

Everett City Council Agenda

6:30 P.M. August 10, 2016

City Council Chambers

Roll Call

Pledge of Allegiance

Approval of Minutes: August 3, 2016

Mayor's Comments

Council Comments/Liaison Reports

Administration Update on prior business

City Attorney

Citizen Comments

COUNCIL BRIEFING AGENDA: (These items come before the City Council serving as a Council Committee of the Whole and are likely to be scheduled at a future meeting.)

(1) Budget Review #2

(2) Health District Presentation

CONSENT ITEMS:

(3) Adopt Resolution No. ____ authorizing claims against the City of Everett in the amount of \$2,469,634.09 for the period of July 23, 2016 through July 29, 2016.

Documents:

[res-98.pdf](#)

(4) Adopt Resolution No. ____ authorizing payroll claims against the City of Everett in the amount of \$3,840,498.43 for the period ending July 23, 2016.

Documents:

[payroll-66.pdf](#)

(5) Authorize the closure of Grand Avenue, California Street to 19th Street; 19th Street, Grand Avenue to Colby Avenue; and Colby Avenue, 11th Street to 25th Street, on August 27, 2016, 7:00 a.m. to 4:00 p.m., for the 4th Annual Everett Bubble Run, and authorize the closure of various blocks on Grand Avenue and Colby Avenue (map attached) on August 26, 2016, 8:00 a.m. through August 27, 2016, 4:00 p.m.

Documents:

[Bubble Run-3.pdf](#)

(6) Authorize the Call for Bids for Phase 1 and 2 of the Grand Avenue Park Bridge construction.

Documents:

[Grand Ave Park.pdf](#)

PUBLIC HEARING:

(7) CB 1607-31-3rd and final Reading –Adopt the Proposed Ordinance annexing property located East of the existing city limits, South of 12th St. N.E. and West of Union Slough, known as the Smith Island Municipal Annexation.

Documents:

[CB 1607-31.pdf](#)

(8) CB 1607-32- 3rd and final Reading –Adopt the Proposed Ordinance establishing zoning for the Smith Island Municipal Annexation Area, amending Exhibit A to Ordinance No. 1671-89 (as amended).

Documents:

[CB 1607-32.pdf](#)

(9) CB 1607-33- 3rd and final Reading –Adopt the Proposed Ordinance adopting the Snohomish County Shoreline Management Program Resource and Aquatic Designations and Program Policies and Regulations as Interim Designations for the Smith Island Municipal Annexation Area, amending Ordinance No. 's 2600-02, 2021-94 and 1671-89 (as amended).

Documents:

[CB 1607-33.pdf](#)

ACTION ITEMS:

(10) Adopt Resolution for financial support to the Snohomish County Transportation Coalition (SNOTRAC) in the amount of \$5000.

Documents:

[SNOTRAC.pdf](#)

(11) Authorize the Mayor to sign the settlement agreement to settle all claims with Brenda Kennedy in the amount of \$35,000.00.

Documents:

[Kennedy.pdf](#)

(12) Authorize the Mayor to sign the Interlocal Agreement establishing Snohomish Regional Drug & Gang Task Force in the amount of \$35,178.00.

Documents:

[Regional Task.pdf](#)

(13) Authorize the Mayor to sign the Interagency Agreement between the Washington State Internet Crimes Against Children Task Force, acting through the City of Seattle Police Department, and Everett Police Department.

Documents:

[Internet Crimes.pdf](#)

(14) CB 1607-34– 3rd and final Reading–Adopt the Proposed Ordinance relating to Noise, amending Ordinance 534-78 as amended (Chapter 20.08 EMC) and repealing sections under Section 16.

Documents:

[CB 1607-34.pdf](#)

Executive Session

Adjourn

Everett City Council agendas can be found, in their entirety, on the City of Everett Web Page at www.everettwa.gov/citycouncil.

Everett City Council meetings are recorded for rebroadcast on the [Everett Channel](#), Comcast Channel 21 and Frontier Channel 29, at 12:00 p.m. on Monday and Tuesday; 2 p.m. and 7:00 p.m. Thursday; 7 p.m. Friday and Sunday; 10:00 a.m., Saturday.

The City of Everett does not discriminate on the basis of disability in the admission or access to, or treatment in, its programs or activities. Requests for assistance or accommodations can be arranged by contacting the Everett City Council Office at 425 257-8703.

RESOLUTION NO. _____



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

That the payroll of the employees of the City of Everett as of July 23, 2016, and checks issued July 29, 2016, having been audited, be and the same is hereby approved and the proper officers are hereby authorized and directed to charge checks on the Payroll Fund in payment thereof:

Fund	Department	Gross Payroll	Employer Contributions
001	Legislative	10,556.08	\$1,661.63
003	Legal	\$61,741.03	11,516.31
004	Administration	46,510.20	8,750.82
005	Municipal Court	46,623.61	8,609.22
007	Personnel	44,112.42	8,181.38
010	Finance	54,558.70	10,036.22
015	Information Technology	50,007.68	9,449.40
021	Planning & Community Dev	43,307.43	8,126.84
022	Neighborhoods & Community Svcs	3,245.52	614.95
024	Public Works	155,154.50	28,646.23
026	Animal Shelter	33,770.07	6,402.06
027	Senior Center	13,713.92	2,588.53
031	Police	806,830.79	76,043.66
032	Fire	597,722.55	42,383.37
038	Facilities/Maintenance	62,390.53	11,820.24
101	Parks & Recreation	259,597.35	41,586.76
110	Library	115,773.76	21,585.23
112	Community Theatre	6,975.26	1,303.45
120	Street	70,912.07	13,378.67
153	Emergency Medical Services	192,696.87	13,558.55
197	CHIP	9,034.00	1,710.42
198	Community Dev Block	6,474.95	1,225.60
401	Utilities	673,030.06	125,645.62
425	Transit	369,756.86	68,842.93
440	Golf	34,716.71	6,267.33
501	Equip Rental	61,353.39	11,848.95
507	Telecommunications	9,932.12	1,881.98
		<u>\$3,840,498.43</u>	<u>\$543,666.35</u>

Councilperson Introducing Resolution

Passed and approved this _____ day of _____, 2016.

Council President

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Street Closure – 4th Annual
Bubble Run

_____ Briefing
 _____ Proposed Action
 X Consent
 _____ Action
 _____ First Reading
 _____ Second Reading
 _____ Third Reading
 _____ Public Hearing

COUNCIL BILL #

Originating Department

Contact Person

Phone Number

FOR AGENDA OF

_____ City Clerk

_____ Anna Pankevich

_____ 425 257-8614

_____ August 10, 2016

Initialed by:

Department Head

CAA

Council President

_____ *db* _____

Location

Grand Avenue,
California Street to 19th
Street; 19th Street to
Colby Avenue; 11th
Street to 25th Street

Preceding Action

Attachments

Special Event
Application

Department(s) Approval

Police, Fire, Streets,
Traffic Engineering,
Transit

Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

Bubble Run is requesting the closure of Grand Avenue, California Street to 19th Street; 19th Street, Grand Avenue to Colby Avenue; and Colby Avenue, 11th Street to 25th Street, on Saturday, August 27, 2016, 7:00 a.m. to 4:00 p.m., for the 4th Annual Everett Bubble Run. In preparation for the event, the sponsor is also requesting the closure of various blocks on Grand Avenue and Colby Avenue (map attached) on Friday, August 26, 2016, beginning at 8:00 a.m. through the conclusion of the event.

RECOMMENDATION (Exact action requested of Council):

Authorize the closure of Grand Avenue, California Street to 19th Street; 19th Street, Grand Avenue to Colby Avenue; and Colby Avenue, 11th Street to 25th Street, on August 27, 2016, 7:00 a.m. to 4:00 p.m., for the 4th Annual Everett Bubble Run, and authorize the closure of various blocks on Grand Avenue and Colby Avenue (map attached) on August 26, 2016, 8:00 a.m. through August 27, 2016, 4:00 p.m.

