. Final, Non-Appealable Decision. An appellate court, in a final and nonappealable decision, determines that § 6409(a)(1) of the Spectrum Act is unconstitutional or otherwise determined to be invalid or unenforceable; and

b. Notice of Non-Conforming Structure Determination. The City provides written notice to the applicant that the City has determined that the facilities modification did not conform to zoning and/or development regulations, exclusive of this chapter, in effect at the time the completed eligible facilities modification application was filed and that the facilities modification constitutes a non-conforming structure pursuant to the provisions hereof and must be made conforming or the facilities modification terminated.

3. Conformance; Termination. Upon receipt of notice of the City's non-conforming structure determination, applicant shall abate the non-conformance by either, conforming the site to the zoning and development regulations in effect at the time the completed eligible facilities modification application was filed, or removing the facilities modification and returning the site to the condition that existed prior to the construction, installation, placement or erection of the facilities modification. The time period for conformance shall be one (1) year from the date of the City's notice of the non-conforming structure determination.

4. Health and Safety Codes. Nothing in this section shall relieve the applicant from compliance with applicable building, structural, electrical, and safety codes and with other laws codifying objective standards reasonably related to health and safety.

5. Administrative Appeal. The applicant, or its successors or assigns, may appeal the City's determination of non-conformance to the City Hearing Examiner by filing a notice of appeal within _____ () calendar days of the date of the determination of nonconformance, excluding holidays.

18.61A.080 Enforcement; Violation.

Compliance with the provisions of this chapter is mandatory. Any violation hereof is subject to enforcement under the code enforcement provisions set forth at XXX of the City Code.

Wireless Communication Facilities: Zones and Heights

(Draft 09/20/16 for discussion)

PLAN DISTRICT	CURRENT ZONE	NEW ZONE	HEIGHT
Single Family Residential	R4-8	R4-8	Stealth or DAS only
Lifestyle District	R-III; C-II (M)	LD	Stealth or DAS only
Neighborhood Center	C-I (NC)	NC	Stealth or DAS only
Community / General Business	C-II; C-III	CB	Stealth or DAS only
Downtown	DC; DMU-I and II	DC; DMU-I and II	Stealth or DAS only
Regional Commercial	C-III	RC	Stealth or DAS only
Highway Commercial	NA	HC	100' / 150'
Schools	PF	R4-8 (by CUP)	Stealth or DAS only
High Tech / Light Industry	C-II(G); PF; MU	HTLI	Stealth or DAS only
Heavy Commercial / Warehouse	PF / MU	HC-W	100' / 150'
Economic Opportunity Area	MU	EOA	Stealth or DAS only
Planned Resort Community	C-III	PRC (or, by master plan)	Any (by master plan)
Agriculture	Ag Conservancy	AG	100' / 150'
Major Park / Open Space	PF	P / OS	Any (by park master plan)

SEQUIM CITY COUNCIL AGENDA COVER SHEET

MEETING DATE: September 26, 2016

FROM: Charlie Bush, City Manager CPB
initials

SUBJECT/ISSUE: 2017 Budget Overview

Discussion dates	06/27/16 Kick-Off	08/08/16 Council Goals Work Plan		
CATEGORY	<input type="checkbox"/> City Manager Report	<input checked="" type="checkbox"/> Information Only	Time Needed for Presentation 15 min	
	<input type="checkbox"/> Public Hearing	<input type="checkbox"/> Consent Agenda		
	<input type="checkbox"/> Unfinished Business	<input type="checkbox"/> New Business		
Reviewed by	Initials		Date	
Sue Hagener, Administrative Services Director	SH		09/19/16	

PROBLEM/ISSUE STATEMENT:

Per RCW 35A.33 - Budgets in Code Cities, the City Manager is required to present to the Council the Proposed 2017 Budget by November 1, 2016. The 2017 budget book was provided to all Council members in Mid-September and an overview of the budget will be presented to Council this evening.

LIST OF ATTACHMENTS:

1. City Manager's 2017 Budget Message

DISCUSSION/ANALYSIS:

The presentation gives an overview of the City Wide City Manager 2017 Proposed Budget. The anticipated schedule of budget meetings is:

- October 10 and 24, 2016 – Review Departmental Budgets
- November 14, 2016 – Public Hearing
- November 28, 2016 – Final Hearing and Adoption

FINANCIAL IMPLICATIONS: When adopted, this will establish the budget for 2017.

RECOMMENDATION: For discussion purposes only.



City of Sequim City Manager's 2017 Budget Message

Honorable Mayor, City Council and Sequim Residents:

I am pleased to present the City's 2017 Proposed Annual Budget, the annual financial roadmap for the City of Sequim with projected total expenditures of \$30ml.

The Annual Budget serves as a means to allocate resources to a variety of City priorities and programs to protect the community's physical security, enhance the community's quality of life, and to maintain and develop the City's facilities and infrastructure.

This policy document represents our continued commitment to prudent fiscal management, effective service delivery and to providing our citizens with an affordable quality of life. Once adopted by the Council the budget establishes the direction for all City government programs and services for the coming year. It represents the consensus of Council direction and staff recommendations on how to best accomplish Council goals and respond to the highest priorities of community needs.

We have based the proposed budget on the City Council vision and priorities that were adopted in mid-2016. We guided budget preparation also by the adopted City Council financial policies and the following budget principles:

- Continue to implement City Council top priorities;
- Balance current revenues and current expenses and maintain acceptable reserve levels;
- Minimize impact of any tax and fee increases on residents and ratepayers;
- Make decisions in the 2017 budget that continue to reset the City's financial plan and that create a foundation to maintain a balanced budget in future years;
- Maintain the highest quality of services.

2017 Highlights:

The budget is focused on maintaining service levels within the constraints of our resources. In 2017, we see continued positive improvement in economic activity that is reflected conservatively in our resources across the organization. We will continue to utilize these resources to improve support

for street operations, equipment and replacement reserves, and to fund debt services and centralized General Fund services to a greater degree.

A recurring theme in the following pages is the reallocation of staff and resources across the organization toward City-wide initiatives including Organizational Development, management of the Council Goal work plan, improving efficiencies without adding staff, and cross training as part of succession planning for upcoming retirements. The budget reflects our mission to achieve the highest level of employee and customer satisfaction by being proactive and highly productive, demonstrating effective leadership at all levels, encouraging creative problem solving and adapting to changing community needs and environment.

Debt service on the bonds financing the Civic Center will continue for the third year in 2017. We will also enjoy using resources previously spent on the Keeler Park debt for more parks improvements. We reflect a reasonable level of new capital projects in this budget for streets (\$1.6ml), parks (\$539k), water (\$2.3ml), sewer (\$1.7ml) and facilities (\$68k) - all consistent with Council goals and the Comprehensive Improvement Plan (CIP) updated and adopted in 2016.

Utility rates and structural changes are adjusted consistent with the 2013 rate study and operational expenses are slightly reduced from 2016.

General Fund

Total General Fund revenues projected for 2017 are approximately \$9.3ml and are balanced with expenditures. Revenues are projected to increase about 2.6% over the prior year and expenses about 3.2%. General Fund tax revenues are projected to grow slightly (3.8%) over the 2016 budget. Sales tax is one of our largest single general revenue sources and the only one that typically grows or shrinks significantly with the local economy. Utility Tax revenues continue to be strong with year over year growth. General Fund allocations conservatively predict slight increases consistent with the increase in the cost of overhead functions. Lastly, property tax revenues are steady for 2017, while they were impacted by declining assessed values and limited new construction, in the past. A statutory 1% limit on growth in property tax collections fails to keep pace with inflation.

General Fund Highlights:

- We projected conservative revenues in all categories. We reflected conservatively the uptick in economic activity seen in 2016 for 2017's revenues;
- Interfund/Overhead service costs in the General Fund are applied throughout the organization and are revised slightly higher in 2017, due to increases in the cost of those services;
- Existing labor contracts provide for increases and movement within existing ranges;
- Contributions to Street Operations and the general governmental Equipment Reserve Fund are increased in 2017;

Fund Balance and Reserves

The City has a fund balance policy for the General Fund and Street Operations that provides guidelines for our long-range financial plans. These operating ending fund balances should include adequate amounts for revenue fluctuations, cyclical activity, economic uncertainty, emergencies, and potential future liabilities. The proposed 2017 Budget provides for projected fund balances of \$2ml that meet those guidelines for both the General Fund and Street Operations (\$1.9ml and \$169k). This ending fund balance, plus \$419k estimated year-end fund balance for the Equipment Reserve Fund, continues to keep the City in a strong financial position. It should be noted that the projected ending fund balance for our Equipment Reserve, which requires a minimum of 2.5 years of scheduled replacement amounts, does not meet policy (ending at 58% of minimum). In 2016, we increased transfers into this reserve by \$275k (230%) but equipment needs still keep the fund balance below desirable levels. We continue to implement a plan to restore this reserve and future budgets should gradually reflect a balance more consistent with the policy (compliance is currently expected by 2019, depending on updated equipment needs).

Personnel Services

Given that the City is primarily a service business, salaries and benefits paid to the City's employees total 48.7% of total operating expenses. In the General Fund, employee salary and benefit costs represent 72% of our total expenses (excluding transfers). This percentage is reflective of the general services provided by the General Fund, such as police, parks, streets, and general government while the total city percentage includes the City's water and sewer utilities, which also include a significant amount of physical infrastructure, and its other funds, such as reserves. The chart below shows the City's historical staffing costs and reflects the 2017 changes.

	Actual 2013	Actual 2014	Actual 2015	Forecast 2016	Budget 2016	Budget 2017	2017 - 2016 %
<i>Budgeted Staff (FTE, not including Council)</i>	73.24	76.29	76.29	76.29	75.54	76.78	1.6%
OFM Censur (2017 estimated)	6,855	6,910	6,915	7,075	7,075	7245	2.4%
Employees per 1000 Population	10.7	11.0	11.0	10.8	10.7	10.6	-0.7%
Salaries	4,813,463	5,100,693	5,090,953	5,293,742	5,303,323	5,378,056	1.4%
Benefits	1,847,292	1,957,763	2,020,530	2,253,421	2,323,735	2,406,507	3.6%
Total Comp	6,660,755	7,058,456	7,111,483	7,547,163	7,627,058	7,784,563	2.1%
Benefits as % Total Comp	28%	28%	28%	30%	30%	31%	1.5%
City-Wide Operating Budget	13,728,547	13,478,361	13,730,963	15,038,215	15,893,962	15,992,331	
Total Comp as % Operating Budget	48.5%	52.4%	51.8%	50.2%	48.0%	48.7%	1.4%

The increase in the benefits category is the result of health care increases and PERS retirement increases which are offset by moderately growing revenues. Total City-wide compensation costs

are projected to increase by 2.1%. That said, the proposed staffing per thousand residents is below 2013 levels and has remained relatively consistent over the last five years.

Salaries and benefits for all bargaining units reflect the 2017 provisions negotiated in contracts approved by the City Council. All contracts will expire at the end of 2018.

Although our non-union employees salaries are performance based and do not include “step increases” the proposed budget includes similar salary increases for these employees. Approximately 1.0% additional has been included for this group within our contingency as well as an amount for salary adjustments, if appropriate, as indicated by the 2016 salary and wage survey.

As Council is aware, the cost of benefits has increased at an unsustainable rate over the years (30% over 2013). Unfortunately, the City does not control state mandated increases in worker’s compensation rates and retirement contributions. The continued strain on City expenditures includes year over increases in PERS (9%) and health insurance (9%). Utilities and other operational costs, mostly out of the City’s control, also continue to increase well over national CPI levels. In 2017, staff will be pursuing alternatives to certain health insurance programs.

Transition in Leadership

In 2016, we saw the transition of several key senior management positions. The next several years will mark other transitions in the organization. Budgetary provisions have been included in the 2017 Budget for the anticipated vacancies and cross training of replacement staff. So, we are considering a variety of options for addressing vacancies as set forth in our succession planning processes developed by each section of our operations.

Utilities

In 2013, we commissioned master plan updates for our Water and Sewer systems and a study of utility rates. The study, in consideration of the new master plans, indicated the need for an annual revenue increase of a 4% over a period of 6 years, whether this was achieved through growth, structural changes, actual rate increases or a combination. Utility rates not only support operations, they support our master plans, our Capital Improvement Plan and debt service, as well.

The proposed budget includes minor rate increases for water only and the implementation of the rate structure changes to allocate the proposed increases in an equitable and consistent fashion. The water rate increase is important to maintain the financial health of our utility operations and to meet our current and future debt service requirements, while also maintaining our target reserve levels. Smaller rate increases over time help to avoid large jumps in rates that are more challenging for customers to afford in the long run and demonstrate the proactive management of our utility operations. We propose to continue a low income discount policy that reduces utility bills for those who qualify for the rate reduction.

The debt service requirements next year for the Sewer and Water Funds are \$740k and \$115k, respectively. We have projects planned for both ongoing and major repair and replacement. Total

capital project costs for the Sewer Fund are \$1.7ml and \$2.3ml for the Water Fund. We discuss individual projects in the capital projects and utilities section of the detailed budget.

Long-Range Financial Plan

Although the Annual Budget adopts the City's financial plan for one year, it is important that the City Manager and Council make the Annual Budget decisions in the context of the City's long-range financial plan. Council reviewed the City's plan in April 2015 and will again review a revised plan in December 2016. The City's plan is cognizant of ongoing revenues and the continued escalation of costs. The model projects our revenues and expenditures for the next six years so decisions for the annual budget can be based upon these long-range trends and projections. The plan is a key element in the development of operating and capital improvement plans for critical projects now and in the future.

Community Requests for City Funding

Each year, as a part of the budget process, the City considers requests for service contracts from community and intergovernmental agencies. The City also contracts with the Sequim-Dungeness Valley Chamber of Commerce to operate the Visitor Information Center. The 2017 budget recommendations for the Human Services Contracts are consistent with amounts budgeted in 2016. In 2017, the City will be in its final year of this 3-year contract. The recommendation for the Chamber of Commerce Visitor Information Center is slightly higher than the prior year to reflect overall increasing costs. Finally, the City entered into a 3-year agreement (2016-2018) with the YMCA to support social, cultural, recreational and educational programs and services, especially from disadvantaged families. This support is also reflected in the budget.

The recommended budget allocations for outside agencies are as follows:

Chamber of Commerce Visitor Information Center (lodging tax funds)	\$ 80,100
Human Services Contracts	\$ 75,000
YMCA (Parks Restricted funds)	\$ 30,000

Civic Center Debt Service

The City's related General Obligation debt (over 30 years) is approximately \$660,000 annually. In 2017, funding sources for this debt service are as follows:

Public Safety Sales Tax	\$245,000
REET transfer	75,000
Prior office rent payments	200,000
General Fund Budget capacity	<u>145,000</u>
	\$665,000

The Utility Revenue bond debt service (over 20 years) related to the Civic Center is \$225,000, annually. This "rent factor" is reflected within our Long Range Financial Plan, the accepted Utility Rate Study and the 2017 budget. When feasible, the City plans to build reserves to enable pre-payment of Civic Center related debt.

Key Policy Decisions

I have submitted the proposed 2017 Budget after substantial review and discussion. I am comfortable that the proposed budget balances the long-term needs of the City with the current economic reality and financial trends. I am also excited that this budget contains appropriations to further develop staff, and aggressively address community issues and other council priorities.

However, the City Council's role is to review my judgments and make the final policy decisions. Some key decisions that require your review and final decision are the following:

- My recommendation, consistent with prior years, to increase the property tax levy by the allowed 1%;
- Proposed Water and Sewer rate and structure changes; including general facility charges;
- Proposed capital projects;

Conclusion

This budget addresses the City's highest priorities for service and capital needs for 2017 and will allow us to achieve our key goals.

Preparation and adoption of the budget is a team effort involving nearly every employee in our organization and every City Council member. Thank you to our staff for their willingness to submit realistic budget requests and to develop alternatives to meet Council priorities. Thanks especially to the Finance Department for its assistance in the preparation of this budget. Finally, thank you City Council for your leadership in moving ahead on numerous issues, including identifying your goals and priorities, and for your adoption of financial policies and prudent financial guidance that resulted in the foundation for this proposed 2017 Budget.

Sincerely,



Charlie Bush
City Manager

SEQUIM CITY COUNCIL AGENDA COVER SHEET

MEETING DATE: September 26, 2016

FROM: Sue Hagener, Administrative Services Director

SH
Initials

SUBJECT/ISSUE: Review of 2017 Proposed Rates and Fees

Discussion dates	Various dates in 2013 and 2014 (Utility Rate Study Discussions)	06/27/16 & 08/08/16 – Council Goals Work Plan		
CATEGORY	<input type="checkbox"/> City Manager Report	<input checked="" type="checkbox"/> Information Only	Time Needed for Presentation 10	
	<input type="checkbox"/> Public Hearing	<input type="checkbox"/> Consent Agenda		
	<input type="checkbox"/> Unfinished Business	<input type="checkbox"/> New Business		
Reviewed by			Initials	Date
Charlie Bush, City Manager			CPB	9/21/16
Kristina Nelson-Gross, City Attorney			KNG	9/21/2016
David Garlington, Public Works Director				

PROBLEM/ISSUE STATEMENT:

The purpose of this agenda item is to provide Council a *preview* of the recommended changes in the City’s fees and charges proposed in the 2017 budget. The City Council will hold a public hearing on revenue sources for 2017 as a part of the budget review and adoption in November. Although the City may establish or amend various fees and charges during the year, Council should approve all fees and charges as one ordinance, codified in Chapter 3.68 Rates and Fees, for the budget process.

The City undertakes an annual review of all rates and fees and recommends changes to City Council. The adoption of this Ordinance on an annual basis provides the rates and fees for the next fiscal year, helps to ensure that the City’s costs are reimbursed, and are critical to sound financial management. As such, *City services that provide private benefit or serve limited interests should be supported by fees in order to provide maximum flexibility in the use of general City taxes to meet the cost of services of*

broader public benefit. In other words, this process is important because general taxes should not subsidize a private benefit or limited interests.