SPECIAL EVENT APPLICATION

Event Type: Street Closure Parade Walk/Run Other ()

Event Date: 8/26 & 8/27 Event Time: 8am 8/27

Closure Time: varies

Event Description: 5k fun run of about 10,000 people starting at 8am Saturday 8/27

Location of Event: Start on Grand @ Everett. Course primarily on Colby

Sponsoring Organization: Bubble Run

Address: 2004 Sedona Path Way City & State LV, NV

Contact Person: Aubrion Sterrett Phone No. 702-366-3668

We **require** that you inform the neighborhood and businesses of the street closure **prior** to obtaining approval. Mailer attached for approval

What method will be used to inform the impacted parties of the street closure? Fliers

If applicable, answer the following:

Approx. # of participants: 10k Persons Animals Vehicles
Type of Animals

Assembly area (streets) Grand, 19th, Colby

Portion of street to be used: Full width Half Other

*Attach a **map** showing route of parade or run/walk.

Official Use

	<u>Admin.</u>	<u>Traffic</u>	<u>Police</u>	<u>Fire</u>	<u>Transit</u>	<u>Streets</u>
Approved:	<input checked="" type="checkbox"/>					
Rejected:	<input type="checkbox"/>					

Special Conditions: _____

Comments: _____

Council agenda date: / /

City Council approval: / /

Permit _____

TR # _____

Providence Hospital-

Colby at

Bo Gilbert-

425.261.3912

Gilbert.Bodrak@providence.org

Met with Bo in person. He understand the closure and feels they can communicate internally to ensure staff and visitors know about the detour.

Flowers By Adrian

Colby @ 21st

Will be closed on Saturday business not affected by Friday closure

Sno Isle Natural Food Co-op

Grand @ California

Erin Treat

marketing@snoilsefoods.coop

Spoke with Erin via phone and email and worked out alternative parking spots to be used by coop customers Saturday morning during the event. Road in front of the coop will open as the last runner goes through.

Evergreen Association

Grand @ 19th

Michelle Biddle

425 308-2286

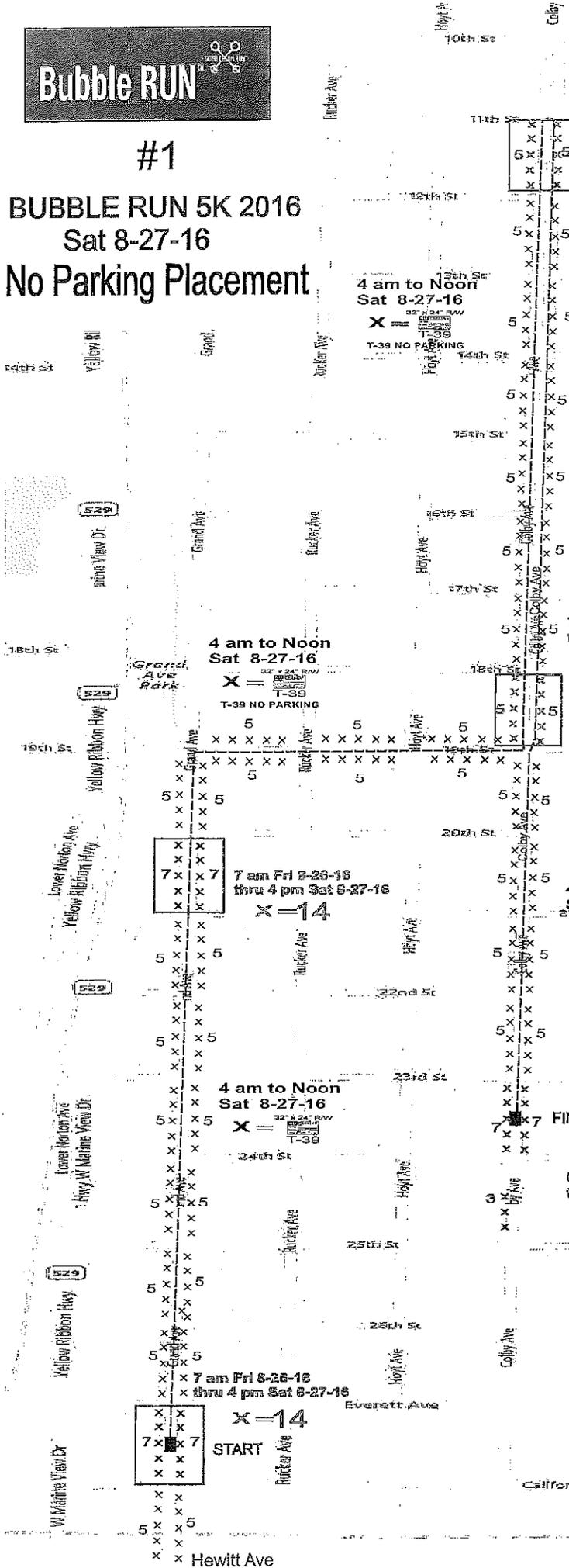
Spoke to Michelle on the phone and agreed to move bog one to the south so the Friday closure wont impact access to her building. Saturday closure will be minimal as it will only be in place for a few hours in the early morning.



#1

BUBBLE RUN 5K 2016
Sat 8-27-16
No Parking Placement

Everett, WA



Run Route

Detour Route

X = T-39 NO PARKING

BOG LOCATION

48
17
<hr/>
210
<hr/>
275
X = T-39 NO PARKING

7 am Fri 8-26-16
 thru 4 pm Sat 8-27-16
 X=10

4 am to Noon
 Sat 8-27-16
 X = T-39 NO PARKING

4 am to Noon
 Sat 8-27-16
 X = T-39 NO PARKING

7 am Fri 8-26-16
 thru 4 pm Sat 8-27-16
 X=10

4 am to Noon
 Sat 8-27-16
 X = T-39 NO PARKING

7 am Fri 8-26-16
 thru 4 pm Sat 8-27-16
 X=14

4 am to Noon
 Sat 8-27-16
 X = T-39 NO PARKING

4 am to Noon
 Sat 8-27-16
 X = T-39 NO PARKING

6 am Fri 8-26-16
 thru 4 pm Sat 8-27-16
 X=17

7 am Fri 8-26-16
 thru 4 pm Sat 8-27-16
 X=14

Contractor Bubble Run	
Supervisor Aubrion Sterrett	Project Number Grand/Colby
Phone Number (Office) 702.366.3668	Project Location Tacoma, WA
Phone Number (Fax)	Sheet Number 1 / 3
Prepared By Steve Vita	Date 05.22.16
Phone Number 206.523.4045	NATIONAL BARRICADE CO. LLC ESTABLISHED IN 1951



#2 BOG

BUBBLE RUN 5K 2016 Sat 8-27-16

Friday 8-26-16 Closures

3 PM CLOSURE

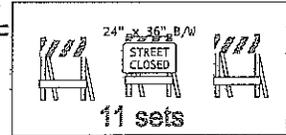
Everett, WA



NOT TO SCALE

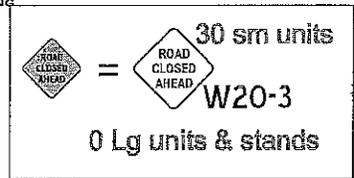
7 am Fri 8-26-16
thru 4 pm Sat 8-27-16
X = 10