LIST OF ATTACHMENTS:

1. Proposed Ordinance 2016-012 Amending 2017 Rates and Fees
2. Exhibit A – 2017 Proposed Rates/Fees/Charges
3. Rate Structure Implementation Schedule

DISCUSSION/ANALYSIS:

Rates and fees are evaluated for appropriateness by staff every year. At a minimum, the processes and labor required to deliver services are reviewed for *significant* changes that would impact the fees charged for those services. Some years, detailed cost-of-service studies are conducted to determine the time and supplies required to deliver a particular service like inspecting a sewer connection. For 2017, because processes have remained relatively consistent in most areas, and because detailed cost studies require significant resources, no formal studies were performed. However, staff is adhering to the Utility Rate Study recommendations accepted by the Council in 2013, and the rate structure implementation schedule accepted by Council in 2014.

Budget Policy

The approach to the annual review of rates and fees for 2017 is consistent with the following important Budget Policy requirements:

1. *Fee for Service Revenues:* *City services that provide private benefit or service limited interests should be supported by fees and charges in order to provide maximum flexibility in use of general City taxes to meet the cost of services of broader public benefit.*
 - a) *Recover Full Cost:* *Fees should be set to recover full costs, including all direct costs and indirect costs (capital costs, department overhead and city-wide overhead (cost allocations)).*
 - b) *Justify Subsidy:* *Charging less than full costs results in using general city taxes to subsidize the cost of the service. A subsidy must be justified, and may be considered if it meets other City interests and objectives, such as remaining competitive or encouraging community engagement. Intentional subsidies will be documented and periodically reviewed with City Council.*
 - c) *Cost Studies:* *Departments that impose fee for service charges should periodically prepare and update cost-of-service studies. These studies may be performed and documented internally. An external consultant may be required for complex studies or where fee surveys are not available or where fees may be contested.*

- d) Human Needs Type Services: Exception may be considered for human needs type services to persons with limited ability to pay.

2017 Rates and Fees Recommendations

For 2017, certain fee increases are needed to keep pace with the increase in the cost of those services. An analysis of just the actual salary and benefit increases reveals a 2.1% increase in costs that impact our operations. Therefore, we are proposing modest increase to most service-related fees by a factor of 2%.

With regard to utility rates, the Utility Rate Study conducted by Peninsula Financial Consulting in 2013/2014 recommended structural changes in our rates to more equitably distribute utility operating costs, encourage conservation and simplify City code. It also recommended annual revenue requirements in order to fund both increasing operational costs as well as planned capital costs. According to the Study, the City needs to generate additional revenues of 4% annually through growth, rate increases or structural changes in both water and sewer utilities.

Specifically for 2017 and in adherence to the Study's implementation schedule and Sequim Municipal Code, we propose the following:

Water:

- Set Multi-Family unit rates at 95% of Single-Family Residents
- Set Hotel/Motel unit rate at 75% of Single-Family Residents
- Reclassify Adult Care Facilities from Commercial to Multi-Family

Sewer:

- Complete AWWA factor implementation for Commercial
- Set Multi-Family unit rates at 95% of Single-Family Residents
- Implement a per unit fee for Hotel/Motel at 75% of Single-family Residents

These changes will have a positive impact on the equitable distribution of operating costs related to service delivery. Lastly, due to effective structural changes and minor rate increases in 2015 and 2016, as well as additional revenue from growth in our customer base, we are proposing only a 2% increase in water rates to meet our 4% revenue requirement. A residential customer that uses 650 cubic feet per month would see a monthly increase in their bill of \$0.60 per month.

Council Materials

In the following materials, Council will find that Facility rental fees have been simplified and/or reduced in order to encourage use of our facilities to "connect our community." Some fees associated with the City's Fats, Oils and Grease (FOG) program are also being simplified to encourage participation in the program and eliminate red-tape. Council will also see increases in service related fees by a factor of 2% (roughly the increase in salaries and benefits across the organization). Staff recommends minor increases in water rates of 2% and no increases in sewer rates other than those that bring our Commercial customer base rates in line with AWWA meter factors. Council will finally see the staff recommendation to increase General Facility Charges (GFCs)

for both water and sewer by \$250 in adherence with the Study implementation schedule, still leaving GFC's below the recommended charge of \$7,100 and \$9,050 for water and sewer, respectively.

In an effort to simplify the Rates/Fees/Charges schedule for 2017, we have rounded certain numbers.

Exhibit A: 2017 Proposed Rates, Fees and Charges

This schedule identifies both the current 2016 fee/charge and the proposed 2017 fee/charge. It is organized by department. The rate and fee schedule is highlighted for revisions as follows:

~~Strikethrough:~~ Deleting or Changing Fee, Rate or Charge
Underline: New/Proposed Fee, Rate or Charge

We have organized this document so that it can be approved and codified in the required format (~~striketrough~~ font for deleted fees and underlined for new and revised fees).

FINANCIAL IMPLICATIONS:

The financial impact from the fee changes are expected to be minimal unless specifically noted (see attached Implementation Schedule). Changes in rate and fee revenues depend on activity or use of services and changes to the fee structure. The total revenue increases or decreases from changes in the rates and fees ordinance can not be quantified at this time.

RECOMMENDATION:

This is for informational purposes only and there is no recommendation at this time. Final recommended changes will be presented with the adoption of the 2017 Budget.

ORDINANCE NO. 2016-12

**AN ORDINANCE OF THE CITY OF SEQUIM, WASHINGTON,
AMENDING CHAPTER 3.68 RATES AND FEES EFFECTIVE
JANUARY 1, 2017; AND PROVIDING FOR SAVINGS,
SEVERABILITY AND EFFECTIVE DATE.**

WHEREAS, the City of Sequim intends to amend various rates, fees and charges in the City of Sequim and has all fees and charges located in Sequim Municipal Code Chapter 3.68; and

WHEREAS, ordinances and resolutions have been previously adopted establishing fees and charges; and.

WHEREAS, the City of Sequim reviewed current rates, fees and charges and cost of providing services; and

WHEREAS, this ordinance adds some new fees and charges and amends or repeals previously established fees and charges which have not been codified; and

WHEREAS, this ordinance is necessary for the support of city government and its existing public institutions;

NOW, THEREFORE, the City Council of the City of Sequim, Washington, do ordain as follows:

Section 1. The City of Sequim Municipal Code Chapter 3.68 RATES AND FEES is hereby AMENDED as set forth in Exhibit "A".

Section 2. Rates and fees set forth in this Chapter are intended to provide one code location for all city rates and fees. However, additional rates and fees may be located elsewhere in the Sequim Municipal Code and in various adopted codes such as the International Building Code and in other uniform codes.

Section 3. Future Amendment. Any of the fees or charges, which are allowed to be adopted by Resolution, may be established or modified by a future fee Resolution referencing this Ordinance and to Chapter 3.68 of the Sequim Municipal Code.

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

Section 5. Savings Clause. Those portions of Ordinances 2008-016, 2009-002, 2009-016, 2010-024, 2011-009, 2012-014, 2013-015, 2014-018 and 2015-008 Sequim Municipal Code which are repealed or amended by this ordinance shall remain in force and effect until the effective date of this ordinance and as set forth below.

Such repeals and amendments shall not be construed as affecting any existing right acquired under the ordinances repealed or amended, nor as affecting any proceeding instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor the administrative action taken thereunder. Notwithstanding the foregoing actions, obligations under such ordinances or permits issued thereunder and in effect on the effective date of this ordinance shall continue in full force and effect, and no liability thereunder, civil or criminal, shall be in any way modified. Further, it is not the intention of these actions to reenact any ordinances or parts of ordinances previously repealed or amended, unless this ordinance specifically states such intent to reenact such repealed or amended ordinances. Any Ordinances or Sequim Municipal Code sections for which fees were provided in Ordinances 2008-16, 2009-002, 2009-016, 2010-024, 2011-009, 2012-014, 2013-015, 2014-018 and 2015-008 which do not show a fee or reference in Exhibit "A," remain in full force and effect.

Section 6 Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 7. Effective Date. This Ordinance shall become effective January 1, 2017, after publication of the ordinance, or a summary thereof, in the official newspaper of the City.

Dennis Smith, Mayor

Attest:

Approved as to form:

Karen Kuznek-Reese, MMC
City Clerk

Kristina Nelson-Gross, City Attorney

Approved Date

Publication Date

January 1, 2017
Effective Date

"Exhibit A"
Chapter 3.68
2017 Proposed Rates and Fees

Strikeout:	Deleting or changing fee
<u>Underline:</u>	New/proposed fee

A. City Clerk Department:

<u>Code Reference</u>	<u>Title</u>	<u>2016 2017-Rate/Fee/Charge</u>	
-	<u>Follow-Through Signs</u>	<u>Installation</u>	<u>\$200</u>
			-
		<u>Annual Permit</u>	<u>\$35</u>

B. Facility Rental (SH2)

Facility Rentals		
Carrie Blake Park, 202 North Blake Avenue		
Covered Picnic Shelter	City Resident	Non-City Resident
	0 – 4 hours \$25	0 – 4 hours \$35
	5 – 8 hours \$45	5 – 8 hours \$55
	9 – 12 hours \$65	9 – 12 hours \$75
	<u>Reservation Fee \$25</u>	<u>Reservation Fee \$35</u>
Softball Field(s) for softball/baseball related events <u>East and West Fields</u>	No charge. <u>\$25 -Reservation required Fee unless per contract.</u>	No charge. <u>\$35 Reservation required Fee unless per contract.</u>
Softball Fields for all other events	\$65 per day	\$75 per day

“Exhibit A”

Chapter 3.68

2017 Proposed Rates and Fees

Facility Rentals		
Guy Cole – Fee waived for Clallam County Governmental Agencies		
Small Conference Room	<u>\$10/hour, city resident per reservation/per day</u>	<u>\$20/hour, non-city resident per reservation/per day</u>
Large Conference Room	<u>\$25/hour, city resident per reservation/per day</u>	<u>\$30/hour, non-city resident per reservation/per day</u>
Hall	<u>\$90/day, city resident per reservation/per day</u>	<u>\$100/day, non-city resident per reservation/per day</u>
Kitchen	By contract only	
Cleaning/damage deposit	\$150	
Kitchen cleaning/damage deposit	By contract only	
Centennial Place	Per temporary activity permit	
Civic Center, 152 West Cedar Street – Fee waived for Clallam County Governmental Agencies		
Cleaning/damage deposit	\$150	\$150
Community Meeting Room	<u>\$25/hour, city resident per reservation/per day</u>	<u>\$35/hour, non-city resident per reservation/per day.</u>
Council Chambers	<u>\$50 per reservation/per day/hour, city resident</u>	<u>\$60 per reservation/per day/hour, non-city resident</u>
Kitchen	<u>\$10/hour</u>	<u>\$20/hour</u>
Outdoor Plaza	<u>\$50/hour, \$450/day or by contract, city resident</u> <u>Per</u>	<u>Per Temporary Activity Permit</u> <u>\$60/hour, \$500/day or by</u>

“Exhibit A”

Chapter 3.68

2017 Proposed Rates and Fees

Facility Rentals		
	<u>Temporary Activity Permit</u>	contract, non-city resident
<u>Use of audio/visual equipment</u>	\$10, city resident	\$20, non-city resident [SH3]
Water Reuse Demonstration Site		
Interpretive Center, 500 North Blake Avenue	\$20/hour, city resident per reservation/per day	\$30/hour, non-city resident per reservation/per day
Cleaning/damage deposit	\$100	
James Center for the Performing Arts	\$90/hour, city resident per Temporary Activity Permit	\$100/hour, non-city resident per Temporary Activity Permit
Cleaning/damage deposit	\$250	\$250
Sequim Transit Center – Fee waived for Clallam County Governmental Agencies		
Small Conference Room	\$10/hour, city resident per reservation/per day	\$20/hour, non-city resident per reservation/per day
Large Conference Room/Training Room	\$25/hour, city resident per reservation/per day	\$35/hour, non-city resident per reservation/per day
Kitchen usage (may only be used in conjunction with room rental)	\$10/hour, city resident per reservation/per day	\$20/hour, non-city resident per reservation/per day
Cleaning/damage deposit	\$150	\$150
Use of audio/visual equipment - <u>All Facilities</u>	\$10, city resident	\$20, non-city resident

C. Finance Department.

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
SMC Title 5	Business License	
	Registration	\$ <u>55 56</u>
	Renewal	\$ <u>55 56</u>
	Handling fee – Department of Revenue (DOR)	Per DOR
	Door-to-door sales (peddler) license	\$ <u>55 56</u>
	Seasonal (per week), not to exceed 7 weeks	\$ 10 or as set by contract
	Amusement device	\$ <u>55 56</u>
SMC 5.28.115	For-hire vehicle driver permit (taxi driver)	\$ <u>55 56</u>
	Miscellaneous Admin.	
	Copy of CD or electronic data copies <u>Copies on CD or thumb Drive</u>	\$ 5 <u>Actual Cost of device</u>
	Color plotter large planning map	\$ 15
	Comprehensive plan/zoning road maps	\$ 25
	Blueprints	
	18" x 24"	\$1 per sheet

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
	24" x 36"	\$1.50 per sheet
	42" x 48"	\$3 per sheet
RCW 42.56.070(8)	Photocopies cost per page	\$0.15 for all sizes or actual cost if sent out
	Scanning cost per page	\$0.15 for letter size
		\$0.25 for legal size <u>or larger</u>
		\$0.25 for larger than legal size
		Or actual cost if sent out
SMC 3.52.060	Returned check (NSF)	\$ 43
	Certified mailings	\$15 plus postage
	Cost reimbursement – Property damage/other	Actual cost (including wages and benefits) + 15% admin. fee
SMC 20.05.010	Legal document preparation	Actual cost + 15% admin. fee
	Taxes	
SMC 3.08.010	Leasehold	4% of the taxable rent
SMC 3.72.010	Lodging	4% of the sale or charge made for the furnishing of lodging
SMC 3.62.020	Real estate excise REET 1	1/4 of 1% of the selling price
SMC 3.62.020	Real estate excise REET 2	1/4 of 1% of the selling price
Chapter 5.32 SMC, RCW	Utility Business and	

“Exhibit A”

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
35.21.870, 35A.11.050, 35A.82.020	Occupation (B and O) Tax	
Chapter 5.32 SMC, RCW 35.21.870	Electric utility tax	6% of the total gross operating revenue
Chapter 5.32 SMC	Garbage utility tax	8% of the total gross operating revenue
Chapter 5.32 SMC	Gas utility tax (Ord. 2008-015 excludes propane)	6% of the total gross operating revenue
Chapter 5.32 SMC, RCW 35.21.870	Telephone (and similar communication services) utility tax	6% of the total gross operating revenue
Chapter 5.32 SMC	Water utility tax	8% of the total gross operating revenue
Chapter 5.32 SMC	Sewer utility tax	8% of the total gross operating revenue
Cable Communications Policy Act of 1984	Cable franchise fee	5% of the total gross operating revenue
	Utility Deposits	
	Residential	
	Water	
	Inside city limits	\$150 or letter of credit
	Outside city limits	\$185 or letter of credit
	Sewer for customers on city water	
	Inside city limits	\$130 or letter of credit

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
	Outside city limits	Depends on sewer rate or letter of credit
	Sewer only customers	Deposit required
	Inside city limits	\$ 130
	Outside city limits	Depends on sewer rate (see below)
	1.5 times the rate	\$ 195
	1.6 times the rate	\$ 210
	2 times the rate	\$ 260
	Commercial	
	Water	2 times estimated monthly usage or letter of credit showing no delinquencies in previous 12-month period
	Sewer	2 times estimated monthly usage or letter of credit showing no delinquencies in previous 12-month period
	Miscellaneous Utility Fees	
	Debit card and credit card payments over the phone	\$ 3
SMC 3.52.050	Delinquent utility account	\$5 plus 1% on outstanding balance
	Duplicate copy of utility invoice for owner/property manager	\$7.50 per account annually
SMC 3.52.070(C)	Reconnection fee for shut-off	\$ <u>82.84</u>

"Exhibit A"
Chapter 3.68
2017 Proposed Rates and Fees

D. Police Department (Some Fines for Crimes Are Not Governed by This Chapter).

Code Reference	Title	2016/2017 Rate/Fee/Charge
SMC 8.28.050	Alarms Response	
	First call offense	\$ -
	Second call offense	\$ -
	Third call offense	\$ 50
	Fourth and successive call offenses	\$ 100
	Bail, Permits and Certifications	
	Bail	As set by municipal court
	Concealed weapons permit	As established by state statute
	Temporary non-vehicle use of streets permit	\$5 per day not to exceed 14 days
18 U.S.C., Title 926C	Retired non-SPD police concealed carry	\$ 25
	Fines	
SMC 10.12.100	Parking Infractions	
	Improper parking	\$ 25
	Expired parking	\$ 25
RCW 46.61.381	Parking in disabled/handicap	\$ 450

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
	space	
	Violation of limited time or restricted zone	\$ 25
	Moving Vehicle Violations	
SMC 10.08.020	Speeding in alley	\$ 101
SMC 10.21.060	Human-powered vehicle violation	\$25 each violation
Chapter 10.21 SMC	Wheeled device violation	\$ 25
	Miscellaneous Fees	
RCW 42.56.070(8)	Photocopies cost per page	\$0.15 for all sizes or actual cost if sent out
	Copy of CD or electronic data copies	\$ 5
	Off-duty hiring of Sequim police personnel	Set by current collective bargaining agreement (CBA) (includes wages and benefits) + 15% admin. fee
	Fingerprinting (per set)	\$ 15