4 am to Noon
Sat 8-27-16
X =



SIGNS RELOCATED
FOR SATURDAY CLOSURE

4 am to Noon
Sat 8-27-16
X =



SIGNS RELOCATED
FOR SATURDAY CLOSURE

7 am Fri 8-26-16
thru 4 pm Sat 8-27-16
X = 10

3 PM CLOSURE

Run Route

Detour Route

4 am to Noon
Sat 8-27-16
X =

9 AM CLOSURE

7 am Fri 8-26-16
thru 4 pm Sat 8-27-16
X = 14

4 am to Noon
Sat 8-27-16
X =

X =
T-39 NO PARKING

BOG LOCATION

4 am to Noon
Sat 8-27-16
X =

8 AM CLOSURE

FINISH

6 am Fri 8-26-16
thru 4 pm Sat 8-27-16
X = 17

48
17
210
275

X =
T-39 NO PARKING

7 am Fri 8-26-16
thru 4 pm Sat 8-27-16
X = 14

9 AM CLOSURE

START

Contractor Bubble Run	
Supervisor Aubriion Sterrett	Project Number Grand/Colby
Phone Number (office) 702.366.3668	Project Location Tacoma, WA
Phone Number (fax)	Sheet Number 1 / 3
Prepared By Steve Vita	Date 05.22.16
Phone Number 206.523.4045	NATIONAL BARRICADE CO. LLC ESTABLISHED IN 1981



#3 RACE DAY

BUBBLE RUN 5K 2016

Sat 8-27-16

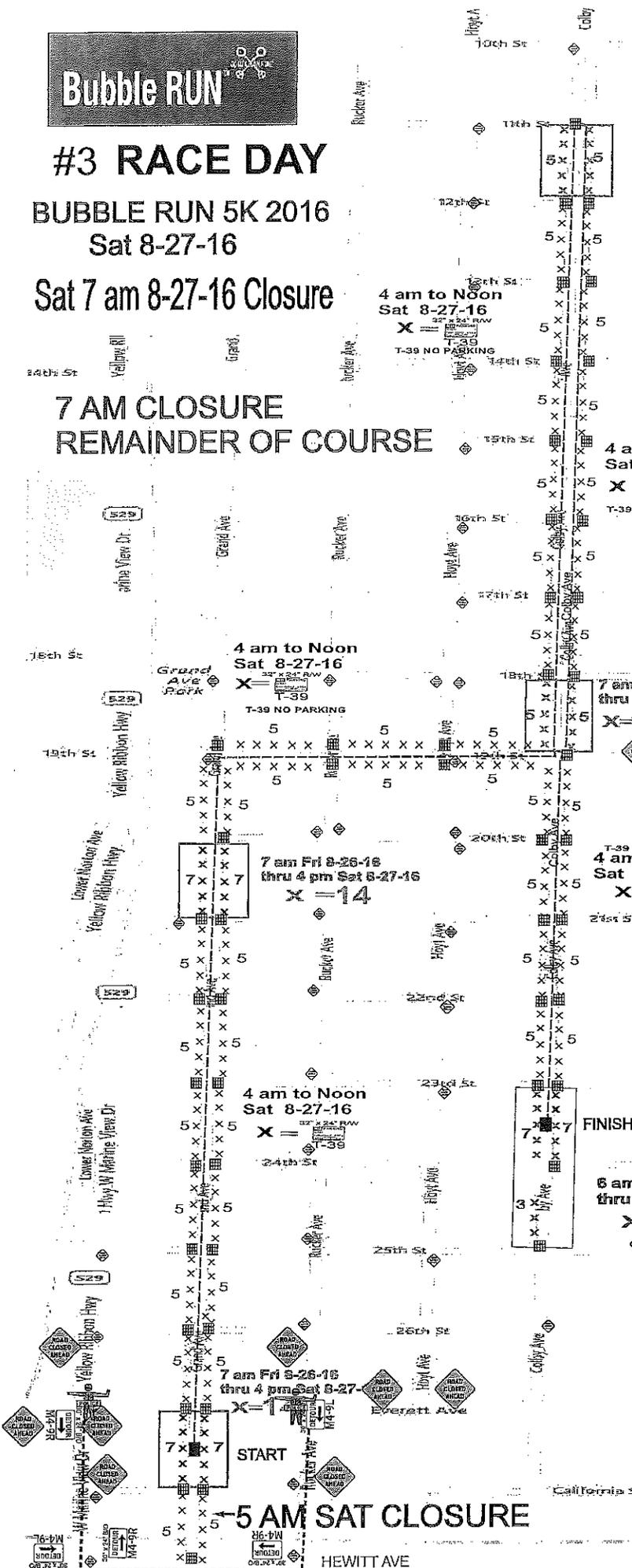
Sat 7 am 8-27-16 Closure

7 AM CLOSURE
REMAINDER OF COURSE

Everett, WA

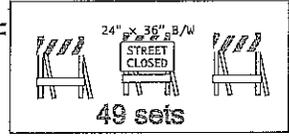


NOT TO SCALE



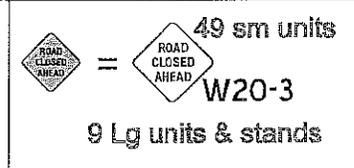
7 am Fri 8-26-16
thru 4 pm Sat 8-27-16
X = 10