E. Community Development.

Code Reference	Title	2016 2017 Rate/Fee/Charge
SMC 20.05.010	Notice of application publication	Actual cost
SMC 20.05.010	Notice of public hearing	Actual cost

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
	publication	
SMC 20.05.010	Public notice, publication fees and certified mailings	Actual cost
SMC 5.40.100	Adult Entertainment License	
	Nonrefundable processing fee	\$ 375 <u>380</u>
	Establishment permit	\$ 1,615 <u>1,645</u>
	Model/escort fee	\$ 1,080 <u>1,100</u>
	Manager license	\$ 1,080 <u>1,100</u>
	Entertainment license	\$ 540 <u>550</u>
	Entertainment acts	\$ 540 <u>550</u>
SMC 20.05.010	Notices and Event Permits	
RCW 70.77.555	Fireworks sales permit (maximum allowed per RCW 70.77.555)	\$ 100
SMC 8.20.100(D)	Fireworks refundable clean-up deposit (performance bond)	\$ 110
SMC 18.68.020	Temporary activity permit	Group A – \$25 Group B – \$105 <u>110</u> Group C – \$210 <u>215</u> (or as provided by contract) Group D – \$210 <u>215</u> plus \$52 <u>53</u> per hour of additional staff time over 4 hours (or as provided by contract)

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
SMC 18.58.030(E)	Sign permit	\$ 190 <u>195</u>
SMC 18.58.067	Temporary signs for events (on private property)	\$ 15
SMC 20.01.240(F)	Appeals and Land Use Changes	
	Annexation	\$ 1,900 <u>1,935</u>
	Administrative	\$ 590 <u>600</u>
	SEPA	\$0 – \$250,000 = \$ 590 <u>600</u> \$250,000 – \$500,000 = \$ 810 <u>825</u> \$500,000 – \$1,000,000 = \$ 1,510 <u>1,540</u> \$1,000,000 + = \$ 2,595 <u>2,645</u>
SMC 18.20.015	Similar use determination	\$ 515 <u>525</u>
	Quasi-judicial appeal	\$ 895 <u>910</u>
SMC 20.05.010	Variance	\$ 1,190 <u>1,210</u>
SMC 17.22.030 and 20.05.010	Boundary and lot line adjustment	\$ 590 <u>600</u>
SMC 17.22.030 and 20.05.010	Lot merger	\$ 590 <u>600</u>
	Final boundary line adjustment	\$ 235 <u>240</u>
SMC 18.88.040(B)(9), 18.88.050(C)(16), 18.88.070(D)(17), and Chapter 20.05 SMC	Comprehensive plan amendment	\$ 1,615 <u>1,645</u>

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
SMC 18.88.070(D)(17) and 20.05.010	Zoning code amendment, Type 1 and 2	\$ 1,615 <u>1,645</u>
	Critical Areas	
	Environmental review (e.g., transportation study, EIS, etc.)	Actual cost of city-retained consultant plus \$55 <u>\$56</u> per hour for staff time
SMC 18.80.050 and Chapter 20.05 SMC	Critical areas	\$ 485 <u>495</u>
	Essential public facility use permit	\$ 1,900 <u>1,935</u>
	Reasonable uses permit	\$ 540 <u>550</u>
	Slope encroachment	\$ 485 <u>495</u>
	Wetland buffer averaging	\$ 485 <u>495</u>
	Land Use Development	
	Home occupation permit	\$ 55 <u>56</u>
	Mobile food service vendor permit	\$ 110 <u>115</u>
SMC 20.01.110(I) and Chapter 20.05 SMC	Preapplication consultation (includes preliminary design review (not board) and preliminary plat)	\$ 380 <u>385</u>
Chapter 18.24 SMC	Design standards and review meeting	\$505 <u>\$515</u> plus 10% building permit
Chapters 18.60 and 20.05 SMC	Major conditional use	\$ 1,350 <u>1,375</u>

“Exhibit A”

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
	Minor conditional use	\$ 810 <u>825</u>
Chapter 18.56 SMC and SMC 20.05.010	Special use permit	\$ 1,080 <u>1,100</u>
SMC 20.05.010	Subdivision	
	Major subdivision	\$ 1,350 <u>1,375</u>
	Major subdivision final plat	\$ 650 <u>665</u>
	Minor subdivision	\$ 810 <u>825</u>
	Minor subdivision final plat	\$ 325 <u>330</u>
	Plat Amendments	
	Major plat amendment	\$ 1,350 <u>1,375</u>
	Major plat amendment final plat	\$ 650 <u>665</u>
	Minor plat amendment	\$ 915 <u>935</u>
	Minor plat amendment final plat	\$ 325 <u>330</u>
	Plat extension	\$ 235 <u>240</u>
	Binding site plan	\$ 1,350 <u>1,375</u>
	Binding site plan final map	\$ 405 <u>415</u>
SMC 18.66.040	Administrative permit – Accessory dwelling unit	\$ 265 <u>270</u>
SMC 20.05.010	Unspecified land use and development fees	\$ 1,435 <u>1,465</u>

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
	Shoreline Development	
	Shoreline development permit (primary, secondary, conditional use)	\$ 675 <u>690</u>
	Shoreline exemption	\$ 215 <u>220</u>
	Variance	\$ 475 <u>485</u>
	Latecomers' Fees	
	Base fee	\$540 <u>550</u> plus 1% of construction costs
	Parcel fee	\$ 110 <u>115</u>
	Segregation fee	\$ 380 <u>385</u>
	Miscellaneous Fees	
	Research services fees	\$55 <u>56</u> per hour after the first hour of work
	Permit software fee	\$15 per stand-alone permit

F. Community Development – Building.

Code Reference	Title	2016 2017 Rate/Fee/Charge
Chapter 15.04 SMC	Building Permit	
	Permit Software Fee	\$15 per standalone permit
SMC 15.04.030	Building permit	97 UBC Building Valuation Schedule plus

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
		10%
	Plan check	65% residential; 80% commercial building permit
	Plan check (after initial approval)	\$110 <u>115</u> for first 3 hours plus \$36/hour thereafter
SMC 15.04.050	Mechanical permit base fee	As established by Uniform Mechanical Code
SMC 15.04.050	Mechanical application fee	As established by Uniform Mechanical Code
SMC 15.04.070	Plumbing permit base fee	As established by Uniform Plumbing Code
SMC 15.04.070	Plumbing and fixture permit	\$7.70 per fixture
	Site, R-O-W, building permit re-inspection	\$ <u>55</u> <u>56</u>
	Final inspection Certificate of occupancy for final inspection	\$ <u>110</u> <u>115</u>
SMC 15.04.070	Manufactured home placement	\$ <u>250</u> <u>255</u>

G. Department of Community Development – Code Compliance/Enforcement.

Code Reference	Title	2016 2017 Rate/Fee/Charge
SMC 6.16.010	Animal License	
SMC 6.04.015	License (spayed/neutered)	Per Clallam County fee schedule

**“Exhibit A”
Chapter 3.68**

2017 Proposed Rates and Fees

Code Reference	Title	2016/2017 Rate/Fee/Charge
	Dog and cat Cat licensing is voluntary	
	License (intact = not spayed/neutered)	Per Clallam County fee schedule
	License for micro-chipped (spayed/neutered)	Per Clallam County fee schedule
	License lifetime for micro-chipped (spayed/neutered)	Per Clallam County fee schedule
	Certified assist./companion animal – Lifetime license	Per Clallam County fee schedule
	Registration or renewal potentially dangerous dog – Spayed/neutered – Annual	\$ 150
	Registration or renewal potentially dangerous dog – Intact – Annual	\$ 450
	Registration or renewal dangerous dog – Spayed/neutered – Annual	\$ 250
	Registration and renewal of dangerous dog – Intact – Annual	\$ 550
	Impound fees and costs	Appropriate fees per Humane Society contract costs plus 25% admin. fee
	Replacement tag (animal licenses)	Per Clallam County fee schedule

H. Public Works Department.

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
	Banners	
	Community banner reservation	\$175- <u>180</u> per week
	Permits	
	Public Improvement Permit	
	Application deposit – Nonrefundable (This deposit will be applied to the fee determined for the public improvement permit if permit is obtained within one year of design approval)	\$ 1,000 Due with application
	Single parcel	2% of estimated construction costs due at application Due at plan approval
	Subdivision	2% of estimated construction costs due at application Due at plan approval
	Commercial	2% of estimated construction costs due at application Due at plan approval
	Fats, Oil, and Grease (FOG) Program	[SH4]
-	FOG – Trap permit	\$ 315
-	FOG – Annual renewal w/inspect report	\$ 40

“Exhibit A”

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
-	FOG – Failure to adopt management plan	\$ 250
	FOG – Failure to allow inspection	\$ 500
	FOG – Failure to install required equipment or process	\$ 500
	FOG – Failure to meet discharge standards	\$ 500
	FOG – Failure to maintain records	\$ 100
	Sewer Inspections	
	Sewer inspection – Inside city limits	\$ 162 165
	Sewer inspection – Outside city limits	\$ 325 330
Ord. 2010-007	Transportation Impact Fee	Effective June 1, 2016 2017
	Transportation impact fees	Rate generated from formula set forth in transportation study. Fees are automatically adjusted by the Engineering News Record Construction Price Index change, unless otherwise adjusted by council.
Ord. 2010-008	Park Impact Fee	
	Park impact fees	Rate generated from formula set forth in parks study. Fees are automatically adjusted by the Engineering News Record Construction Price Index change, unless otherwise adjusted by council.

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
	Miscellaneous Services Fees	
	Deferred impact fee administration	\$ 225 <u>230</u>
	Engineering and consulting (internal and outsourced)	Actual cost (direct and indirect)

I. Public Works Department – Streets.

Code Reference	Title	2016 2017 Rate/Fee/Charge
	Right-of-Way Usage/Work Within:	
	Water line installation/repair	2% of estimated construction costs
	Reclaimed water line install/repair	2% of estimated construction costs
	Sewer line installation/repair	2% of estimated construction costs
	Stormwater system install/repair	2% of estimated construction costs
	Electrical utilities installation/repair	2% of estimated construction costs
	Telecommunications install/repair	2% of estimated construction costs
	Cable TV line installation/repair	2% of estimated construction costs

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
	Gas line installation/repair	2% of estimated construction costs
	Jack and bore	2% of estimated construction costs
	Open cut of street/road	2% of estimated construction costs
	Open cut of alley	2% of estimated construction costs
	Other right-of-way work	2% of estimated construction costs
	Other misc. R-O-W permits	2% of estimated construction costs
	Renewal fee for expired permit	\$ <u>82 83</u>
	Street/right-of-way vacation	Actual costs (direct and indirect)

J. Public Works Department – Solid Waste.

Code Reference	Title	2016 2017 Rate/Fee/Charge
	Yard Waste	
	Spring clean-up fees for in-city residents/utility customers	First load free with coupon; \$10 each additional load
	<u>Miscellaneous PW Fees</u>	
	<u>Follow-Through Signs</u>	<u>Installation \$200</u>

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
		Annual Permit \$35 (SHS)

K. Public Works Department – Utilities.

Code Reference	2016 2017 Rate/Fee/Charge	
SMC 13.72.010	Meter install	
	Meter Size	City-Installed Service
		Water
	Less than 2"	\$242- 245 plus meter kit, roadway and replacement costs in-city service
	Less than 2"	\$485- 495 plus meter kit, roadway and replacement costs out-of-city service
	Note: Greater than 2"	Developer installed
SMC 13.72.010	Inspection Fees	
		Water
	Inspection fee for developer-installed meters	\$76- 77 for in-city-limit inspections \$152- 154 for out-of-city-limit inspections
		Sewer
	Inspection fee for developer-installed side sewer service line	\$76- 77 for in-city-limit inspections \$152- 154 for out-of-city-limit inspections
SMC 13.72.020	General Facility Charges (GFC)	

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	2016 2017 Rate/Fee/Charge	
	Sewer	
	Type of Connection	GFC (per Unit)
		Residential
	Residential living unit	\$ 8,550 8,800 ^(SH6) (1 equivalent residential unit (ERU)) includes condo units, mobile home park units and multifamily units 2 units or under
	Multifamily units (3 units or more)	0.7 ERU per unit
	Service outside the city limits = 2 times the city rate	
	Temporary Residential Units	
	Motel/hotel rooms, seasonal overnight travel trailer parks and RV parks	0.3 ERU per unit
	Rest homes, nursing homes, assisted care facilities	0.6 ERU per unit
	Commercial and Industrial Units and Other Units	
SMC 13.72.020	Based on the Following Meter Size as Outlined in the Code	
	Meter size (inches)	ERU
	0.625	1.0
	0.75	1.5

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	2016 2017 Rate/Fee/Charge	
	1.00	2.5
	1.50	5.0
	2.00	8.0
	Meters sized greater than 2 inches or any use requiring an industrial pretreatment plan requires an approved engineering analysis of equivalent ERUs.	
SMC 13.72.025	General Facility Charges (GFC)	
	Water	
	Type of Connection	GFC (per Unit)
		Residential
	Residential living unit	\$6,600 <u>6,850</u> ^{SH7} 1 equivalent residential unit (ERU) includes condo units, mobile home park units and multifamily units 2 units or under
	Multifamily units (3 units or more)	0.7 ERU per unit
	Service outside the city limits = 2 times the city rate	
	Temporary Residential Units	
	Motel/hotel rooms, seasonal overnight travel trailer parks and RV parks	0.3 ERU per unit
	Rest homes, nursing homes, assisted care facilities	0.6 ERU per unit

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	2016 2017 Rate/Fee/Charge	
	Commercial and Industrial Units and Other Units	
	Based on the Following Meter Size as Outlined in the Code	
	Meter size (inches)	ERU
	0.625	1.0
	0.750	1.5
	1.000	2.5
	1.500	5.0
	2.000	8.0
	Meters sized greater than 2 inches or any use requiring an industrial pretreatment plan requires an approved engineering analysis of equivalent ERUs.	
	Irrigation Water Rates	
	Irrigation Base Rate for Each Meter Size	
	5/8" and 3/4"	\$23.80 <u>24.28</u>
	1"	\$39.75 <u>40.55</u>
	1-1/2"	\$79.26 <u>80.85</u>
	2"	\$126.87 <u>129.41</u>
	3"	\$238.00 <u>242.76</u>
	Irrigation Usage Charges	
	Single-Family Residential, Duplex and Multifamily	

“Exhibit A”

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	2016 2017 Rate/Fee/Charge	
	Up to 600 cubic ft.	\$ 0.008270 <u>0.00844</u> /cubic ft.
	Over 600 cubic ft. and up to 1,600 cubic ft.	\$ 0.024480 <u>0.02497</u> /cubic ft.
	Over 1,600 cubic ft.	\$ 0.03060 <u>0.03121</u> /cubic ft.
	Commercial and Public Authority	
	Up to 600 cubic ft.	\$ 0.008270 <u>0.00844</u> /cubic ft.
	Over 600 cubic ft.	\$ 0.024480 <u>0.02497</u> /cubic ft.
	Hotel/Motel	
	First 600 cubic ft.	\$ 0.008270 <u>0.00844</u> /cubic ft.
	Over 600 cubic ft.	\$ 0.024480 <u>0.02497</u> /cubic ft.
SMC 13.112.060	Reclaimed Water (Reuse) Rates	
	Reclaimed Water Base Rate for Each Meter Size (per Month)	
	5/8" and 3/4"	\$5.40
	1"	\$7.25
	1-1/2"	\$11.52
	2"	\$16.98
	3"	\$31.21
	Reclaimed Water Usage Charge for Each Service per Month	
	0 – 5,000 cubic ft.	\$0.00506/cubic ft.

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	2016 2017 Rate/Fee/Charge	
	5,001 – 20,000 cubic ft.	\$0.00380/cubic ft.
	20,001 – 50,000 cubic ft.	\$0.00252/cubic ft.
	50,001 cubic ft. and above	\$0.00126/cubic ft.
	Rates to customers outside the current city limits shall be 2 times higher than the specified class base rate and the usage fee charged per unit or 2 times the total bill as computed by the in-city rate	
SMC 13.80.030	Sewer Rates	
	Usage Charges	
	Sewer Rates for Single-Family Residential – Inside City Limits	
	Winter water average up to 600 cubic ft.	\$60.59
	Winter water average over 600 cubic ft.	\$70.31
	One-Tier Sewer-Only Single-Family Residential – Inside City	
	Base rate	\$63.97
	Sewer Rates for Multifamily Residential (per Unit)	
	Base rate	\$65.68 57.56 [SH8]
	Sewer Rates for Commercial and Public Authority [SH9]	
	Base rate per meter size	
	3/4"	\$63.88

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	2016 2017 Rate/Fee/Charge	
	1"	\$ 79.85 78.06
	1-1/2"	\$ 148.44 155.64
	2"	\$ 227.97 249.12
	3"	\$ 424.16 467.40
	Usage rate over 600 cubic ft.	\$0.06335/cubic ft.
	Sewer Rates for Hotel/Motel <u>(per unit)</u>	
	Base rate	\$ 63.88 45.44 ^[SH10]
	Over 600 cubic ft.	\$0.06335/cubic ft.
	Outside City Limits	
	Two times the rate	
SMC 13.80.080	Reduced Sewer Rates	
	Residential low income rate reduction program for individually metered water (only qualifying account holders). Up to 50% reduction of base charge for qualifying low income customers.	
SMC 13.84.030	<u>Water Rates</u> ^[SH11]	
	Water Rates for Single-Family Residential	
	Base rate	\$ 23.80 24.28
	Up to 600 cubic ft.	\$ 0.00827 0.00844/cubic ft.
	Over 600 cubic ft. and up	\$ 0.02448 0.02497/cubic ft.