4 am to Noon
Sat 8-27-16
X = 32' x 24" RAW
T-39 NO PARKING



SIGNS RELOCATED
FOR SATURDAY CLOSURE

4 am to Noon
Sat 8-27-16
X = 32' x 24" RAW
T-39 NO PARKING



SIGNS RELOCATED
FOR SATURDAY CLOSURE

4 am to Noon
Sat 8-27-16
X = 32' x 24" RAW
T-39 NO PARKING

7 am Fri 8-26-16
thru 4 pm Sat 8-27-16
X = 10

Run Route

Detour Route

7 am Fri 8-26-16
thru 4 pm Sat 8-27-16
X = 14

4 am to Noon
Sat 8-27-16
X = 32' x 24" RAW
T-39 NO PARKING

X = 32' x 24" RAW
T-39 NO PARKING

BOG
LOCATION

4 am to Noon
Sat 8-27-16
X = 32' x 24" RAW
T-39 NO PARKING

FINISH

6 am Fri 8-26-16
thru 4 pm Sat 8-27-16
X = 17

48
17
210
275

X = 32' x 24" RAW
T-39 NO PARKING

7 am Fri 8-26-16
thru 4 pm Sat 8-27-16
X = 1

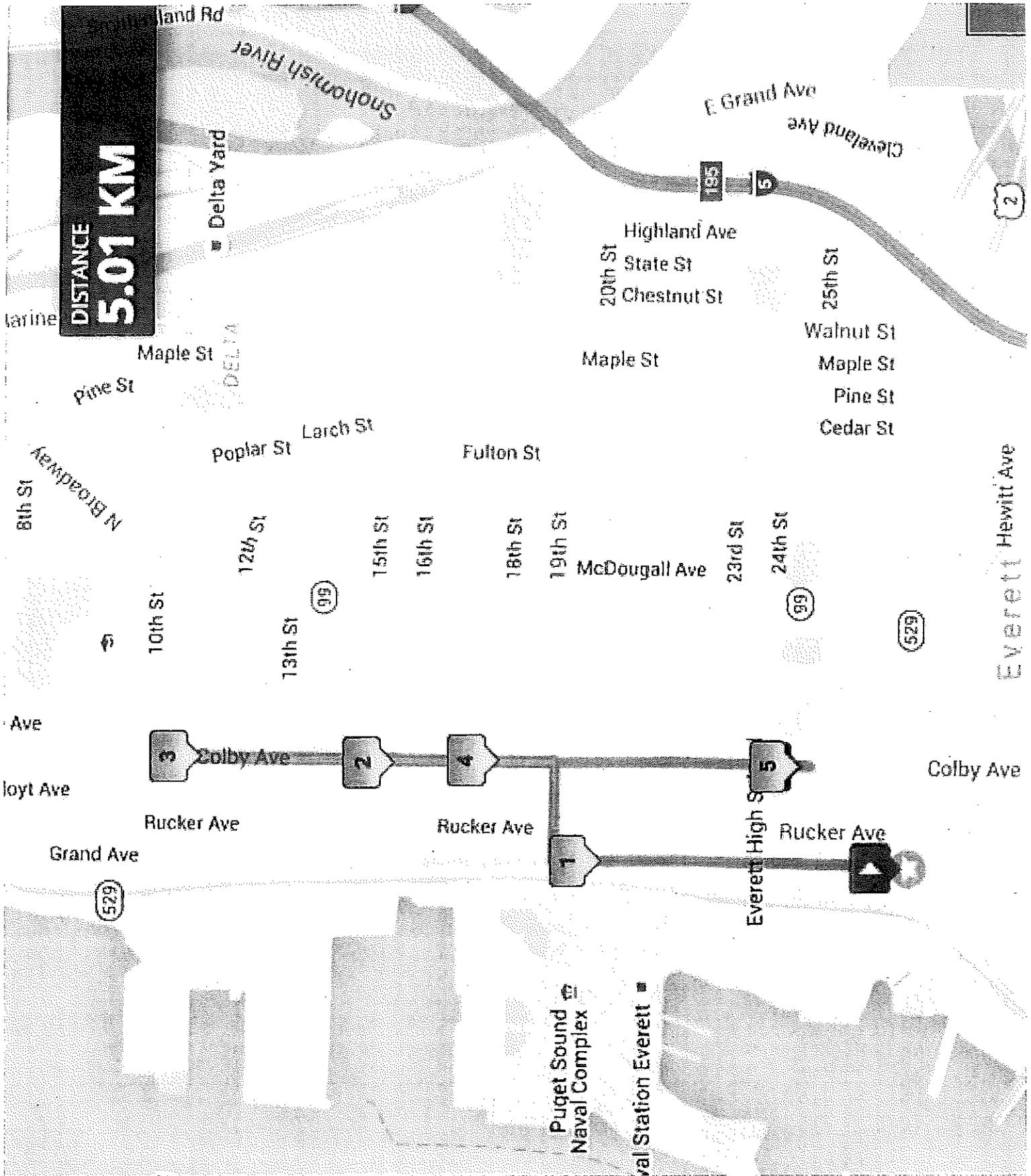
START

5 AM SAT CLOSURE

HEWITT AVE

Contractor Bubble Run	
Supervisor Aubriion Sterrett	Project Number Grand/Colby
Phone Number (office) 702.366.3668	Project Location Tacoma, WA
Phone Number (fax)	Sheet Number 3 / 3
Prepared By Steve Vita	Date 05.22.16
Phone Number 206.523.4045	NATIONAL BARRICADE CO. LLC ESTABLISHED IN 1993

DISTANCE
5.01 KM



land Rd

Snohomish River

Delta Yard

E Grand Ave
Cleveland Ave

Highland Ave
State St
Chestnut St

25th St
Walnut St
Maple St
Pine St
Cedar St

Maple St

Pine St

Poplar St
Larch St

Fulton St

8th St
N Broadway

10th St

12th St

13th St

15th St

16th St

18th St

19th St

McDougall Ave

23rd St

24th St

Everett Hewitt Ave

Colby Ave

2

4

5

Colby Ave

Rucker Ave

Rucker Ave

Rucker Ave

Grand Ave

Puget Sound
Naval Complex

Naval Station Everett

Everett High St

529

99

99

529

2

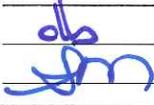
EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Call for Bids for the Grand Avenue Park Bridge Construction

<u>8/3/2016</u>	Briefing
_____	Proposed Action
_____	Consent
<u>8/10/2016</u>	Action
_____	First Reading
_____	Second Reading
_____	Third Reading
_____	Public Hearing
_____	Budget Advisory

COUNCIL BILL #	_____
Originating Department	<u>Public Works</u>
Contact Person	<u>Heather Griffin</u>
Phone Number	<u>425-257-7206</u>
FOR AGENDA OF	<u>August 3, 2016</u>

Initialed by:
 Department Head _____
 CAA _____
 Council President 

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
16 th Street & Grand Ave	12/3/2014 Consultant Agreement for Design		Public Works

Amount Budgeted	\$14,800,000	
Expenditure Required	\$1,000	Account Number(s): 401 and PW3588
Budget Remaining	\$13,000,000	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

The Grand Avenue Park Bridge design provides for a utility and pedestrian crossing from Grand Avenue Park, over a steep slope, Burlington Northern Santa Fe Railroad tracks, State Route 529 (also known as West Marine View Drive) to the waterfront.

The project has two phases: the first phase is construction of the utility and pedestrian bridge near 16th Street between Port of Everett property along West Marine View Drive and Grand Avenue Park. The second phase consists of building the utility pipelines from 50 feet north of the constructed bridge to the existing outfall locations near 14th and 15th Streets.

The current Engineer's Construction Estimate for Phase 1 is \$11 million and for Phase 2 is \$1.3 million.

RECOMMENDATION:

Authorize the Call for Bids for Phase 1 and 2 of the Grand Avenue Park Bridge construction.

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

AN ORDINANCE Annexing
Property Located East of the
Existing City Limits, South of
12th St NE and West of Union
Slough, Known as the Smith
Island Municipal Annexation

_____	Briefing
_____	Consent
<u>8/10/16</u>	Action
<u>7/27/16</u>	First Reading
<u>8/3/16</u>	Second Reading
<u>8/10/16</u>	Third Reading
<u>8/10/16</u>	Public Hearing

COUNCIL BILL #
Originating Dept.
Contact Person
Phone Number
FOR AGENDA OF

CB1607-31
Planning
Allan Giffen
425-257-8725
July 27, 2016

Initialed by:
Department Head
CAA
Council President

db

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Smith Island, west of Union Slough, south of 12 th Street	City Council Resolution 6882 for Intent to Annex on July 29, 2015	Ordinance, Staff Report	Legal, Planning

Amount Budgeted	N/A	
Expenditure Required	N/A	
Budget Remaining	N/A	
Additional Required	N/A	

DETAILED SUMMARY STATEMENT:

Proposed is a municipal annexation of City owned property located east of the existing City limits, south of 12th St NE and west of Union Slough, known as the Smith Island Municipal Annexation. The City of Everett requested the expansion of its Urban Growth Boundary to include all City-owned property on Smith Island. This request was approved by Snohomish County. The annexation is for municipal purposes as a result of evolving needs of the Waste Water Treatment Facility and its related activities.

A City Council briefing was held on July 22, 2015.

RECOMMENDATION (Exact action requested of Council):

Adopt An Ordinance Annexing Property Located East of the Existing City Limits, South of 12th St NE and West of Union Slough, Known as the Smith Island Municipal Annexation.

ORDINANCE NO. _____

AN ORDINANCE Annexing Property Located East of the Existing City Limits, South of 12th St NE and West of Union Slough, Known as the Smith Island Municipal Annexation

WHEREAS, pursuant to RCW 35.13.180, the City of Everett is annexing certain city-owned property for municipal purposes; and

WHEREAS, the Snohomish County Council adopted Ordinance 14-131 effective July 2, 2015 that adopted map amendments that extended the Urban Growth Boundary to include the area of this proposed annexation within the Municipal Urban Growth Area of the City of Everett; and

WHEREAS, the property is owned by the City of Everett, and is contiguous to the existing city limits of the City of Everett; and

WHEREAS, the property will be used for municipal purposes; and

WHEREAS, the annexation of City owned property contiguous to the City for municipal purposes is exempt from review by the Snohomish County Boundary Review Board; and

WHEREAS, on July 29, 2015 City Council passed Resolution 6882 stating the Council's intent to annex to Everett unincorporated Snohomish County Territory on Smith Island and City Council did conduct a public hearing on September 9, 2015, for the proposed annexation, for which proper notice of hearing was provided; and

WHEREAS, the City Council finds that the proposed annexation is in the best interests of the citizens of Everett;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN THAT:

Section 1. The property identified in Exhibit "A" and as legally described below is hereby annexed to the City of Everett:

SMITH ISLAND ANNEXATION: LEGAL DESCRIPTION

IT IS THE INTENT OF THIS LEGAL DESCRIPTION TO FOLLOW THE EXISTING CORPORATE CITY LIMITS OF EVERETT. REFERENCES HEREIN ARE MEANT TO CONVEY THAT ALTHOUGH PRESENT RIGHTS OF WAY BOUNDARIES MAY BE DIFFERENT, THE RIGHTS OF WAY BOUNDARIES AT THE TIME OF THE ORIGINAL INCORPORATION AND SUBSEQUENTLY ADOPTED ORDINANCES ARE INTENDED TO BE FOLLOWED SO THAT NO GAP OR OVERLAP EXISTS BETWEEN THIS ANNEXATION AND THE EXISTING CITY LIMITS OF EVERETT.

All that portion of the West Half of the NW Quarter of Section 15, Township 29 North, Range 5 East, W.M. lying west of the MID-CHANNEL of UNION SLOUGH.

Situate in County of Snohomish, State of Washington.

Being an area of approximately 27.35 Acres.

Section 2: Notice to Snohomish County. The City Clerk of the City of Everett is hereby directed upon passage of this ordinance of annexation to deliver and to file with the Snohomish County Council, the Snohomish County Auditor, and the State of Washington, a certified copy of this ordinance of annexation.

Section 3: Severability. Should any section, paragraph, clause or phrase of this Ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4: Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

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

Section 6: General Duty. It is expressly the purpose of this Ordinance to provide for and promote the health safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provisions or any term used in this Ordinance is intended to impose any duty whatsoever

upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Ray Stephanson, MAYOR

ATTEST:

Sharon Fuller, CITY CLERK

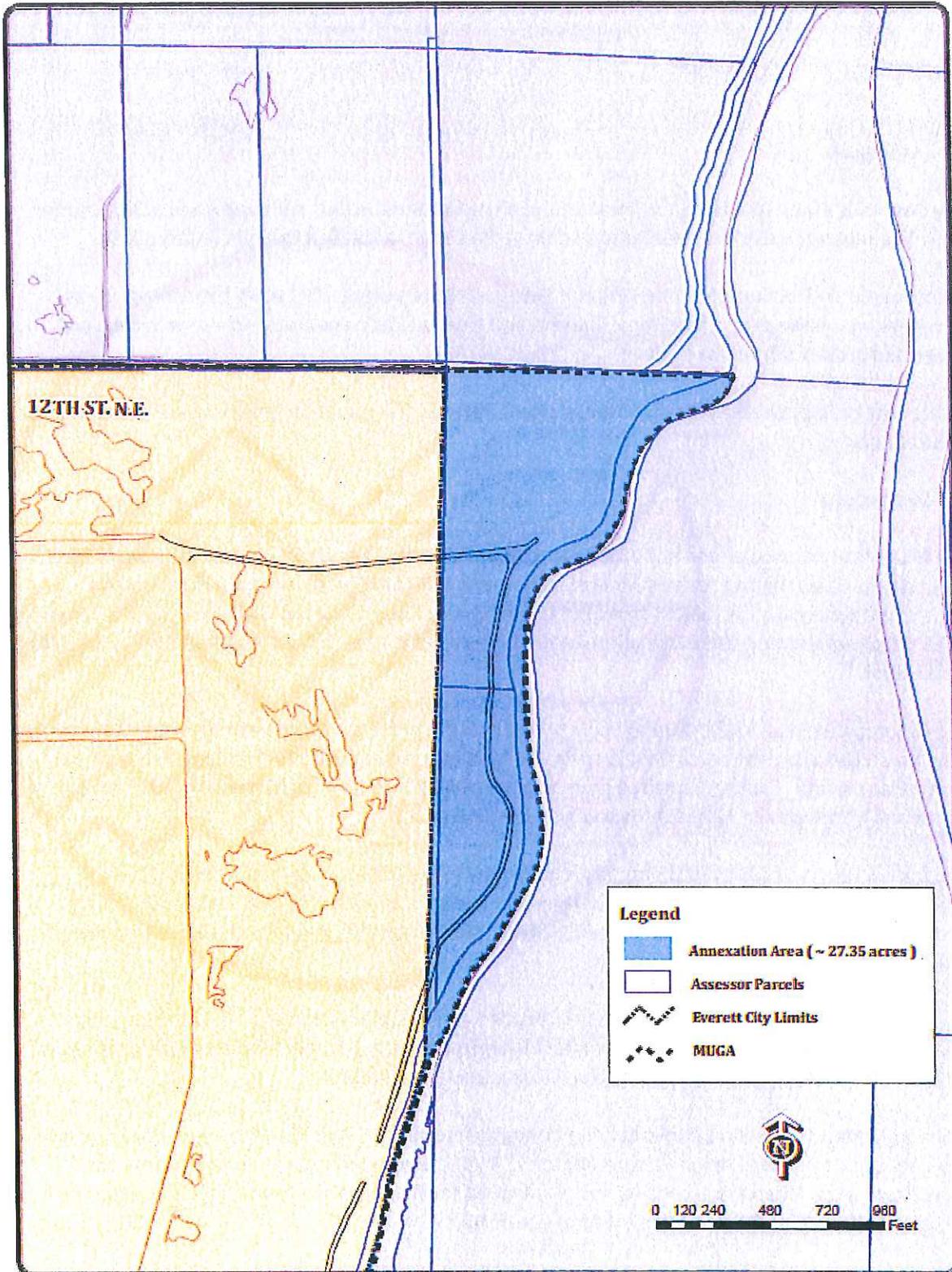
Passed: _____

Valid: _____

Published: _____

Effective Date: _____

Exhibit A
Smith Island Municipal Annexation



City Council

Staff Report

Smith Island Municipal Annexation, Zoning and Shoreline Management Program Designations Public Hearing on August 10, 2016

A. Summary

City Council is asked to finalize the Smith Island Municipal Annexation, set zoning and adopt interim Shoreline Management Program Designations on the subject area (See Exhibits A through D).

Following Council action, the State Office of Financial Management will certify the annexation as complete and made part of the City of Everett, and affected State agencies, service providers and interested individuals will be notified.

The zoning ordinance and Shoreline Management Program Designations ordinance are presented under separate cover.

B. Background

A SEPA review was completed and a Determination of Nonsignificance was issued February 17, 2012 that addressed a Comprehensive Plan designation of 2.8: Public/Quasi-Public Facilities and A-1 Agriculture zoning for the subject area (See Exhibit E). City Council passed Ordinance 3288-12 August 1, 2012 which set the land use designation on the subject property as 2.8: Public/Quasi-Public Facilities (See Exhibit F).

The City submitted an application to Snohomish County in order to incorporate the subject area within the City's UGA, and Snohomish County reviewed the City's request as a docket item with their 2015 Comp Plan update. County Council passed Ordinance 14-131 June 10, 2015 amending the City's UGA boundary to include the subject property (See Exhibit G).

The annexation is of City owned property, contiguous to the existing City boundary and is for a municipal purpose, and therefore does not require review or approval by the Snohomish County Boundary Review Board (BRB) per RCW 36.93.090. We did however consult with BRB staff prior to proceeding with the annexation process.

On July 29, 2015 the City issued a Notice of Adoption of Snohomish County's Final Environmental Impact Statement for Snohomish County's Shoreline Management Program update to meet the City's State Environmental Policy Act requirements for the proposal (See Exhibit H).

Planning Commission held a public hearing on zoning and interim Shoreline Management Program designations of the annexation area on August 4, 2015, recommending that zoning be set at A-1: Agriculture Rural Flood Fringe District and to adopt interim Snohomish County Shoreline Management Program Resource and Aquatic designations (See Exhibit I).