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	2016 2017 Rate/Fee/Charge	
	to 1,600 cubic ft.	
	Over 1,600 cubic ft.	\$0.03060 <u>0.03121</u> /cubic ft.
	Water Rates for Multifamily Residential, <u>Including Adult Care Facilities (Per Unit)</u> ^[SH12]	
	Base rate	\$22.81 <u>23.06</u> ^[SH13]
	Up to 600 cubic ft.	\$0.008270 <u>0.00844</u> /cubic ft.
	Over 600 cubic ft. and up to 1,600 cubic ft.	\$0.024480 <u>0.02497</u> /cubic ft.
	Over 1,600 cubic ft.	\$0.030600 <u>0.03121</u> /cubic ft.
	Water Rates for Commercial and Public Authority	
	Base rate per meter	
	5/8" and 3/4"	\$23.80 <u>24.28</u>
	1"	\$39.75 <u>40.55</u>
	1-1/2"	\$79.26 <u>80.85</u>
	2"	\$126.87 <u>129.41</u>
	3"	\$238.00 <u>242.76</u>
	Up to 600 cubic ft.	\$0.008270 <u>0.00844</u> /cubic ft.
	Over 600 cubic ft.	\$0.024480 <u>0.02497</u> /cubic ft.
	Water Rates for Hotel/Motel (Per Unit)	

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	2016 2017 Rate/Fee/Charge	
	Base rate	\$22.38 18.21 ^[SH14]
	Up to 600 cubic ft.	\$0.008270 .00844/cubic ft.
	Over 600 cubic ft.	\$0.024480 .02497/cubic ft.
	Outside City Limits	
	1-1/2 times base	
	Example – Residential	
	Base rate outside city limits	\$35.70 36.42
	Up to 600 cubic ft.	\$0.012400 .01266/cubic ft.
	Over 600 cubic ft.	\$0.036720 .03746/cubic ft.
SMC 13.84.080	Reduced Water Rates	
	Residential low income rate reduction program (only qualifying account holders). Up to 50% reduction of base charge for qualifying low income customers.	

L. Miscellaneous Utility Fees.

Code Reference	Title	2016 2017 Rate/Fee/Charge
SMC 13.92.040	Water: service availability fee (standby charge for single-family residents inside city limits)	\$23.80 24.28 (water)
SMC 13.80.030	Sewer: service availability fee (standby charge for single-family residents inside city limits who are also connected to city water)	\$23.80 24.28 (sewer)
SMC 13.92.020,	Water on/off at customer request	Water Off – \$44 45

"Exhibit A"

Chapter 3.68

2017 Proposed Rates and Fees

Code Reference	Title	2016 2017 Rate/Fee/Charge
13.92.030		Water On – No charge
	Non-emergency after hours call out	\$137 140

Attachment 3: Utility Rate Structure Implementation Schedule

UTILITY RATE STRUCTURE RECOMMENDED IMPLEMENTATION SCHEDULE AND PROJECTED REVENUE

(in current dollars)

Staged Implementation - 4 yrs

YEAR		2015	2016	2017	2018
	BASELINE				
WATER				Analysis	
2015	Uniform volume rates for first two tiers	\$14,000	\$14,000		
2015	Lower first volume tier from 800 to 600 cf	\$27,000	\$27,000		
2015	Implement 3rd volume tier for residential (increased volume rate)	\$9,000	\$9,000		
2015	Use AWWA meter factors	\$75,000	\$75,000		
2015	Eliminate additional unit charges	(\$44,000)	(\$44,000)		
2017	Set MF unit rate at 95% of residential base rate	(\$2,000)		(\$2,000)	
2017	Set hotel rate at 75% of residential base rate	(\$26,000)		(\$26,000)	
2017	Classify adult care facilities as multi-family customers	\$44,000		\$44,000	
		\$97,000	\$81,000	\$0	\$16,000
	Revenue Requirement (inc. 4% annually)		\$1,898,652	\$1,974,598	\$2,053,582
	Additional Revenue required		\$73,025	\$75,946	\$78,984
	<i>Projected revenue carryover/loss from current year</i>			(\$48,000)	(\$22,189)
	NET WATER REVENUE NEEDED		(\$7,975)	\$27,946	\$40,795
	Rate increase or additional sales needed over structural change		0.00%	1.47%	2.07%

SEWER					
2015	Lower winter water average from 800cf to 600cf	\$20,000	\$20,000		
2015	Set all volume rates to begin at 600cf instead of 800cf	\$22,000	\$22,000		
2016/17	Implement 75% AWWA meter factors	\$270,000		\$63,750	\$63,750
2016	Remove additional unit charges	(\$92,000)		(\$92,000)	
2017	Lower the per unit fee for multi-family (95%)	(\$93,000)		(\$93,000)	
2017	Implement a per unit fee for Hotel/Motel (75%)	\$157,000		\$157,000	
2018	Classify adult care facilities as Multi-Family customers	\$110,000			\$110,000
		\$394,000	\$42,000	(\$28,250)	\$127,750
	Revenue Requirement (inc. 4% annually)		\$3,701,927	\$3,850,004	\$4,004,004
	Additional Revenue required		\$142,382	\$148,077	\$154,000
	<i>Projected revenue carryover/loss from current year</i>			(\$76,000)	(\$128,556)
	NET SEWER REVENUE NEEDED		\$100,382	\$100,327	(\$50,160)
	Rate increase or additional sales needed over structural change		2.71%	2.71%	0.00%

Agenda Item #4

SEQUIM CITY COUNCIL AGENDA COVER SHEET

MEETING DATE: September 26, 2016

FROM: Kristina Nelson-Gross, City Attorney; Chris Hugo, Planning Director

SUBJECT/ISSUE: Ordinance 2016-10 Amending Title 17 for Plat Vacations/Alterations

Discussion dates	August 8, 2016	PC 9/20/2016	
CATEGORY	<input type="checkbox"/> City Manager Report <input checked="" type="checkbox"/> Public Hearing <input type="checkbox"/> Unfinished Business	<input type="checkbox"/> Work Session <input type="checkbox"/> Consent Agenda <input type="checkbox"/> New Business	Time Needed for Presentation
Reviewed by		Initials	Date
Charles P. Bush, City Manager		CPB	9/21/16
Chris Hugo, Director of Community Development			

PROBLEM/ISSUE STATEMENT: The City's ordinances regarding final plat and binding site plan alterations are not user-friendly for staff or the public. Processes for final plat and binding site plan vacations are not addressed in our code at all.

LIST OF ATTACHMENTS:

1. Draft Ordinance 2016-10
2. Attachment A

DISCUSSION/ANALYSIS:

Current municipal code provisions governing the plat alteration and vacation process need to be revised to better inform staff and the public as to the City's requirements. The existing provision covering alteration of final plats is SMC 17.21.060, which is set forth below. This provision merely references the controlling statutes (RCW 57.18.215, etc.), which have some areas of discretion for local governments. Our code does not make clear what is required.

17.21.060 Alteration of final plats.

When any person is interested in the alteration of any subdivision within the city or the altering of any portion thereof, except as provided in RCW 58.17.040(6), that person shall submit an application to the city of Sequim planning department.

The application shall be in conformance with requirements established in RCW 58.17.215, 58.17.217, 58.17.218, 58.17.225 and 58.17.275.

The existing provision covering alteration of binding site plans is SMC 17.24.170, which is also set forth below.

17.24.170 Amendment.

An approved binding site plan may be amended upon application to the planning director. The applicant must make the request to amend the binding site plan in writing. The planning director shall approve the amendment if it meets all of the following criteria:

A. No new building pads are proposed;

B. No building shall be greater than 10 percent larger than shown on the final binding site plan; and

C. The amendment would not result in increased amounts of traffic, nor propose circulation patterns which are different than those proposed by the original application, nor significantly increase or cause unanticipated environmental impacts.

All amended site plans shall meet the requirements associated with a final site plan as described in SMC 17.24.120. All amendments shall be numbered successively (i.e., first amendment to the binding site plan).

If the proposed amendment does not meet the above referenced criteria, a new binding site plan application shall be required.

Staff proposes repealing those code provisions and adopting a new chapter, SMC 17.25, to cover plat and binding site plan alterations and vacations. This would provide better guidance to staff and the public about the process involved with this quasi-judicial function.

Staff expect to receive a recommendation from the Planning Commission at its October 4, 2016 meeting.

RECOMMENDATION: To continue the public hearing until October 10, 2016, at which time staff will be looking for a recommendation from the City Council for adoption.

MOTION: I move to continue the public hearing until October 10, 2016 on the proposed repeal of sections SMC 17.21.060 and 17.24.170, and adopting a new chapter SMC 17.25 regarding vacation and alteration of binding site plans and subdivisions.

ORDINANCE NO. 2016-10

**AN ORDINANCE OF THE CITY OF SEQUIM, WASHINGTON
ADOPTING NEW MUNICIPAL CODE CHAPTER COVERING PLAT
AND BINDING SITE PLAN AMENDMENTS AND VACATIONS AND
REPEALING EXISTING SMC 17.21.060 AND SMC 17.24.170**

WHEREAS, Sequim Municipal Code 17.21.060 covers amendment of final plats;
and

WHEREAS, Sequim Municipal Code 17.24.170 covers amendment of binding
site plans; and

WHEREAS, SMC 17.21.060 and 17.24.170 have been difficult to interpret and
enforce due to lack of clarity on specific processes and on extent of available discretion;
and

WHEREAS, a new chapter of the Sequim Municipal Code devoted to plat
amendments and vacations would be useful for staff and the public;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEQUIM,
WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Repeal of Code Provisions. SMC 17.21.060 and 17.24.170 are repealed.

Section 2. Adoption of New Code Chapter. A new chapter of the Sequim Municipal
Code, entitled “Vacation and Alteration of Final Plats” SMC 17.25, is adopted, with the
language set forth in attached Exhibit A.

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

Section 4. Savings Clause. Those portions of Ordinances 2007-014 and 98-005 which are
repealed or amended by this ordinance shall remain in force and effect until the effective
date of this ordinance.

Such repeals and amendments shall not be construed as affecting any existing right
acquired under the ordinances repealed or amended, nor as affecting any proceeding
instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor the
administrative action taken thereunder. Notwithstanding the foregoing actions,
obligations under such ordinances or permits issued thereunder and in effect on the
effective date of this ordinance shall continue in full force and effect, and no liability

thereunder, civil or criminal, shall be in any way modified. Further, it is not the intention of these actions to reenact any ordinances or parts of ordinances previously repealed or amended, unless this ordinance specifically states such intent to reenact such repealed or amended ordinances.

Section 5. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 6. Effective Date. This Ordinance shall become effective five days after publication of the ordinance, or a summary thereof, in the official newspaper of the City.

ADOPTED BY THE CITY COUNCIL this ____ day of _____, 2016.

Dennis Smith, Mayor

Attest:

Approved as to form:

Karen Kuznek-Reese, MMC, City Clerk

Kristina Nelson-Gross, City Attorney

Approved Date

Publication Date

Effective Date

EXHIBIT A

Repealed Sections:

~~17.21.060 Alteration of final plats.~~

~~When any person is interested in the alteration of any subdivision within the city or the altering of any portion thereof, except as provided in RCW [58.17.040\(6\)](#), that person shall submit an application to the city of Sequim planning department.~~

~~The application shall be in conformance with requirements established in RCW [58.17.215](#), [58.17.217](#), [58.17.218](#), [58.17.225](#) and [58.17.275](#). (Ord. 2007-014 § 2)~~

~~17.24.170 Amendment.~~

~~An approved binding site plan may be amended upon application to the planning director. The applicant must make the request to amend the binding site plan in writing. The planning director shall approve the amendment if it meets all of the following criteria:~~

~~A. No new building pads are proposed;~~

~~B. No building shall be greater than 10 percent larger than shown of the final binding site plan; and~~

~~C. The amendment would not result in increased amounts of traffic, nor propose circulation patterns which are different than those proposed by the original application, nor significantly increase or cause unanticipated environmental impacts.~~

~~All amended site plans shall meet the requirements associated with a final site plan as described in SMC [17.24.120](#). All amendments shall be numbered successively (i.e., first amendment to the binding site plan).~~

~~If the proposed amendment does not meet the above referenced criteria, a new binding site plan application shall be required. (Ord. 98-005 § 4)~~

NEW SECTIONS

Vacation and Alteration of Final Plats.

Sections:

- 17.25.010 Purpose/Conflicts.**
- 17.25.020 Administration.**
- 17.25.030 Procedure.**
- 17.25.040 Requirements for a Complete Application.**
- 17.25.050 Criteria for Approval.**
- 17.25.060 Time Limitation for Final Decision.**
- 17.25.070 Recording.**

17.25.010 Purpose.

A. The purpose of this chapter is to regulate and allow vacation or alteration of approved final plats and approved binding site plans. It does not allow modification or revision of preliminary plats or preliminary binding site plans. The procedure for vacation of plats does not apply to the vacation or alteration of any plat of state-granted tide or shore lands.

B. When the vacation application is specifically for a city street, the procedures for street vacations in RCW 35.79 RCW shall be utilized for the street vacation. When the application is for the vacation of the plat or binding site plan together with the roads/streets, the procedure for vacation in this chapter shall be used, but vacations of streets subject to RCW 35.79.035 may not be made under this procedure.

C. Nothing in this Chapter is intended to conflict with Washington State law, RCW 58.17 as now enacted or hereafter amended. If any portion of this Chapter conflicts with state law, state law shall control.

17.25.020 Administration. The Director, or designee, is authorized and directed to administer the provisions of this chapter. The authority to approve, approve with conditions or deny proposed plat and binding site plan vacations or alterations is granted to the City Council after a public hearing.

17.25.030 Procedure. The following steps shall be followed in the processing of vacation or alteration applications.

- | | | |
|-----------|------------------|--|
| <u>A.</u> | <u>20.01.130</u> | <u>Submission and acceptance of application –
Determination of completeness, Additional information
and project revisions;</u> |
| <u>B</u> | <u>20.01.140</u> | <u>Application review – Notice of application – Referrals;</u> |
| <u>C.</u> | <u>Title 16</u> | <u>Environment;</u> |
| <u>D.</u> | <u>20.01.140</u> | <u>Application review – Notice of application – Referrals.
– See 10. and, 20.01.170 Application review – Scope</u> |

E.	20.01.190	<u>of review;</u> <u>Notice of Public Hearing (see also, additional public hearing notice below);</u>
F.	20.01.100	<u>Type B and Type C-1 and C-2 procedures – Quasi-judicial decisions – Process overview;</u>
G.	20.01.200	<u>Procedures for public hearings;</u>
H.	20.01.230	<u>Final decision; and</u>
I.	20.01.240	<u>Appeals</u>

Additional Notice of Public Hearing. In addition to the notice provided above, the City shall provide notice of an application for vacation or alteration to all owners of property within the subdivision (excluding the owners of property submitting the application), and as provided for in RCW 58.17.080 and 58.17.090. The notice shall establish the date of the public hearing.

17.25.040 Requirements for a Complete Application. The following materials shall be submitted to the City for a complete application:

- A. Vacation Application:
1. Date, name, address and telephone number of the applicant and/or property owner;
 2. The reason(s) for the proposed vacation;
 3. Signatures of all parties having an ownership interest in the subdivision or that portion of the subdivision proposed to be vacated;
 4. If the subdivision or binding site plan is subject to restrictive covenants which were filed at the time of the approval of the subdivision, and the application for the vacation would result in the violation of a covenant, the application shall include an agreement signed by all parties subject to the covenants, which provides that the parties agree to terminate or alter the restrictive covenants to accomplish the purpose of the vacation of the subdivision or portion thereof;
 5. Acknowledgement that if any street is included in the application for a vacation, that the applicant shall be required to pay the amount contemplated in RCW 35.79.030, if the vacation is granted;
 6. A copy of the approved plat or binding site plan sought to be vacated, together with all plat or binding site plan amendments recorded since the date of the original approval;
 7. A recent title report for each property affected by the vacation, confirming that the title of the lands as described and shown in the proposed vacation area is in the name of the owner(s) signing the application; and
 8. If the vacation is for a portion of the subdivision or binding site plan, the applicant must demonstrate that the partial vacation will not violate the terms of subdivision or binding site plan approval or this Chapter.
 9. Electronic version of all submittal documents on optical disc, flash drive or downloadable from ftp site, in either Adobe PDF or Microsoft Word format.
 10. An application fee.

B. Alteration Application.

1. Date, name, address and telephone number of the applicant and/or property owner;
2. The reason(s) for the proposed alteration;
3. Signatures of the majority of those persons having an ownership interest in the lots, tracts, parcels, sites or divisions in the subdivision proposed to be altered;
4. If the subdivision or binding site plan is subject to restrictive covenants which were filed at the time of the approval of the subdivision or binding site plan, and the application for the alteration would result in the violation of a covenant, the application shall contain an agreement signed by all parties subject to the covenants, providing that the parties agree to terminate or alter the relevant covenants to accomplish the purpose of the alteration of the subdivision or binding site plan;
5. A copy of the proposed plat sought to be altered, together with all plat amendments recorded; and
6. A recent title report for each property affected by the vacation, confirming that the title of the lands as described and shown in the proposed vacation area is in the name of the owner(s) signing the application.
7. If the alteration is for a portion of the subdivision or binding site plan, the applicant must demonstrate that the alteration will not violate the terms of subdivision or binding site plan approval or this Chapter
8. Electronic version of all submittal documents on optical disc, flash drive or downloadable from ftp site, in either Adobe PDF or Microsoft Word format.
9. An application fee.