C. Exhibits

1. Exhibit A: Map of Smith Island Annexation Area
2. Exhibit B: Draft Ordinance for Annexation
3. Exhibit C: Draft Ordinance for Zoning
4. Exhibit D: Draft Ordinance for Interim Shoreline Management designations
5. Exhibit E: SEPA #11-047 DNS
6. Exhibit F: City Council Ordinance No. 3288-12
7. Exhibit G: Snohomish County Council Ordinance No. 14-131
8. Exhibit H: Notice of Adoption of Snohomish County's FSEIS for their Shoreline Management Plan
9. Exhibit I: Planning Commission Resolution 15-06

Exhibit A
Map of Smith Island Annexation Area

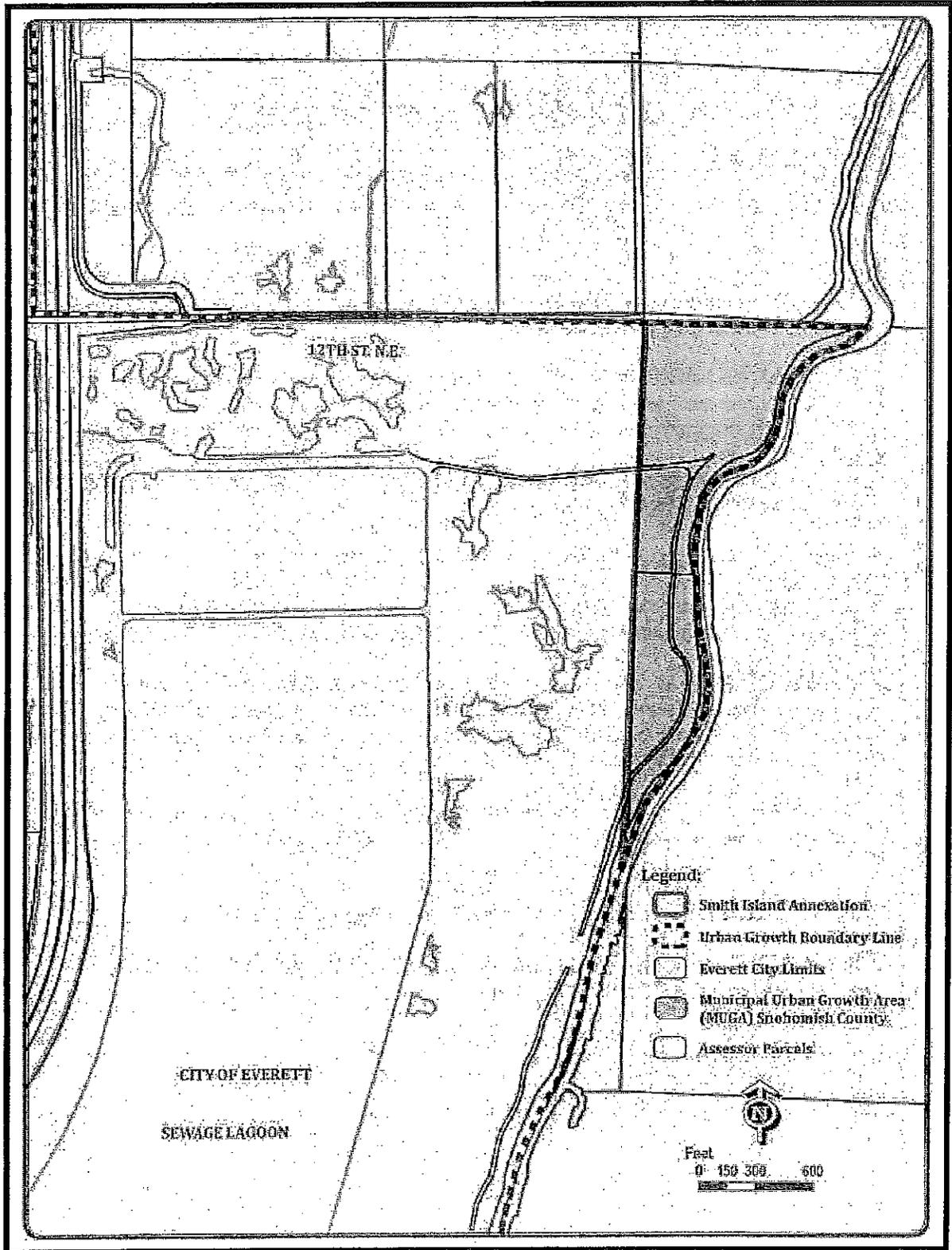


Exhibit B
Draft Ordinance for Annexation

ORDINANCE NO. _____

AN ORDINANCE Annexing Property Located East of the Existing City Limits, South of 12th St NE and West of Union Slough, Known as the Smith Island Municipal Annexation

WHEREAS, pursuant to RCW 35.13.180, the City of Everett is annexing certain city-owned property for municipal purposes, and

WHEREAS, the Snohomish County Council adopted Ordinance 14-131 effective July 2, 2015 that adopted map amendments that extended the Urban Growth Boundary to include the area of this proposed annexation within the Municipal Urban Growth Area of the City of Everett, and

WHEREAS, the property is owned by the City of Everett, and is contiguous to the existing city limits of the City of Everett, and

WHEREAS, the property will be used for municipal purposes, and

WHEREAS, the annexation of City owned property contiguous to the City for municipal purposes is exempt from review by the Snohomish County Boundary Review Board, and

WHEREAS, on July 29, 2015 City Council passed Resolution 6882 stating the Council's intent to annex to Everett unincorporated Snohomish County Territory on Smith Island and City. Council did conduct a public hearing on September 9, 2015, for the proposed annexation, for which proper notice of hearing was provided; and

WHEREAS, the City Council finds that the proposed annexation is in the best interests of the citizens of Everett;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN THAT:

Section 1. The property identified in Exhibit "A" and as legally described below is hereby annexed to the City of Everett:

SMITH ISLAND ANNEXATION: LEGAL DESCRIPTION

IT IS THE INTENT OF THIS LEGAL DESCRIPTION TO FOLLOW THE EXISTING CORPORATE CITY LIMITS OF EVERETT. REFERENCES HEREIN ARE MEANT TO CONVEY THAT ALTHOUGH PRESENT RIGHTS OF WAY BOUNDARIES MAY BE DIFFERENT, THE RIGHTS OF WAY BOUNDARIES AT THE TIME OF THE ORIGINAL INCORPORATION AND SUBSEQUENTLY ADOPTED ORDINANCES ARE INTENDED TO BE FOLLOWED SO THAT NO GAP OR OVERLAP EXISTS BETWEEN THIS ANNEXATION AND THE EXISTING CITY LIMITS OF EVERETT.

All that portion of the West Half of the NW Quarter of Section 15, Township 29 North, Range 5 East, W.M. lying west of the MID-CHANNEL of UNION SLOUGH.

Situate in County of Snohomish, State of Washington.

Being an area of approximately 27.35 Acres

Section 2: Notice to Snohomish County. The City Clerk of the City of Everett is hereby directed upon passage of this ordinance of annexation to deliver and to file with the Snohomish County Council, the Snohomish County Auditor, and the State of Washington, a certified copy of this ordinance of annexation.