17.25.050 Criteria for Approval.

A. Vacation Criteria.

1. *Vacation.* The plat or binding site plan vacation may be approved, approved with conditions or denied after a written determination, with findings and conclusions, is made whether the public use and interest will be served by the vacation. If any portion of the land contained in the subdivision or binding site plan was dedicated to the public for public use and benefit, such land, if not already deeded to the City, shall be deeded to the City as a condition of approval, unless the City decision-maker shall make findings that the public use would not be served in retaining title to those lands. Easements established by a dedication are property rights that cannot be extinguished or altered without the approval of the easement owner or owners, unless the plat, binding site plan or other document creating the dedicated easement provides or an alternative method or methods to extinguish or alter the easement.
2. *Street Vacation.* When the vacation application is specifically for vacation of a City street, the City's street vacation procedures (and/or the procedures in chapter 35.79 RCW) shall be utilized. When the procedure is for the vacation of a plat

or binding site plan together with the streets, the vacation procedure in this chapter shall be used, but vacation of streets may not be made that are prohibited under RCW 35.79.035 or the City's street vacation ordinance.

3. *Title to Vacated Property.* Title to the vacated property shall vest with the rightful owner as shown on the county records. If the vacated land is land that was dedicated to the public, for public use other than a road or street, and the legislative authority has found that retaining title to the land is not in the public interest, title thereto shall vest with the person(s) owning the property on each side thereof, as determined by the legislative authority. When the road or street that is to be vacated with contained wholly within the subdivision or binding site plan and is part of the boundary of the subdivision or binding site plan, title to the vacated road or street shall vest with the owner(s) of property contained within the vacated subdivision or binding site plan.

B. *Alteration Criteria.* The alteration may be approved, approved with conditions or denied after a written determination, with findings and conclusions, is made whether the public use and interest will be served by the alteration. If any land within the alteration area is part of an assessment district, any outstanding assessments shall be equitably divided and levied against the remaining lots, parcels or tracts, or be levied equitably on the lots resulting from the alteration. If any land within the alteration contains a dedication to the general use of persons residing within the subdivision, such land may be altered and divided equitably between the adjacent properties.

17.25.060 Time Limitation for Final Decision. A vacation or alteration application shall be approved, approved with conditions or denied within one hundred-twenty (120) days after a complete application has been submitted, unless the applicant consents in writing to an extension of such time period.

17.25.070 Recording. After approval of the alteration or vacation, the City shall order the applicant to produce a revised drawing of the approved alteration or vacation of the short plat, final plat or binding site plan. The Council shall authorize the Mayor to sign the approved short plat or final plat, and then the City shall file it with the County auditor at the applicant's cost, to become the lawful plat of the property (or to vacate the previously approved plat). The Director shall sign the approved binding site plan and arrange for filing with the county auditor at the applicant's cost.

**SEQUIM CITY COUNCIL
AGENDA COVER SHEET**

MEETING DATE: September 26, 2016

FROM: Kristina Nelson-Gross KNG
City Attorney Initials

SUBJECT/ISSUE: Ordinance No. 2016-11 Amending SMC 5.28 "For-Hire Vehicles"

Discussion dates	Sept. 12, 2016	PC 9/20/2016		
CATEGORY	<input type="checkbox"/> City Manager Report	<input type="checkbox"/> Work Session	Time Needed for Presentation	
	<input checked="" type="checkbox"/> Public Hearing	<input type="checkbox"/> Consent Agenda		
	<input type="checkbox"/> Unfinished Business	<input type="checkbox"/> New Business		
Reviewed by			Initials	Date
Charles P. Bush, City Manager			CPB	9/21/16
Karen Kuznek-Reese, City Clerk				
Bill Dickinson, Chief of Police			BD	9/21/16

PROBLEM/ISSUE STATEMENT: The Sequim Municipal Code requires applicants seeking a for-hire license to have a public hearing before the City Council in addition to other rigorous requirements. Staff believes that the public can still be adequately protected by streamlining the regulatory process while providing sufficient regulatory oversight.

- LIST OF ATTACHMENTS:**
1. Proposed Ordinance 2016-11 amending SMC 5.28
 2. CLEAN version of Ordinance 2016-11, as proposed

DISCUSSION/ANALYSIS: RCW 81.72 gives local jurisdictions the authority to regulate "for hire" and taxicab services. Our current code was adopted in 2001, and contains some requirements that are often found in much larger jurisdictions. One of those requirements calls for a public hearing before new taxicab and for hire businesses may operate within the City. Staff believes that while this may be appropriate for larger jurisdictions, Sequim's current rate of growth does not warrant such restrictive oversight.

Staff proposes merging the current process with the State business licensing system, making in effect a registration system for new taxicab and for hire businesses. The proposed ordinance would eliminate the public hearing and would streamline business requirements by using other laws to implement public safety, e.g., relying on other existing laws or providing proof of inspection rather than inspections by City staff. Staff would still conduct background checks on drivers. The proposed ordinance also uses civil infractions as an enforcement tool and clarifies registration renewal processes.

At the last Council meeting, there was some consensus regarding reasonable driving criteria and a criminal background check. The Council then voted to hold a public hearing on this ordinance on September 26, 2016.

As part of the City's current process, the Police Department already conducts a criminal background check. In discussing the possibility of reviewing criminal history for convictions above those charges that we already look for, Chief Dickinson indicated that he has some concerns. For example, we already look through local records, which we can easily determine for accuracy. Once we start reviewing State or other jurisdiction records, accuracy can be an issue. Further, under our current background check system, we are allowed to look only for certain things; going above that threshold would likely involve buying additional access from the State.

Given the current for-hire/taxicab status, number of companies operating in the City, and the cost increases for additional criminal review, staff do not believe it is necessary to add additional criteria at this time. If, however, the City starts issuing multiple infractions, receiving complaints, etc., then further discussion is certainly warranted.

BUDGET IMPLICATIONS: Potential increase in B&O taxes from additional business operations.

RECOMMENDATION: To adopt the ordinance amending for-hire licensing requirements.

MOTION: I move to adopt Ordinance No. 2016-11 amending SMC 5.28 "For Hire Vehicles"

ORDINANCE NO. 2016-011

An Ordinance of the City of Sequim amending SMC 5.28 “For Hire Vehicles,” Providing for Penalties, Severability, and Effective Date

WHEREAS, RCW 81.72 considers taxicab and for-hire companies to be of statewide importance and authorizes local governments to regulate such companies in an effort to promote public safety health and safety; and

WHEREAS, the City’s current ordinance sets forth a rigorous licensing process for new taxicab companies seeking to do business in Sequim; and

WHEREAS, part of that licensing process requires applicants to have a public hearing before the City Council, and the Council will determine whether the application should be granted based upon criteria set forth in the Sequim Municipal Code; and

WHEREAS, the criteria set forth in current code traditionally applies to much larger jurisdictions; and

WHEREAS, the City Council is seeking to streamline government processes and avoid over-regulation and promote local businesses; and

WHEREAS, the City Council believes that protecting public health and safety can still be accomplished by requiring “for hire Vehicles” applicants to obtain a City business license through the City’s business licensing program; and

WHEREAS, the amended ordinance includes provisions for civil infractions pursuant to RCW 7.80 for violations of SMC 5.28; and

NOW, THEREFORE, the City Council of the City of Sequim, Washington, ordains as follows:

Section 1. Adoption. Sequim Municipal Code Chapter 5.28 is hereby amended to read as set forth on the attached Exhibit A.

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

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

Section 4. Savings Clause. That portion of Ordinance 2001-009, which are repealed or amended by this ordinance shall remain in force and effect until the effective date of this ordinance.

Such repeals and amendments shall not be construed as affecting any existing right acquired under the ordinances repealed or amended, nor as affecting any proceeding instituted thereunder, nor any rule, regulation, or order promulgated thereunder, nor the administrative action taken

thereunder. Notwithstanding the foregoing actions, obligations under such ordinances or permits issued thereunder and in effect on the effective date of this ordinance shall continue in full force and effect, and no liability thereunder, civil or criminal, shall be in any way modified. Further, it is not the intention of these actions to reenact any ordinances or parts of ordinances previously repealed or amended, unless this ordinance specifically states such intent to reenact such repealed or amended ordinances.

Section 5. Effective Date. This Ordinance shall become effective five days after publication of the ordinance, or a summary thereof, in the official newspaper of the City.

Dennis Smith, Mayor

Attest:

Approved as to form:

Karen Kuznek-Reese, MMC
City Clerk

Kristina Nelson-Gross, City Attorney

Approved Date

Publication Date

Effective Date

Chapter 5.28 FOR-HIRE VEHICLES

Sections:

- [5.28.010](#) Definitions.
- [5.28.020](#) [Business License – Registration](#) – Required.
- [5.28.030](#) [License Registration](#) – Application – Required information.
- [5.28.040](#) [License Registration](#) – Application – Inspection of vehicles/[Issuance](#).
- [5.28.050](#) Equipment.
- [5.28.060](#) [License – Issuance](#).
- [5.28.070](#) [Operation regulations](#).
- [5.28.0780](#) [For-Hire Vehicle Operator's Driver's license](#) – Qualifications.
- [5.28.0850](#) Initial [driver's For-Hire Vehicle Operator's license](#) – Required.
- [5.28.090](#) [Driver's For-Hire Vehicle Operator's license](#) – Application – Information required.
- [5.28.100](#) [Driver's For-Hire Vehicle Operator's license](#) – Application – Police endorsement.
- [5.28.110](#) Initial [For-Hire Vehicle Operator's driver's license](#) – Fee.
- [5.28.115](#) [For-Hire Vehicle Operator's Driver's license](#) – Term – Renewal – Fee.
- [5.28.120](#) [For-Hire Vehicle Operator's Driver's license](#) – Exhibition required.
- [5.28.130](#) [For-Hire Vehicle Operator's Driver's license](#) – Temporary.
- [5.28.140](#) [For-Hire Vehicle Operator's Driver's license](#) – Nontransferable.
- [5.28.150](#) Fare – Filing – Posting required.
- [5.28.160](#) Fare – Overcharge.
- [5.28.170](#) Fare – Refusal to pay.
- [5.28.180](#) [Fare – Schedule change](#).
- [5.28.190](#) [Insurance requirement](#).
- [5.28.19200](#) [License denial or revocation Penalties](#).
- [5.28.200](#) [For-hire vehicle operator's license denial or revocation](#).

5.28.010 Definitions.

The following definitions shall apply to the provisions of this chapter:

A. "For-hire vehicle" means any motor vehicle used for transportation of passengers for compensation and not operated over a fixed and defined route, [including taxicabs. This chapter does not regulate except](#) limousine charter carriers regulated under Chapter [81.90](#) RCW, charter party carriers of passengers and excursion

service carriers regulated under Chapter 81.70 RCW, or a private, nonprofit corporation providing transportation services for compensation solely to elderly or handicapped persons as regulated under Chapter 81.66 RCW.

~~B. "Taxicab" means a chauffeur-driven vehicle available on call to carry a passenger between any two or more points for a fare determined by a taximeter, zone system or flat rate. (Ord. 2001-009)~~

5.28.020 Business License – Registration – Required.

Except as provided in this section, no person shall operate or permit a ~~taxicab or~~ for-hire vehicle owned or controlled by him/her to be operated as a for-hire vehicle within the corporate limits of the city without first having obtained a city business license pursuant to SMC 5.04 through the Washington State Department of Revenue. ~~Taxi companies and taxicabs licensed in the jurisdiction in which their principal office is located are not required to obtain a city of Sequim business (taxi) license in order to discharge fares within the city. (Ord. 2001-009)~~

5.28.030 License Registration – Application – Required information.

In addition to all other information required of an applicant for a business license, an applicant for a for-hire vehicle license registration shall provide the following information:

~~A. Location of the taxicab zone applied for, together with any other location from which the taxicabs or for-hire vehicles are operated;~~

~~B. Full information concerning the ownership, including vehicle registration, the number and classification of vehicles to be operated, and the name, fictitious or otherwise, under which the applicant intends to operate;~~

~~BC. The distinguishing color scheme, dress or design, including any monogram or insignia intended to be used upon the vehicle; such shall not resemble any police vehicle;~~

~~CD. The rates proposed to be charged. (Ord. 2001-009)~~

5.28.040 License Registration – Application – Inspection of vehicles, Issuance.

~~Every licensee shall, ~~b~~Before commencing operation, each registrant shall file with the ~~clerk-treasurer~~Clerk a certificate of inspection showing all vehicles licensed pursuant~~subject~~ to this chapter have been inspected by an ASE certified mechanic~~reliable automotive concern, approved by the chief of police and certified as safe for taxicab operation by the automotive concern~~. Proof of inspection must be conspicuously posted inside the vehicle. ~~Each 12 months thereafter, the vehicles must be reexamined by a reliable automotive concern and~~~~

~~recertified as safe for operation as a for-hire vehicle pursuant to the terms and conditions of this chapter. In addition to the inspections provided in this section and this chapter, all vehicles operating under the authority of this chapter shall be available for inspection at any time and at any place by the chief of police or his/her designee, who shall order any taxicab to cease operation immediately if it is determined the vehicle is in an unsafe condition. The owner or operator shall be notified in writing thereof. (Ord. 2001-009)~~

5.28.050 Equipment.

Every vehicle licensed under this chapter shall be equipped with an approved fire extinguisher and first aid kit and appropriate, lawful seatbelts or passenger restraint devices for all passengers including appropriate, lawful car seats and booster seats for children and infants. All vehicles operated as taxicabs shall have an illuminated taxi sign or roof light ~~as approved by the chief of police~~, which ~~roof light~~ shall be illuminated at all times while the taxicab is in operation as such. Vehicles licensed under this chapter, but not operated as taxicabs, shall have distinguishing signs ~~as approved by the chief of police~~. (Ord. 2001-009)

5.28.060 License—Issuance.

~~No business license to operate a taxicab or for-hire vehicle service shall be issued except by the city council, after review of the license application and inspection reports. Upon filing of an application, the city council shall fix a time and place for a public hearing thereon. Notice of such hearing shall be given to the applicant and to all persons to whom licenses under this chapter have been theretofore issued. Due notice shall also be given to the general public by posting a notice of such hearing on the bulletin board at the front entrance to the City Hall. Any interested person may file with the city council a memorandum in support of or opposition to the issuance of a business license to operate a taxicab service.~~

~~After conducting the appropriate hearing, should the city council find that further taxicab service in the city is in the best interest of the city and that the applicant is fit, willing, and able to perform such public transportation and to conform to the provisions of this chapter, then the city clerk shall issue the appropriate license to the applicant. The fee for said license shall be \$50.00, renewable annually. There shall be an additional fee of \$75.00 per year for each taxicab owned/operated by the licensee.~~

~~A. In making the above findings, the city council may take into consideration the number of taxicab businesses already in operation, whether existing transportation is adequate to meet the public need, the probable effect on increased service on local traffic conditions and the character, experience and responsibility of the applicant.~~

~~B. The city council may elect to deny the application in its discretion. (Ord. 2001-009)~~

5.28.070 Operation regulations.

The operation of a ~~taxicab or~~ for-hire vehicle business shall be governed by the following regulations, in addition to all other regulations of statute or ordinance:

A. No taxi-for-hire stand or zone may be operated without the ~~written~~ permission of the owner or occupant of all adjoining premises.

B. No registrantlicensee shall permit more than three taxicabs-for-hire vehicles to stand or wait at the same time in a ~~taxi~~ stand or zone or permit ~~taxicab or~~ for-hire vehicles to cruise the streets for passengers.

C. Upon request by any authorized peace officer, eEvery person engaged in the business of transporting passengers for hire under the provisions of this chapter shall ~~file-present~~ all information ~~requested by any authorized peace officer~~ in regard to the address of the house or place to or from which he has driven or caused to be driven any passenger, as well as descriptions, names and addresses of such passengers, if known to him. Every person engaged in the taxicab or for-hire vehicle business in the city of Sequim shall maintain records of the number, location, and length of trips made each day and shall retain and preserve such information for at least two years and shall make such reports available to the city clerk or chief of police upon request. -

~~DA~~. No person shall operate a for-hire vehicle ~~or taxicab~~ without first having obtained a driver's-for-hire vehicle Operator's license to do so.

~~EDB~~. No person shall operate or be in actual physical control of a for-hire vehicle ~~or taxicab~~ while under the influence of intoxicating liquor or drugs. ~~Violation of this provision shall constitute grounds for summary revocation of the driver's license issued under this chapter.~~

~~EF~~. Every person engaged in the business of operating taxicabs-for-hire vehicles in the city of Sequim shall maintain a business address and a mailing address where the owner can accept mail and a business telephone in working order that shall be answered during normal business hours, Monday through Friday, and during all hours of operation and shall at all times have at least two taxicabs-for-hire vehicles which are licensed registered pursuant to this chapter and are capable of providing service in the city of Sequim.

~~FGC~~. ~~Every person engaged in the taxicab or for-hire vehicle business in the city of Sequim shall maintain records of the number, location, and length of trips made each day and shall retain and preserve such information for at least two years and shall make such reports available to the city clerk or chief of police upon request.~~

H. Drivers of ~~taxicabs and~~ for-hire vehicles employed to carry passengers to a definite point shall take, the most direct route possible that will carry the passengers safely and expeditiously to the passengers' destination. (Ord. 2001-009)

5.28.0780 For-hire vehicle operator's license ~~Taxicab~~ Driver's license – Qualifications.

No person shall be permitted to obtain a ~~for-hire vehicle operator's license taxicab driver's license~~ for the driving of ~~taxicabs or~~ for-hire vehicles unless the following minimum requirements are met:

- A. Possession of a valid Washington State driver's license;
- B. Having been a licensed driver for at least three consecutive years prior to the date of application for a license;
- C. The ability to speak, read and write the English language;
- D. Not being addicted to the use of intoxicating liquor or drugs within two years preceding the date of the application for a license;
- E. Not having been convicted of a felony, or of operating a motor vehicle while under the influence of intoxicating liquor or drugs, or of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs, or of negligent or reckless driving, within five years preceding the date of the application for a license;
- F. Not having been convicted of three or more moving violations during a one-year period during the five years preceding the date of the application for a license. (Ord. 2001-009)

5.28.0805 Initial for-hire vehicle operator's driver's license – Required.

- A. All persons, except those holding a current ~~taxicab or~~ for-hire vehicle driver's operator's license issued by the city of Sequim, are required to obtain an initial for-hire vehicle operator's license ~~driver's taxicab license~~.
- B. ~~L~~F for-hire vehicle operator's licensees who cease, for reasons other than illness or injury, to be actively employed as a ~~taxicab or~~ for-hire vehicle driver for a period ~~in excess more than of~~ 90 calendar days are required to re-apply for obtain an initial for-hire vehicle operator's driver's license. (Ord. 2001-009)

5.28.090 For-hire vehicle operator's license ~~Driver's license~~ – Application – Information required.

In addition to all other information required by the city clerk, or designee, the following information shall be required: the full name, address, residence; age, height, weight, color of eyes and hair; place of birth; length of time he or she has resided in the state; whether a citizen of the United States; whether previously licensed as a driver or chauffeur, and if so, when and where; whether such license has ever been revoked and for what cause. Such application shall be signed and sworn to by the applicant, and filed with the chief of police as a permanent record. Every applicant for a for-hire vehicle operator's license ~~driver's license~~ must submit to fingerprinting, photographing, and a criminal and driver's records check by the police department. (Ord. 2001-009)

5.28.100 For-hire vehicle operator's ~~Driver's~~ license – Application – Police endorsement.

The chief of police or ~~his~~ designee shall make a recommendation to the clerk, or designee, within 10 working days of the filing of a complete application or the return of the criminal and driver's records check, to issue or not to issue a for-hire vehicle operator's license ~~taxicab license~~ permitting the person to drive a for-hire ~~or taxicab~~ vehicle. In arriving at his/her recommendation, the chief of police, ~~or his~~ designee, is authorized to conduct an appropriate investigation to assist in the determination of whether or not the qualifications for the driving of ~~taxicabs or~~ for-hire vehicles are met and the issuance of the license would be consistent with the public health, safety and welfare. (Ord. 2001-009)

5.28.110 Initial For-hire vehicle operator's ~~driver's~~ license – Fee.

The fee for obtaining the initial for-hire vehicle operator's license ~~for-hire driver's license~~ shall be as established by resolution. The fee is not subject to proration. (Ord. 2006-003 § 2; Ord. 2005-029 § 2; Ord. 2001-009)

5.28.115 For-hire vehicle operator's ~~Driver's~~ license – Term – Renewal – Fee.

For-hire vehicle operator's licenses ~~Taxicab and for-hire vehicle driver's licenses~~ shall be for a period of one year beginning January 1st of the year of application and expiring on December 31st. The licensee shall submit an abstract of driving record issued by the State of Washington Department of Licensing annually, on or before January 1st.

The fee for renewal of a for-hire vehicle operator's license ~~for-hire vehicle/taxicab driver's license~~ shall be the same as a newly issued license and is not subject to proration. (Ord. 2006-003 § 2; Ord. 2001-009)

5.28.120 For-hire vehicle operator's ~~Driver's~~ license – Exhibition required.

Each licensed driver shall wear his or her ~~for-hire vehicle operator's license taxicab license~~ prominently displayed on an outer garment and upon the request of any police officer or passenger, exhibit his/her license and photograph for inspection. (Ord. 2001-009)

5.28.130 For-hire vehicle operator's Driver's license – Temporary.

The clerk, ~~or designee~~ may, on the recommendation of the chief of police, ~~or designee~~, issue a temporary ~~for-hire vehicle operator's license taxicab or for-hire driver's license~~, pending the completion of the investigation required pursuant to this chapter, effective only until the application is finally acted upon by the chief of police, and in no event, for a period longer than 90 days. (Ord. 2001-009)

5.28.140 For-hire vehicle operator's Taxicab Driver's license – Nontransferable.

No ~~for-hire vehicle operator's license driver's license for operating a taxicab or for-hire vehicle~~ shall be transferable. (Ord. 2001-009)

5.28.150 Fare – Filing – Posting required.

Every person conducting or carrying on the business of transporting passengers for hire ~~licensed-registered~~ pursuant to this chapter ~~shall file a current fare schedule with the city clerk and chief of police as required by this chapter and shall~~ post in a conspicuous place in every vehicle, the schedule of fares. (Ord. 2001-009)

5.28.160 Fare – Overcharge.

Any driver of a ~~taxicab or for-hire vehicle~~ who charges any passenger a fare higher than that provided in the schedule of fares filed with the city shall ~~be subject to penalties imposed as set forth in SMC 5.28.190, in addition to any other penalty imposed by law, have his license to drive a for-hire vehicle or taxicab revoked.~~ (Ord. 2001-009)

5.28.170 Fare – Refusal to pay.

It is unlawful for any person to refuse to pay the regular fare for a ~~taxicab or for-hire vehicle~~, after having hired the same. (Ord. 2001-009)

5.28.180 Fare – Schedule change.

~~In the event the operator of a taxicab or for-hire vehicle desires to change the rates, he shall file an amended schedule with the chief of police and the city clerk at least five days prior to such change. (Ord. 2001-009)~~

5.28.1890 Insurance requirement.

~~No business license or driver's license shall be issued under the provisions of this chapter unless the operator of the taxicab or for-hire vehicle business files with the city clerk a certificate of insurance naming the city as an additional insured in an amount of not less than coverage limits required by the state of Washington for for-hire vehicles. (Ord. 2001-009) Each taxifor-hire service shall maintain appropriate insurance coverage as required by the state of Washington.~~

5.28.190 Penalties.

All violations of this Chapter, except for operating a for-hire business without registering, shall be punishable as a class 2 civil infractions as set forth in RCW 7.80. Operating a for-hire business without registering shall be punishable as a class 1 civil infraction. Infractions may be issued to the driver and to the registered business owner, and each day business is conducted is deemed a separate violation.

5.28.200 For-hire vehicle operator's License denial or revocation.

In addition to grounds supporting denial or revocation of For-hire vehicle operator's licenses set forth in any other chapter of this code, a license may also be denied or revoked upon a finding that:

A. Any applicant or licensee has omitted to disclose any material fact or has provided any misleading statement in the application for license; or

B. Any for-hire vehicle operator's license ~~for-hire vehicle driver's license~~ applicant or licensee has become disqualified under SMC 5.28.070, 5.28.090 or applicable state law to hold a driver's license for the driving of taxicabs or for-hire vehicles; or

C. Any for-hire business or for-hire vehicle operator's licensee who persistently violates operating standards. For purposes of this section, "persistently" means three or more separate violations within one calendar year.

D. Any for-hire vehicle business license applicant or licensee fails to report the disqualification of a driver in his or her employ to the city clerk and chief of police, or their designees. (Ord. 2001-009)

E. The procedure for denial or revocation for a for-hire vehicle operator's license shall be the same as set forth in SMC 5.04.140.

Chapter 5.28 FOR-HIRE VEHICLES

Sections:

- [5.28.010](#) Definitions.
- [5.28.020](#) Business License – Registration – Required.
- [5.28.030](#) Registration – Application – Required information.
- [5.28.040](#) Registration – Application – Inspection of vehicles/Issuance.
- [5.28.050](#) Equipment.
- [5.28.060](#) Operation regulations.
- [5.28.070](#) For-Hire Vehicle Operator's license – Qualifications.
- [5.28.080](#) Initial For-Hire Vehicle Operator's license – Required.
- [5.28.090](#) For-Hire Vehicle Operator's license – Application – Information required.
- [5.28.100](#) For-Hire Vehicle Operator's license – Application – Police endorsement.
- [5.28.110](#) Initial For-Hire Vehicle Operator's license – Fee.
- [5.28.115](#) For-Hire Vehicle Operator's license – Term – Renewal – Fee.
- [5.28.120](#) For-Hire Vehicle Operator's license – Exhibition required.
- [5.28.130](#) For-Hire Vehicle Operator's license – Temporary.
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- [5.28.150](#) Fare – Filing – Posting required.
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- [5.28.170](#) Fare – Refusal to pay.
- [5.28.180](#) Insurance requirement.
- [5.28.190](#) Penalties.
- 5.28.200 For-hire vehicle operator's license denial or revocation.

5.28.010 Definitions.

The following definitions shall apply to the provisions of this chapter:

“For-hire vehicle” means any motor vehicle used for transportation of passengers for compensation and not operated over a fixed and defined route, including taxicabs. This chapter does not regulate limousine charter carriers regulated under Chapter [81.90](#) RCW, charter party carriers of passengers and excursion service carriers regulated under Chapter [81.70](#) RCW, or a private, nonprofit corporation providing transportation services for compensation solely to elderly or handicapped persons as regulated under Chapter [81.66](#) RCW.

5.28.020 Business License – Registration – Required.

Except as provided in this section, no person shall operate or permit a for-hire vehicle owned or controlled by him/her to be operated as a for-hire vehicle within the corporate limits of the city without first having obtained a city business license pursuant to SMC 5.04 through the Washington State Department of Revenue.

5.28.030 Registration – Application – Required information.

In addition to all other information required of an applicant for a business license, an applicant for a for-hire vehicle registration shall provide the following information:

- A. Full information concerning the ownership, including vehicle registration, the number and classification of vehicles to be operated, and the name, fictitious or otherwise, under which the applicant intends to operate;
- B. The distinguishing color scheme, dress or design, including any monogram or insignia intended to be used upon the vehicle; such shall not resemble any police vehicle;
- C. The rates proposed to be charged. (Ord. 2001-009)

5.28.040 Registration – Application – Inspection of vehicles, Issuance.

Before commencing operation, each registrant shall file with the Clerk a certificate of inspection showing all vehicles subject to this chapter have been inspected by an ASE certified mechanic. Proof of inspection must be conspicuously posted inside the vehicle.

5.28.050 Equipment.

Every vehicle licensed under this chapter shall be equipped with an approved fire extinguisher and first aid kit and appropriate, lawful seatbelts or passenger restraint devices for all passengers including appropriate, lawful car seats and booster seats for children and infants. All vehicles operated as taxicabs shall have an illuminated taxi sign or roof light, which shall be illuminated at all times while the taxicab is in operation as such. Vehicles licensed under this chapter, but not operated as taxicabs, shall have distinguishing signs. (Ord. 2001-009)

5.28.060 Operation regulations.

The operation of a for-hire vehicle business shall be governed by the following regulations, in addition to all other regulations of statute or ordinance:

- A. No for-hire stand or zone may be operated without the permission of the owner or occupant of all adjoining premises.

B. No registrant shall permit more than three for-hire vehicles to stand or wait at the same time in a stand or zone or permit for-hire vehicles to cruise the streets for passengers.

C. Upon request by any authorized peace officer, every person engaged in the business of transporting passengers for hire under the provisions of this chapter shall present all information in regard to the address of the house or place to or from which he has driven or caused to be driven any passenger, as well as descriptions, names and addresses of such passengers, if known to him. Every person engaged in the for-hire vehicle business in the city of Sequim shall maintain records of the number, location, and length of trips made each day and shall retain and preserve such information for at least two years and shall make such reports available to the city clerk or chief of police upon request. No person shall operate a for-hire vehicle without first having obtained a for-hire vehicle Operator's license to do so.

D. No person shall operate or be in actual physical control of a for-hire vehicle while under the influence of intoxicating liquor or drugs.

E. Every person engaged in the business of operating for-hire vehicles in the city of Sequim shall maintain a business address and a mailing address where the owner can accept mail and a business telephone in working order that shall be answered during normal business hours, Monday through Friday, and during all hours of operation and shall at all times have for-hire vehicles which are registered pursuant to this chapter and are capable of providing service in the city of Sequim.

F. Drivers of for-hire vehicles employed to carry passengers to a definite point shall take, the most direct route possible that will carry the passengers safely and expeditiously to the passengers' destination. (Ord. 2001-009)

5.28.070 For-hire vehicle operator's license Driver's license – Qualifications.

No person shall be permitted to obtain a for-hire vehicle operator's license for the driving of for-hire vehicles unless the following minimum requirements are met:

A. Possession of a valid Washington State driver's license;

B. Having been a licensed driver for at least three consecutive years prior to the date of application for a license;

C. The ability to speak, read and write the English language;

D. Not being addicted to the use of intoxicating liquor or drugs within two years preceding the date of the application for a license;

E. Not having been convicted of a felony, or of operating a motor vehicle while under the influence of intoxicating liquor or drugs, or of being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs, or of negligent or reckless driving, within five years preceding the date of the application for a license;

F. Not having been convicted of three or more moving violations during a one-year period during the five years preceding the date of the application for a license. (Ord. 2001-009)

5.28.080 Initial for-hire vehicle operator's driver's license – Required.

A. All persons, except those holding a current for-hire vehicle operator's license issued by the city of Sequim, are required to obtain an initial for-hire vehicle operator's license.

B. For-hire vehicle operator's licensees who cease, for reasons other than illness or injury, to be actively employed as a for-hire vehicle driver for a period more than 90 calendar days are required to re-apply for for-hire vehicle operator's license. (Ord. 2001-009)

5.28.090 For-hire vehicle operator's license – Application – Information required.

In addition to all other information required by the city clerk, or designee, the following information shall be required: the full name, address, residence; age, height, weight, color of eyes and hair; place of birth; length of time he or she has resided in the state; whether a citizen of the United States; whether previously licensed as a driver or chauffeur, and if so, when and where; whether such license has ever been revoked and for what cause. Such application shall be signed and sworn to by the applicant, and filed with the chief of police as a permanent record. Every applicant for a for-hire vehicle operator's license must submit to fingerprinting, photographing, and a criminal and driver's records check by the police department. (Ord. 2001-009)

5.28.100 For-hire vehicle operator's license – Application – Police endorsement.

The chief of police or designee shall make a recommendation to the clerk, or designee, within 10 working days of the filing of a complete application or the return of the criminal and driver's records check, to issue or not to issue a for-hire vehicle operator's license permitting the person to drive a for-hire vehicle. In arriving at his/her recommendation, the chief of police, or designee, is authorized to conduct an appropriate investigation to assist in the determination of whether or not the qualifications for the driving of for-hire vehicles are met and the issuance of the license would be consistent with the public health, safety and welfare. (Ord. 2001-009)

5.28.110 Initial For-hire vehicle operator's license – Fee.

The fee for obtaining the initial for-hire vehicle operator's license shall be as established by resolution. The fee is not subject to proration. (Ord. 2006-003 § 2; Ord. 2005-029 § 2; Ord. 2001-009)

5.28.115 For-hire vehicle operator's license – Term – Renewal – Fee.

For-hire vehicle operator's licenses shall be for a period of one year beginning January 1st of the year of application and expiring on December 31st. The licensee shall submit an abstract of driving record issued by the State of Washington Department of Licensing annually, on or before January 1st.

The fee for renewal of a for-hire vehicle operator's license shall be the same as a newly issued license and is not subject to proration. (Ord. 2006-003 § 2; Ord. 2001-009)

5.28.120 For-hire vehicle operator's license – Exhibition required.

Each licensed driver shall wear his or her for-hire vehicle operator's license prominently displayed on an outer garment and upon the request of any police officer or passenger, exhibit his/her license and photograph for inspection. (Ord. 2001-009)

5.28.130 For-hire vehicle operator's license – Temporary.

The clerk, or designee may, on the recommendation of the chief of police, or designee, issue a temporary for-hire vehicle operator's license, pending the completion of the investigation required pursuant to this chapter, effective only until the application is finally acted upon by the chief of police, and in no event, for a period longer than 90 days. (Ord. 2001-009)

5.28.140 For-hire vehicle operator's license – Nontransferable.

No for-hire vehicle operator's license shall be transferable. (Ord. 2001-009)

5.28.150 Fare – Filing – Posting required.

Every person conducting or carrying on the business of transporting passengers for hire registered pursuant to this chapter post in a conspicuous place in every vehicle, the schedule of fares. (Ord. 2001-009)

5.28.160 Fare – Overcharge.

Any driver of a for-hire vehicle who charges any passenger a fare higher than that provided in the schedule of fares filed with the city shall be subject to penalties imposed as set forth in SMC 5.28.190.. (Ord. 2001-009)

5.28.170 Fare – Refusal to pay.

It is unlawful for any person to refuse to pay the regular fare for a for-hire vehicle, after having hired the same.
(Ord. 2001-009)

5.28.180 Insurance requirement.

Each for-hire service shall maintain appropriate insurance coverage as required by the state of Washington.

5.28.190 Penalties.

All violations of this Chapter, except for operating a for-hire business without registering, shall be punishable as a class 2 civil infractions as set forth in RCW 7.80. Operating a for-hire business without registering shall be punishable as a class 1 civil infraction. Infractions may be issued to the driver and to the registered business owner, and each day business is conducted is deemed a separate violation.

5.28.200 For-hire vehicle operator's license denial or revocation.

In addition to grounds supporting denial or revocation of For-hire vehicle operator's licenses set forth in any other chapter of this code, a license may also be denied or revoked upon a finding that:

- A. Any applicant or licensee has omitted to disclose any material fact or has provided any misleading statement in the application for license; or
- B. Any for-hire vehicle operator's license applicant or licensee has become disqualified under SMC 5.28.070, 5.28.090 or applicable state law to hold a driver's license for the driving of taxicabs or for-hire vehicles; or
- C. Any for-hire business or for-hire vehicle operator's licensee who persistently violates operating standards. For purposes of this section, "persistently" means three or more separate violations within one calendar year.
- D. Any for-hire vehicle business license applicant or licensee fails to report the disqualification of a driver in his or her employ to the city clerk and chief of police, or their designees. (Ord. 2001-009)
- E. The procedure for denial or revocation for a for-hire vehicle operator's license shall be the same as set forth in SMC 5.04.140.