Section 3: Severability. Should any section, paragraph, clause or phrase of this Ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4: Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

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

Section 6: General Duty. It is expressly the purpose of this Ordinance to provide for and promote the health safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provisions or any term used in this Ordinance is intended to impose any duty whatsoever

upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Ray Stephanson, MAYOR

ATTEST:

Sharon Marks, CITY CLERK

Passed: _____

Valid: _____

Published: _____

Effective Date: _____

Exhibit A
Smith Island Municipal Annexation

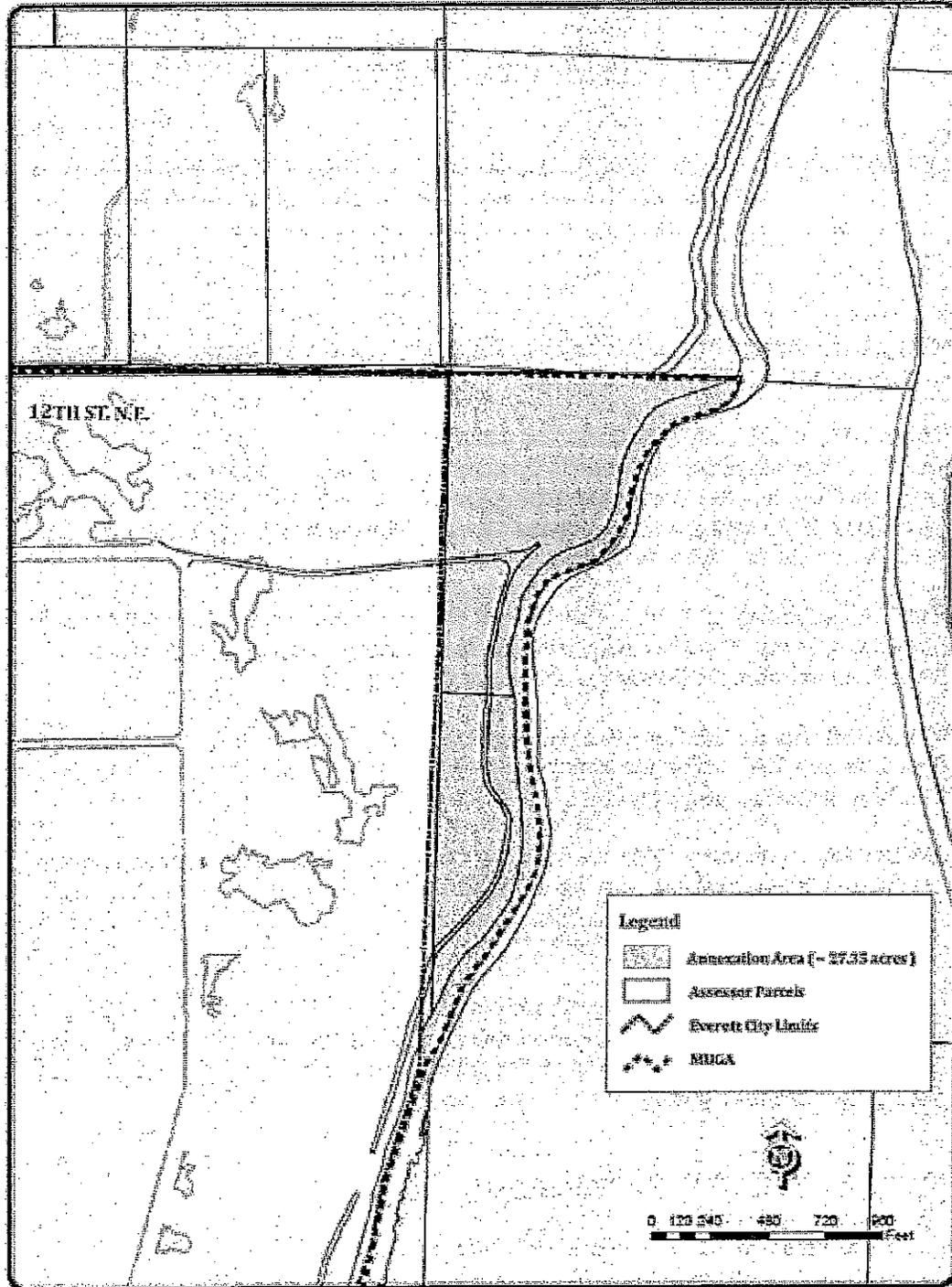


Exhibit C
Draft Ordinance for Zoning

ORDINANCE NO. _____

**AN ORDINANCE Establishing Zoning for the Smith Island Municipal Annexation Area ,
amending Exhibit A to Ordinance No. 1671-89 (as amended)**

WHEREAS, the City of Everett is provided authority to annex contiguous unincorporated territory pursuant to RCW 35.13.180; and

WHEREAS, in 2012 a SEPA review was completed and a Determination of Nonsignificance No. 11-047 was issued that addressed a Comprehensive Plan designation of 2.8: Public/Quasi-Public Facilities and A-1 Agriculture zoning for the proposed Smith Island Annexation Area, an approximate 27.35 acre area owned by the City and located along Union Slough and adjoining other City-owned properties to the east; and

WHEREAS, on August 1, 2012, City Council passed Ordinance 3288-12 adopting the 2.8: Public/Quasi-Public Facilities designation for the subject property consistent with the designations for other City-owned properties to the west; and

WHEREAS, Snohomish County Council reviewed the City's request for expansion of the Urban Growth Area (UGA) and passed Ordinance 14-131 on June 10, 2015 amending the City's UGA to include the subject property; and

WHEREAS, on August 4, 2015, the Planning Commission held a public hearing regarding establishment of the enabling zone for the subject area upon annexation to the City and recommended that the Smith Island Municipal Annexation be zoned A-1 RFFD (Agriculture Rural Flood Fringe District) (Exhibit "A"); and

WHEREAS, on July 29, 2015 City Council passed Resolution 6882 stating the Council's intent to annex to Everett unincorporated Snohomish County Territory on Smith Island and City Council did conduct a public hearing on September 9, 2015, for the proposed annexation, for which proper notice of hearing was provided; and

WHEREAS, THE CITY COUNCIL FINDS:

1. The proposed zoning is consistent with the Everett Comprehensive Plan.

2. The proposed zoning bears a substantial relation to public health, safety or welfare.
3. The proposed zoning promotes the best long-term interests of the Everett community.
4. The area proposed to be zoned A-1 RFFD will be developed for environmental mitigation/restoration consistent with and supporting the uses on adjacent properties and the proposed zoning will not adversely impact adjacent uses.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1: Zoning. That the Zoning Map of that portion of the City of Everett shown on the map in Exhibit A and legally described below is hereby established as A-1 RFFD (Agriculture Rural Flood Fringe District), amending Exhibit A to Ordinance No. 1671-89(as amended):

SMITH ISLAND MUNICIPAL ANNEXATION AREA: LEGAL DESCRIPTION

IT IS THE INTENT OF THIS LEGAL DESCRIPTION TO FOLLOW THE EXISTING CORPORATE CITY LIMITS OF EVERETT. REFERENCES HEREIN ARE MEANT TO CONVEY THAT ALTHOUGH PRESENT RIGHTS OF WAY BOUNDARIES MAY BE DIFFERENT, THE RIGHTS OF WAY BOUNDARIES AT THE TIME OF THE ORIGINAL INCORPORATION AND SUBSEQUENTLY ADOPTED ORDINANCES ARE INTENDED TO BE FOLLOWED SO THAT NO GAP OR OVERLAP EXISTS BETWEEN THIS ANNEXATION AND THE EXISTING CITY LIMITS OF EVERETT.

All that portion of the West Half of the NW Quarter of Section 15, Township 29 North, Range 5 East, W.M. lying west of the MID-CHANNEL of UNION SLOUGH.

Situate in County of Snohomish, State of Washington.