6a

**CITY OF SEQUIM
CITY COUNCIL MINUTES
SEQUIM CIVIC CENTER
152 WEST CEDAR STREET
SEQUIM, WA
September 12, 2016**

Work Session

1. Propane Tank Safety

Mayor Smith introduced Emily Straling is our new student liaison. Emily is a senior at the Sequim High School. She provided information concerning her background. Mayor Smith indicated that Shelli Robb-Kahler from the Chamber is out for 5 weeks. He distributed a card for Councilors to sign.

Hugo indicated this issue came up during the Cascadia Rising event. Ann Hall reviewed the information concerning gas distributors in the area and the locations in the City with larger tanks. Various piping options are available. Garlington stated the City owns 5 large tanks. He explained how the City tanks have been tied down and are secured. Seismic shut off valves cost \$800 each and 2 have been installed. The bigger tanks operate differently. These valves cost \$8,000 each. We will not retrofit those 2 tanks at this time. They are in areas that have less likely sources of ignition, one of them is buried. They do have internal valves. 1 gallon of propane liquid equals 277 gallons of vapor. Hall provided examples of propane tank anchors. Asst. Fire Chief Dan Orr stated that the Washington Code is basic. Moving to flexible piping would be an option from a code perspective. The bigger thing is bollards. He is more concerned about someone backing into one of these tanks. The bollards are 4" in diameter. Tying down the tanks is a recommendation. The earthquake valve is another option. It is his hope to have the code changed to include requirements for bollards, earthquake strapping and shut off valves. The propane companies will strap tanks for people at a cost of \$100-125. The valves are more expensive at approximately \$300. They have inspected Ferrell Gas and they will work together to correct those issues.

Pratt likes flexible housing, anchors and bollards where appropriate. Direct education will be helpful. When the tanks are refilled, they can be strapped on. Ferrell Gas should tie down their rental tanks. Miller would like stats on what has happened with the tanks in the last 20 years. Pratt feels this is in preparation for a major earthquake. Emily Straling added that propane tanks do have a potential threat. She has a friend whose grandparents' house was destroyed because of propane tank issues. There needs to be education regarding the dangers and the steps people can take to make it safer. Going forward the code should reflect that we want tanks tied down when tanks are installed. Lake feels there should be a different level of standard for larger installations. Lake suggested there are FEMA grants available for this purpose.

2. Wells and Water Rights

Garlington stated we are halfway where we need to be with build-out in the City and UGA. We have seen good results in leak detection and conservation. The existing water rights will take us through another 15-20 years. We need to be working to obtain water rights prior to that time. We have several locations where we have water rights. We need to develop new sources of water. In 2017 an analysis of current water rights will be completed. He explained the options available to procure additional water rights. We will continue to encourage conservations measures and possibilities for use of reclaimed water. We are talking with the Department of Ecology about reclaimed water and its uses and in return receive mitigation credits. It is possible. We will also look at desalinization options. Nelson-Gross provided information on the court cases that are creating issues regarding water rights.

3. Main Street Program Update and Recommendation

Barb Hanna stated that participating in a Main Street Program is included in the Downtown Plan. Because we are a City with over 5,000 residents, we would be required to have a full time director running the program. Most programs are supported by the City. These programs are also membership based. The Merchants' Association provides many of the services that would be provided by a Main Street Program. There is \$1.2 million available statewide through a B&O tax credit for businesses. This money is gone in a short time. She looked at what is being accomplished by the current merchants' group and the competition for membership base. With the challenge of having any state tax funding, she doesn't feel it is the right time for us to organize this program. We want to continue to do what we do with the merchants' program. This group is open to all merchants in Sequim, not just the downtown. They are looking at ways to get other businesses involved. She included \$10,000 in the LTAC budget to be used to provide money for Tourism Enhancement Grants. This would help to provide funding to the merchants' group.

MOTION to approve and make support available to the Sequim Merchant's Group events/activities through the Lodging Tax Tourism Enhancement Grant program and not proceed with the development of a Main Street Program as identified in the Downtown Plan at this time by Candace Pratt; seconded by Ted Miller. Carried Unanimously.

PLEDGE OF ALLEGIANCE

ROLL CALL

Present: Bob Lake, Pam Leonard-Ray, Dennis Smith, Ted Miller, John Miller, Candace Pratt, Genaveve Starr, Emily Straling

CHANGES TO THE AGENDA

T.Miller asked to remove 9f from the consent agenda and consider it following the consent agenda.

CEREMONIAL

4. Introduce Emily Straling, Student Liaison

Ms. Straling was introduced at the beginning of the Work Session.

REPORTS

Committee, Board and Liaison

Starr reported on the Shiso City Association meeting. They have new members. They will be welcoming the Shiso delegation of student ambassadors on September 16. She invited everyone to attend the opening ceremony at 3:00 pm. There will be a Sayonara party on September 27. A group from Sequim High School will go to Shiso City later this year.

T.Miller reported on the economic development summit that was well attended. He identified the strengths that were discussed such as opportunities for more education/state function; bond approval; rental housing; internships; CRTC; partner with tribes; and weaknesses such as lack of transportation, school infrastructure, more countywide broadband, lack of skilled workforce, were a few. This will be summarized in a document.

J.Miller and Bob Lake attended the AWC budgeting and financial management workshop.

Presiding Officer

Smith reported there are 2 vacancies on the Planning Commission; one County and one City. He attended its meeting where they discussed the wi-fi moratorium. They are working on developing a recommendation to the Council.

Committee, Board and Liaison

United Way Presentation. Paula Barnes introduced Christy Smith and Courtney Buchanan who are co-chairs of this year's fundraising campaign. Christy stated Day of Caring was held in Sequim and more than 30 people attended and put in 114 hours. This year's goal is \$800,000. She provided campaign brochures. Courtney works for Olympic Veterinary Clinic. She has toured the 24 partner agencies.

City Manager

5. Carlsborg Sewer Agreement

Garlington stated that construction is ongoing. The County indicates they are on track with their project. The County had a consultant development this agreement and has determined how much capacity they wanted to buy. They bought 110,000 gallons a day which is 6% of the plant's capacity. He provided information on how the costs were determined for the County. The City received \$1.3 million dollars. This is \$.97 cents per gallon of what we process and will be metered at the City's entrance. The Sunnyside sewer project begins next year and the County will pay 20% of the construction costs because this is being done to accommodate the County's sewer expansion. This will be the same direction we take with the Tribe. He provided information on the restrictions included in the agreement. The reclaimed water that is produced from the County's sewage can be purchased back by the County but they would have to build a transmission station. They will have first right.

6. LEAN Academy Update

Bush reported several staff recently worked on our single family permitting system during a weeklong Kaizen event. Irvin had Public Works and DCD, and the city attorney working on the permitting process. He provided information on the 15 proposals that were developed by the team. Several changes will be implemented to help streamline the process and better provide up-to-date information.

Bush stated next year's budget will move toward the Renton model where you can see the cost of each service provided by the City.

PUBLIC COMMENTS Please limit comments to 3 minutes. Please see "Public Comments" rules attached.

Eloise Kailin, president of Protect the Peninsula Future, stated they are interested in the Tribe's proposal. They have reached an agreement and withdrawn their appeals of the Tribe's actions. They will seek cooperation with Sequim and she is delighted that this is progressing, and happy to hear we will find a use for reclaimed water. Nelson-Gross cautioned that there is no public hearing on this issue.

Thomas Booth, 4526 Pleasant Glade NE, Olympia, is one of the owners of the dairy farm along North Sequim Avenue. Letters have been sent to the Council and it is apparent there is not total support for the new regulations. It seems the realtors and builders have been ignored. He thinks the City would be better served if there is more variety. This is the time to make changes to allow cul de sac, more affordable housing, PUDs. The Council doesn't have to approve zoning regulations tonight.

Ron Gilles stated the Council needs to look at the fact that you're representing the public and take a careful look at the zoning regulations as put forward. Comments have been provided that builders and realtors were not heard. He asks to rethink voting on

the zoning and what it will do. Get the amendment process to find out what will be necessary to make a change. Seek outside legal counsel. You might want to get an outside opinion.

INFORMATION/COUNCIL QUESTIONS INVITED

7. Healthy Families 1st Quarter Report
8. Healthy Families 2nd Quarter Report

Pratt stated the number of patients helped during 2nd quarter was half of the first quarter, a huge discrepancy. She suggests those dark days of winter are stressful.

PUBLIC HEARINGS None

CONSENT AGENDA

9. Approve/Acknowledge
 - a. City Council Meeting Minutes - August 8, 2016
 - b. Claim Voucher Recap Dated 9/12/16 Total Payments \$1,095,018.41
 - c. Appointment to Vacancy on Park & Recreation Board
 - d. Elk Window Donation and inclusion in RFP
 - e. City Council Meeting Minutes - September 6, 2016
- f. A/E Consultant Agreement Supplement No. 1

Klontz stated this is in the CIP and has been in the plan for some time. There is a single 10 hp pump at this location. There is not redundancy and it lacks a backup generator. Improvements install two 15 hp pumps with room for a third pump; install backup generator, install variable frequency drives; provide a building for instrumentation and electrical equipment; provide compatibility for future SCADA system. This will solve DOH issues, provide reliability and capacity, increased efficiency, instrumentation will be in a building and protected, allows increased operational flexibility at the Port Williams wellfield. He provided a timeline showing that construction will begin in the second quarter 2017. There is need for additional engineering because the additional scope did not originally envisioned it. There are extra permitting requirements and we asked the consultant to perform some work that was not originally in the agreement.

MOTION to approve 9f A/E Consultant Agreement Supplement No. 1 by Ted Miller; seconded by Pam Leonard-Ray. Carried Unanimously.

MOTION by Pratt to approve items 9a-e on the consent agenda; second by Miller. Carried Unanimously.

UNFINISHED BUSINESS

10. Ordinance No. 2016-07 Approving Zoning Code Revisions

Bush stated this is an item Council considered in August and asked for it to come back. Hugo said this is an attempt to reconcile the Comp Plan with the zoning regulations. He provided background information on the process that was completed over the past 4 years. The range of affordable housing is increased in the Comprehensive Plan. There was discussion about what is allowed in which zones. Condominiums are still allowed in some zones and districts. There was discussion about rezones and Comp Plan amendments.

MOTION that the City Council reconsider the vote by which Ordinance 2016-07 was defeated on the 8th of August made by T. Miller; second by Starr. Carried Unanimously.

T. Miller passed out a proposal to direct staff to prepare a resolution to consider this and any other issues as an update to the Comprehensive Plan

Leonard-Ray will vote yes but is concerned about the lack of affordable housing in Sequim. By limiting the properties eligible for affordable housing we are hurting the homeless. She hopes we will deal with this in early 2017. Starr stated we need to look at duplex housing and tiny housing neighborhoods in the future. Pratt feels these items are good to be put in a parking lot.

MOTION to approve Ordinance 2016-07 relating to amendments to SMC 18.16.050, 18.20.010, 18.20.020, Table 18.4.060(C) and 18.59.020 and deleting section 18.44.060 to implement policy directions of the Comprehensive Plan for Single Family Residential uses as well as revisions to the Official Zoning Map for consistency with the Comprehensive Plan's Future Land Use Map, as recommended by the City Planning Commission by Genaveve Starr; seconded by Candace Pratt. Carried Unanimously.

Mayor Smith read the proposed issues submitted by T. Miller (attached as Attachment 1) for the 2017 Comprehensive Plan Update.

NEW BUSINESS

11. Approve Farmers' Market Contract

Irvin stated this contract provides for the Sequim Farmers' Market use of the Civic Center Plaza during the market's season, as well as the use of Centennial Place, a portion of Cedar Street, and Guy Cole during approved hours. #4 on page 3, second paragraph, the last sentence should say until days and times have been approved and advanced by the City. Lisa Bridge, Farmers' Market Manager, explained how someone could become a member of the Sequim Farmers' Market.

MOTION to approve and authorize the City Manager to sign the license agreement with Sequim Farmers' Market by Ted Miller; seconded by Pam Leonard-Ray. Carried Unanimously.

12. Ordinance No. 2016-11 Amending SMC 5.28 "For-Hire Vehicles"

Nelson-Gross stated that a new taxi service is interested in being licensed in the City. Our current ordinance requires a public hearing with the City Council and the business. We are looking at streamlining the process to provide a for hire license through the state's program currently in use by the City. The proposed ordinance also provides for civil infractions. Lake would like the City to ensure that the taxi company has insurance. We want reasonable driving criteria and that a criminal background check is completed. There was consensus to address the issues discussed.

MOTION to approve holding a public hearing on September 26, 2016 with the intent to adopt Ordinance No. 2016-11 amending SMC 5.28 "for hire vehicles" by Ted Miller; seconded by Genaveve Starr. Carried Unanimously.

GOOD OF THE ORDER

T. Miller stated we have less than a year to prepare for a total eclipse. Starr will be attending DOT conference starting on Sunday.

PUBLIC COMMENTS (Please limit comments to 3 minutes each)

EXECUTIVE SESSION

**Mayor Smith announced the next meeting dates of September 26, 2016 (5:00 p.m.)
October 10, 2016 (5:00 p.m.)**

ADJOURNMENT

The meeting adjourned at 8:15 p.m.

Respectfully submitted,

Karen Kuznek-Reese, MMC
City Clerk

Dennis Smith
Mayor

Minutes approved at a regular Council meeting held on September 26, 2016.

SEQUIM CITY COUNCIL
 CONSENT AGENDA RECAP - September 26, 2016

6 B

Number	Date	Voucher	Type	Payment Detail	Amount
1	8/31/2016	Utility Refunds	Check	UBR 70271 thru UBR 70280	\$ 1,350.16
		<i>Comments: None</i>			Total \$ 1,350.16
2	8/31/2016	AP Vendor	Electronic Treasury	E 3861 thru E 3864 TC 9182	\$ 26,854.87 \$ 410.50 \$ -
		<i>Comments: None</i>			Total \$ 27,265.37
3	9/2/2016	AP Vendor	Check	Ck 70281 thru Ck 70324	\$ 68,923.49 \$ - \$ -
		<i>Comments: Voided Cks 70306 & 70312; Clerical Errors</i>			Total \$ 68,923.49
4	9/7/2016	Payroll	Check Direct Debit Electronic	Ck 70325 thru Ck 70331 Count of 78 E 3868	\$ 7,867.47 \$ 146,558.11 \$ 62,936.12
		<i>Comments: For Pay Period 8/16/16 to 8/31/16</i>			Total \$ 217,361.70
5	9/7/2016	PY Liabilities	Check Electronic	Ck 70332 thru Ck 70341 E 3869 thru E 3874	\$ 13,157.54 \$ 147,334.37
		<i>Comments: For Pay Period 8/16/16 to 8/31/16</i>			Total \$ 160,491.91
6	9/9/2016	AP Vendor	Check Electronic	Ck 70342 thr Ck 70374 E 3865 thru E 3867; & E 3873	\$ 18,266.01 \$ 840.93 \$ -
		<i>Comments: None</i>			Total \$ 19,106.94

Finance Certification: 
 Sue Hagener,
 Admin. Svcs. Director

TOTAL PAYMENTS: \$ 494,499.57

SEQUIM CITY COUNCIL AGENDA COVER SHEET

MEETING DATE: September 26, 2016

FROM: Bill Dickinson, Chief of Police

WMD
Initials

SUBJECT/ISSUE: Resolution 2016-23 Declaring Police Dog as Surplus and Authorizing Transfer to his Handler

Discussion dates	September 26, 2016			
CATEGORY	<input type="checkbox"/> City Manager Report	<input type="checkbox"/> Information Only	Time Needed for Presentation 10 minutes	
	<input type="checkbox"/> Public Hearing	<input type="checkbox"/> Consent Agenda		
	<input type="checkbox"/> Unfinished Business	<input checked="" type="checkbox"/> New Business		
Reviewed by			Initials	Date
Charlie Bush, City Manager			CPB	9/21/16
Kristina Nelson-Gross, City Attorney			KNG	9/14/2016
Sue Hagener, Finance Director			SH	9/19/2016

PROBLEM/ISSUE STATEMENT: Due to age (9 years) and health related issues, the Department feels it is time to retire Police Dog Chase and ultimately replace him. Although the dog is a member of the police force, he is considered to be the personal property of the City and the City must declare him as “surplus” for purposes of disposing of him.

LIST OF ATTACHMENTS:

1. Resolution # 2016-23
2. General Bill of Sale

DISCUSSION/ANALYSIS: The City of Sequim Police Department operates a canine unit for the purposes of detecting concealed or fleeing criminals as well as evidence. The Canine also provides exceptional public relations and educational services as part of our community policing effort. Police Dog Chase is the third police canine to have served the City of Sequim. Accordingly, in order to allow Chase to retire from service to the City as a Police Dog, the City must declare him as “surplus” for purposes of releasing him. Sgt. Mike Hill has been Chase’s partner and handler for 7 years creating a bond that is outside of that typically created by City owned property. Sgt. Hill desires

to maintain his personal relationship with Police Dog Chase and Police Dog Chase's loyalty to his beloved master is clearly observable and without question. The Department asks the City Council to declare Police Dog Chase as surplus property and transfer ownership to Sgt. Mike Hill by resolution and consistent with the attached Bill of Sale.

BUDGET IMPLICATIONS: None. A replacement dog is anticipated and the community supports the Sequim Police K-9 program through donations. It is anticipated that a replacement canine will be fully paid through this public effort with no new impact to the general fund.

RECOMMENDATION: Staff recommends approval of Resolution #2016-23 authorizing the sale of Police Dog Chase to his handler/partner Sgt. Mike Hill.

MOTION: I move to adopt Resolution #2016-23 declaring Police Dog Chase as surplus and authorize his disposition according to the General Bill of Sale to Sgt. Mike Hill.

City of Sequim, Washington
Resolution No. R2016-23

**A Resolution of the City of Sequim acknowledging the service of Police Dog “Chase”,
declaring him as surplus, and authorizing transfer of ownership to his handler.**

WHEREAS, the City has been well served by its police dog, “Chase” who has served the Police Department of the City of Sequim and Sequim’s citizens for 7 years; and

WHEREAS, due to age and medical issues, it is time for Chase to retire as a police dog;
and

WHEREAS, although he is a member of the police force, he is considered personal property of the City and as such the City must declare him as “surplus” for purposes of disposing of him; and

WHEREAS, the City Council finds that the City is unlikely to receive significant value in a sale of Chase, and the City wishes to make sure he spends the rest of his life with his beloved handler and partner, Sgt. Mike Hill; and

WHEREAS, in consideration of the unique training provided to police dogs, the relationship between the police dog and its handler, and the potential public danger associated with police dogs that are not controlled by their handler; and

NOW, THEREFORE, be it resolved by the City Council of the City of Sequim:

1. The City Council recognizes the valuable contributions made by “Chase,” its nine-year old German Shepherd Dog, to the citizens of Sequim.
2. Police Dog “Chase” is hereby declared surplus to the needs of the City and should be permitted to retire.
3. City Staff is authorized and directed to transfer “Chase” for the amount of one dollar (\$1.00) by bill of sale to its handler, Sgt. Mike Hill, per the Bill of Sale attached hereto as Exhibit “A.”

Adopted by the City Council this _____ day of September, 2016.

Dennis Smith, Mayor

ATTEST:

APPROVED AS TO FORM:

Karen Kuznek-Reese, MMC, City Clerk

Kristina Nelson-Gross, City Attorney

GENERAL BILL OF SALE

THIS GENERAL BILL OF SALE, dated the ____ day of September, 2016 from the **City of Sequim**, a municipal corporation of the State of Washington, hereinafter called "Grantor", to **Mike Hill**, hereinafter called "Grantee".

WITNESSETH:

That Grantor, for value received in the amount of *one dollar* (\$1.00), has transferred, sold, assigned, conveyed, granted, bargained, set over and delivered, and by these presents does hereby transfer, sell, assign, convey, grant, bargain, set over and deliver unto Grantee, Grantee's successors and assigns forever, the following:

One (1) nine year old German Shepherd Dog, "Chase"

To have and to hold the aforesaid personal property, together with the appurtenances thereto, unto Grantee, Grantee's successors and assigns forever. Grantor hereby covenants and agrees with Grantee, Grantee's successors and assigns, to execute and deliver to Grantee such other and further instruments and bills of transfer, sale, assignment and conveyance and all such notices, releases, acquittances and other documents and to secure all such consents as may be necessary more fully to transfer, sell, assign and convey to and vest in Grantee the asset and rights hereby transferred, assigned and conveyed or intended so to be.

And Grantor, for Grantor and Grantor's successors and assigns, covenants and agrees to and with Grantee, Grantee's successors and assigns, that Grantor is owner of the said property, goods and chattels and has good right and full authority to see the same, and that Grantor will warrant and defend the sale hereby made unto Grantee, Grantee's successors and assigns, against all and every person or persons, whomsoever, lawfully claiming or to claim same.

Grantee covenants and agrees to hold the City of Sequim harmless from and against any claims arising on or after the date of this Bill of Sale which arise from or relate to the personal property hereby transferred.

Signed at Sequim, Washington, on the day and year first above written.

CITY OF SEQUIM

MIKE HILL

Dennis Smith, Mayor

Mike Hill

Attest:

Karen Kuznek-Reese, MMC
City Clerk

**SEQUIM CITY COUNCIL
AGENDA COVER SHEET**

MEETING DATE: September 26, 2016

FROM: Joseph D. Irvin, AICP
Assistant to the City Manager

JDI
Initials

SUBJECT/ISSUE: Establishment of a Tree Ordinance for Tree City Designation

Discussion dates				
CATEGORY	<input type="checkbox"/> City Manager Report	<input type="checkbox"/> Information Only	Time Needed for Presentation	
	<input type="checkbox"/> Public Hearing	<input type="checkbox"/> Consent Agenda	5 mins.	
	<input type="checkbox"/> Unfinished Business	<input checked="" type="checkbox"/> New Business		
Reviewed by	Initials		Date	
Charlie Bush, City Manager	CPB		9/21/16	
David Garlington, Public Works Director	dmg		9/22/16	
Kristina Nelson-Gross, City Attorney				

PROBLEM/ISSUE STATEMENT:

In August 2016 the City of Sequim learned we were successful in getting a work crew as part of our application that we submitted to the Washington State Department of Natural Resources Urban and Community Forestry Program. Successful applicants receive approximately four weeks of Puget Sound Corps crew time to assist with urban forestry tasks that enhance the health and function of urban trees and forests. Activities may include:

- Control of non-native invasive plant species;
- Planting native vegetation in natural areas, riparian zones or open spaces;
- Tree planting in landscaped parks or along streets;
- Pruning young trees for structure and stability;
- Other maintenance and management tasks that benefit trees.

As part of our application we informed the Community Forestry Program that we are moving towards becoming a tree city, which would require us to designate a City Tree Board, adopt a tree care ordinance, ensure we implement a community forestry program with an annual budget of at least \$2.00 per capita and hold an annual Arbor Day proclamation and observance.

ATTACHMENTS:

1. Draft Ordinance SMC 2.62 – Parks and Recreation Board
2. Draft Ordinance SMC 12.25 – Protection and Preservation of Public Trees in Parks and Right-of-Ways

DISCUSSION/ANALYSIS:

The Tree City USA program has been greening up cities and towns across America since 1976. It is a nationwide program that provides the framework necessary for communities to manage and expand their public trees. More than 3,400 communities have made the commitment to becoming a Tree City USA. They have achieved Tree City USA status by meeting four core standards of sound

urban forestry management: maintaining a tree board or department, having a tree care ordinance, spending at least \$2 per capita on urban forestry and celebrating Arbor Day.

The attached draft ordinance (SMC 2.62 – Attachment 1) designates the Parks and Recreation Board as the City’s Tree Board and the attached draft ordinance (SMC 12.25 – Attachment 2) is proposed to serve as the City’s tree care ordinance.

FINANCIAL IMPLICATIONS:

The implementation of a community forestry program with an annual budget of at least \$2.00 per capita equates to approximately \$14,000. There is no additional impact to the budget from this program; rather our parks maintenance duties will be tracked and accounted towards this program.

RECOMMENDATION:

At this time staff has no formal recommendation, however we would like to receive input and comments from City Council on the proposed draft Ordinances. It is staff’s intent to present the draft ordinances to the Planning Commission for review and then the ordinances would be brought back to the City Council for review and adoption during a formal public hearing.

MOTION:

None at this time.

Chapter 2.62

PARKS, AND RECREATION and TREE BOARD

Sections:

2.62.010 Membership.

2.62.020 Duties.

2.62.030 Procedures.

2.62.040 Removal.

2.62.010 Membership.

A. There is established a city of Sequim parks, and recreation and tree board consisting of seven members to be appointed by the city council upon recommendation of an interview committee. The term of office of the seven members shall be three years, except that the initial appointments shall be staggered from one to three years so that no more than three members shall have their terms expire in any one year. Each of the members of the board will serve without compensation. Initial determination of term of appointment shall be determined by lot. Members of the board shall reside within the Clallam County boundaries of Sequim School District 323, with preference given to residents of the city of Sequim. At all times, at least four members of the board shall be residents of the city of Sequim.

B. Nonvoting advisors may be approved by the city council to assist in the deliberations of the parks, and recreation and tree board. (Ord. 2013-010 § 1 (Exh. A); Ord. 2011-024; Ord. 2009-036 § 1; Ord. 2005-005; Ord. 2001-014 § 2; Ord. 96-013; Ord. 96-009)

2.62.020 Duties.

A. The board is entrusted with the responsibilities of advising and making recommendations to the city council for the acquisition, control, improvement, beautification and planning of all public squares and parks of the city and all city recreation facilities. The board shall periodically review whether the lands being used for park purposes are adequate and shall recommend to the city council what additional lands and grounds should be acquired and used for park and recreation purposes. The board may explore and recommend public/private partnerships where appropriate and feasible. The board shall also recommend design of parks and structures therein to the city council and shall make recommendations on an updated comprehensive plan element for parks and recreation facilities for the city.

B. The board shall recommend to the city council appropriate measures to ensure that the city has a well integrated and complete pro-gram for the use of its parks and recreation playgrounds and to accomplish this end, the board shall from time to time meet with appropriate city employees and with representatives and officials of other groups, public and private, who are interested in the use and development of city parks and recreational facilities for the public benefit. (Ord. 2013-010 § 1 (Exh. A); Ord. 2009-036 § 1; Ord. 96-013; Ord. 96-009)

C. It shall be the responsibility of the Board to study, investigate, counsel and develop and/or update annually, and administer a written plan for the care, preservation, pruning, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. The Board, when requested by the City Council, shall consider, investigate, make finding, report and recommend upon any special matter of question coming within the scope of its work.

2.62.030 Procedures.

Meetings of the board shall comply with Chapter 42.30 RCW, the Open Public Meetings Act. The board shall elect its own chairperson. The board shall hold at least one meeting per month, unless cancelled by the board chairperson, and shall adopt rules for the transaction of business, keep a record of its meeting by a board member, who shall be appointed secretary, and shall submit such record to the city clerk. A majority of the members of the board shall constitute a quorum for the transaction of business and any action taken by a majority of those present shall be deemed action of the board. (Ord. 2013-010 § 1 (Exh. A); Ord. 2009-036 § 1; Ord. 2001-014 § 2; Ord. 96-013; Ord. 96-009)

2.62.040 Removal.

The mayor may remove any member of the board for any reason other than disagreement with an official recommendation of the board or its members; provided, that such removal has been confirmed by a majority of the city council. Vacancies occurring otherwise than by expiration of the term of office shall be filled for the unexpired term in the same manner as regular appointments are made. (Ord. 2013-010 § 1 (Exh. A); Ord. 2009-036 § 1; Ord. 96-013; Ord. 96-009)

Chapter 12.25

PROTECTION AND PRESERVATION OF PUBLIC TREES IN PARKS AND RIGHT-OF-WAYS

Sections:

- 12.25.010 Purpose.
- 12.25.020 Definitions.
- 12.25.030 Tree planting.
- 12.25.040 Tree pruning and maintenance.
- 12.25.050 Tree removal.
- 12.25.060 Landmark trees.
- 12.25.070 Trees on private property overhanging public right-of-ways.
- 12.25.080 Damage to city trees.
- 12.25.090 Penalties.

12.25.010 Purpose.

The purpose of these regulations is to encourage responsible management of public tree resources within the City of Sequim in a fashion consistent with the goals and policies of the Parks and Recreation Master Plan. Trees growing on public property provide benefits to the greater public at large and the purpose of this chapter is to provide for the maintenance and enhancement of city street and park trees, and to provide for the preservation of landmark trees, to secure the benefits conferred by a prudently managed urban forest. Proper protection, planting, and maintenance is required to promote tree health and aesthetics; foster species diversity; and to preserve the public tree canopy. Therefore, the purposes of this chapter are:

- A. Encourage the planting of new trees and the maintenance of existing trees for all the benefits they provide to the community.
- B. Maintain public trees in a healthy and nonhazardous condition through good arboricultural practices.
- C. Manage trees and vegetation on public property in a manner that represents the best interests of the public.
- D. Encourage a diversity of appropriate species of trees.
- E. Remove and replace trees in a timely manner so they do not cause damage to city infrastructure such as streets, sidewalks, sewer and water pipes, conduit, and other subsurface elements.
- F. Improve the quality of air and water, reduce storm water runoff and help prevent soil erosion.
- G. Increase the aesthetic quality of a community and the sense of community pride.
- H. The city recognizes the importance of trees to the ambiance of a city, the environment and property values.

12.25.020 Definitions.

For the purpose of this chapter certain words and terms are defined as follows:

- A. **Appropriate Tree.** An appropriate tree is a tree suited at maturity for the space which it occupies without creating a hazard to public health and safety.
- B. **“City”** means the City of Sequim.
- C. **“City tree”** means a tree, shrub, bush, and/or other woody plant on land in public rights-of-way of all streets, avenues or ways within the city, within parks, upon the grounds of city buildings and facilities, or otherwise located upon public property within the city.
- D. **“Climbing spurs”** means sharp, pointed devices affixed to the climber’s leg used to assist in climbing trees (also known as gaffs, hooks, spurs, spikes, climbers).
- E. **“Crown reduction pruning”** means the reduction of the top, sides, or individual limbs by the means of removal of the leader or longest portion of a limb to a lateral no less than one-third of the total diameter of the original limb removing no more than one-quarter of the leaf surface.
- F. **Hazard Tree.** A hazard tree is any tree with a combination of structural defect and/or disease (which makes it subject to a high probability of failure) and a proximity to persons or property which makes it an imminent threat.
- G. **“Landmark tree”** means a tree designated by the city council as significant because of association with historic figures or events, rarity or extraordinary aesthetic value.
- H. **“Park tree”** means trees growing on property owned in fee-simple by the City of Sequim.
- I. **“Specimen tree value”** means an objective evaluation process used to determine the public value of a tree. The evaluation looks at the size, condition, and location of a public tree to determine whether a tree has a significant public value.
- J. **“Street tree”** means trees growing within the city’s rights-of-way.
- K. **“Topping”** means cutting a branch or stem back to a stub or lateral branch not sufficiently large enough to assume the terminal role (also known as heading, stubbing, lopping).
- L. **“Vegetation management plan”** means a plan identifying how vegetation is to be managed on city-owned property.
- M. **“Urban forester”** means the City of Sequim’s designated urban forester, either a designated city employee within the parks department, or a certified arborist contracted by the city.

12.25.030 Tree planting.

- A. **Tree Planting on City of Sequim Property.** Private parties may plant trees on property owned by the city with written permission. To obtain permission the applicant(s) shall:
 - 1. Submit a written request to the city a minimum of thirty days prior to the scheduled planting.

2. Prepare a tree planting plan identifying the species, size, and location of trees to be planted. The proposed species and locations of trees must not create sight distance issues and be consistent with current and potential future uses of the property as determined by city staff review.
3. Comply with the standards for planting, as required per public works standards and policy.
4. Have underground utilities located and obtain approval from any utilities located within fifteen feet prior to planting.

12.25.040 Tree pruning and maintenance.

A. Pruning Street Trees. Private parties may have street trees pruned with written permission from the city. To obtain permission the applicant(s) shall:

1. Submit a written request to the city a minimum of thirty days prior to pruning;
2. Identify the trees to be pruned and describe the specific work to be performed;
3. Pay for all costs associated with the proposed pruning; and
4. Comply with the pruning standards as required per public works standards and policy.

B. Public Tree Care. The City shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to ensure public safety or to preserve or enhance the symmetry and beauty of such public grounds.

The City Tree Board may recommend removal or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, water lines, or other public improvements, or is affected with any injurious fungus, insect or other pest.

C. Topping and climbing trees with spurs is prohibited. Topping of park and street trees is prohibited. Climbing spurs may be used to climb a park or street tree only if it is to be removed.

D. Insect and Disease Abatement. The city may prune, spray, or otherwise maintain park and street trees in order to control infestations of insects or disease or to maintain public safety. Private parties may with written permission hire a certified pest controller to spray street trees adjacent to their property.

12.25.050 Tree removal.

A. Hazard Trees—City’s Authority to Remove. The city may remove any park or street tree determined to be a hazard by the urban forester.

B. Park or Street Tree Removal Process. No city trees shall be cut down, killed, or removed for any reason without complying with the following procedure:

1. File an application with the urban forester;
2. Receive approval from the City for removal.

12.25.060 Landmark trees.

A. The director of public works or his/her designee shall maintain a register of trees designated as landmark trees because of association with historic figures or events, rarity or extraordinary aesthetic value.

B. The director of public works or his/her designee shall nominate city trees for designation as landmark trees, and prepare a report for the City Tree Board, who will make a recommendation to the City Council to review such nominations.

C. City council shall designate landmark trees by resolution containing sufficiently specific identification of the tree or trees so designated.

D. After designation of a city tree as a landmark tree, it shall not be removed unless city council makes at least one of the following findings:

1. The tree is dead or diseased and poses a danger to public safety.
2. After consideration of potential alterations to the project to preserve the tree, there is no feasible alternative to accomplishing a public project without removal of the tree.
3. The tree is causing damage to city streets, rights-of-way or buildings or facilities that cannot be corrected without removal of the tree.
4. There are other facts city council deems of greater public value to justify removal of the tree.

12.25.070 Trees on private property overhanging public rights-of-way.

Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of eight feet above the surface of the street or sidewalk. Such owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public.

12.25.080 Damage to city trees.

Any person negligently damaging or deforming a city tree shall be liable to the city for the cost of replacement of the tree, including the cost of nursery stock in close as size to the damaged or deformed tree as is feasible and the city's costs for soil preparation, planting and actual or estimated costs of establishment.

12.25.090 Penalties.

- A. As an additional concurrent penalty, it shall be a civil infraction for a person, firm, or corporation to cut down, prune, kill, or otherwise damage any park or street tree without lawful authority. Each tree cut, pruned or damaged shall be a separate infraction. A person, firm, or corporation found to have committed a civil infraction shall be assessed a monetary penalty as follows:
1. First offense: Class 1 (two hundred fifty dollars), not including statutory assessments.
 2. Second offense: It shall be a gross misdemeanor for any person, firm, or corporation to knowingly cut down, prune, kill, or otherwise damage any park or street tree without lawful authority. The penalty for such violation shall be a fine not to exceed one thousand dollars, and/or imprisonment not to exceed ninety days or both such fine and imprisonment. Each tree cut, pruned or damaged shall constitute a separate offense. In the event of continuing violation or failure to comply, the second and subsequent days shall constitute a gross misdemeanor, punishable by a fine not to exceed five thousand dollars and/or imprisonment for not more than three hundred sixty-five days or both such fine and imprisonment.