Being an area of approximately 27.35 Acres

Section 2: Severability. Should any section, paragraph, clause or phrase of this Ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3: Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

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

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

Ray Stephanson, MAYOR

ATTEST:

Sharon Marks, CITY CLERK

Passed: _____

Valid: _____

Published: _____

Effective Date: _____

Exhibit A
Smith Island Municipal Annexation Area Zoning

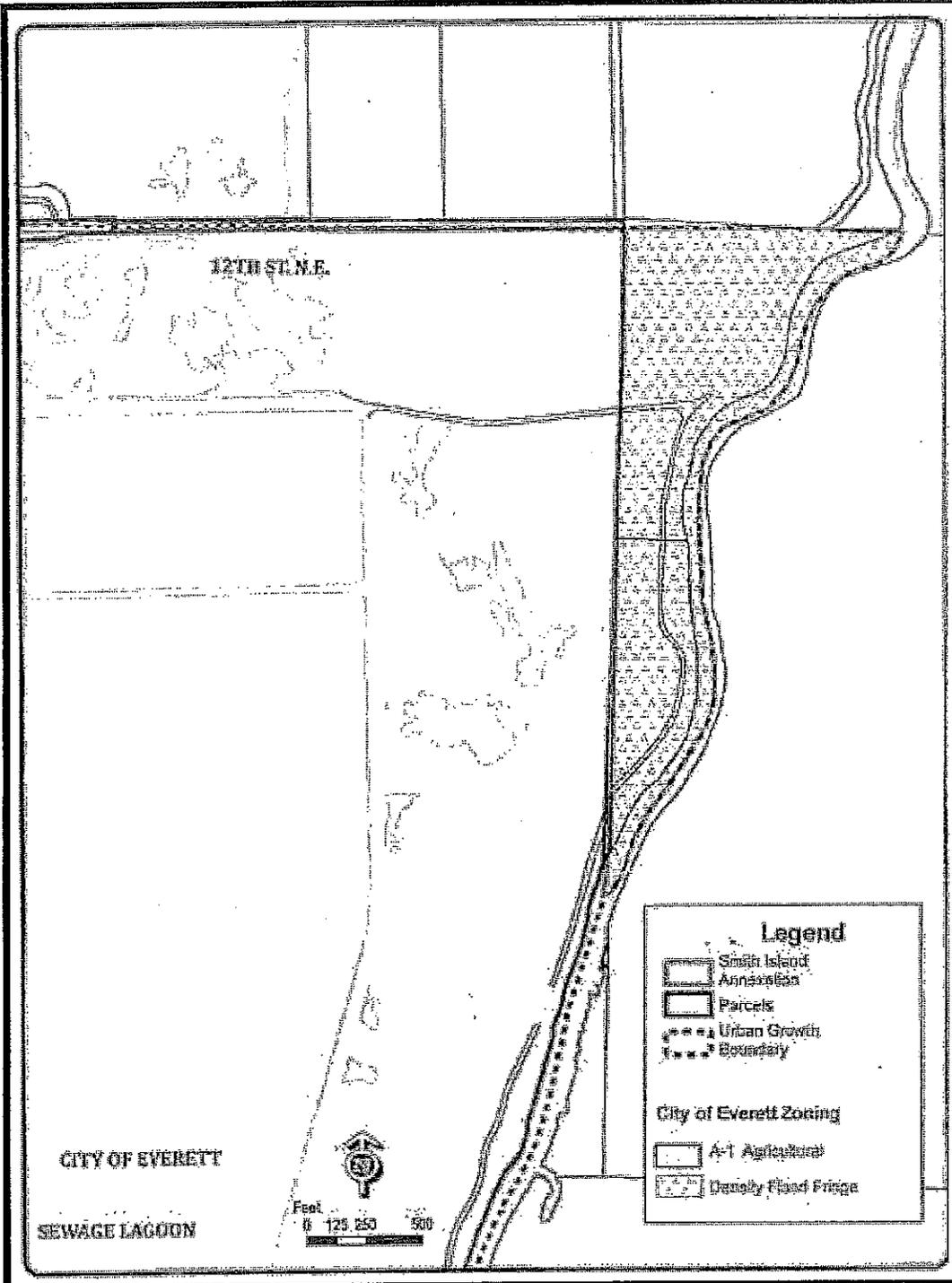


Exhibit D
Draft Ordinance for Interim Shoreline Management designations

ORDINANCE NO. _____

AN ORDINANCE Adopting the Snohomish County Shoreline Management Program Resource and Aquatic Designations and Program Policies and Regulations as Interim Designations for the Smith Island Municipal Annexation Area, amending Ordinance No.'s 2600-02, 2021-94 and 1671-89 (as amended)

WHEREAS, the City of Everett is provided authority to annex contiguous unincorporated territory pursuant to RCW 35.13.180; and

WHEREAS, Snohomish County Council reviewed the City's request for expansion of the Urban Growth Area (UGA) for properties on Smith Island and passed Ordinance 14-131 on June 10, 2015 amending the City's UGA to include the subject property; and

WHEREAS, WAC 173-26-160 requires local governments to amend their shoreline master programs to address newly annexed areas within one year of annexation, but until the master program is amended any decision on an application for a shoreline permit in the annexed shoreline area shall be based upon compliance with the master program in effect for the area prior to annexation; and

WHEREAS, on July 29, 2015 the City's Responsible Official issued a Notice of Adoption of Snohomish County's Final Environmental Impact Statement for Snohomish County's Shoreline Management Program update to meet the City's State Environmental Policy Act requirements for the proposal; and

WHEREAS, on August 4, 2015, the Planning Commission held a public hearing regarding establishing shoreline designations for the subject area upon annexation to the City and recommended that City Council adopt Resource and Aquatic designations as interim designations for the Smith Island Municipal Annexation Area; and

WHEREAS, the goals and policies of Shoreline Management / Master Programs are also part of the Comprehensive Plan and the regulations in Shoreline Management / Master programs are also part of the City's zoning regulations; and

WHEREAS, on July 29, 2015 City Council passed Resolution 6882 stating the Council's intent to annex to Everett unincorporated Snohomish County Territory on Smith Island and City

Council did conduct a public hearing on September 9, 2015, for the proposed annexation, for which proper notice of hearing was provided; and

WHEREAS, THE CITY COUNCIL FINDS:

1. The purpose for the proposed interim amendments to the Shoreline Master Program, Comprehensive Plan and Zoning are to address a newly annexed area of City-owned land on Smith Island adjacent to larger restoration / mitigation areas, providing for the subject area's management needs and allowing the provision of public safety services to the property.
2. The proposed interim designations, goals, policies and regulations are the same as that in Snohomish County's existing Shoreline Management Program and will be used for permitting purposes until such time as the City updates the Shoreline Master Program.
3. The proposed interim designations, goals, policies, and regulations are generally consistent with the City's Comprehensive Plan.
4. The amendments will not create pressure to change the designations of other properties in the vicinity.
5. The proposal bears a substantial relation to public health, safety or welfare.
6. The proposal promotes the best long-term interests of the Everett community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1: Shoreline Master Program. The Snohomish County Shoreline Management Program is hereby adopted to apply to the Smith Island Municipal Annexation area, amending Ordinances 2600-02 (Shoreline Master Program), as amended, Ordinance 2021-94 (Comprehensive Plan), as amended, and Ordinance 1671-89 (Title 19 EMC), as amended until such time as the City updates the Shoreline Master Program.

Section 2: Shoreline Master Program Designations. The Shoreline Master Program designation for that portion of the West Half of the NW Quarter of Section 15, Township 29 North, Range 5 East, W.M. lying west of the ordinary high water mark of Union Slough and shown on Exhibit "A" attached hereto and incorporated herein by reference is Resource Environment, and the Shoreline Master Program designation for that portion of the West Half of the NW Quarter of Section 15, Township 29 North, Range 5 East, W.M. lying east of the ordinary high water mark of Union Slough to the mid-channel of Union Slough and shown on Exhibit "A" attached hereto and incorporated herein by reference is Aquatic Environment, until such time as the City updates the Shoreline Master Program.

Section 3: Severability. Should any section, paragraph, clause or phrase of this Ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or

regulations, this shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4: Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

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

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

Ray Stephanson, MAYOR

ATTEST:

Sharon Marks, CITY CLERK

Passed: _____

Valid: _____

Published: _____

Effective Date: _____

Exhibit A
Smith Island Municipal Annexation Area Shoreline Master Program Designations

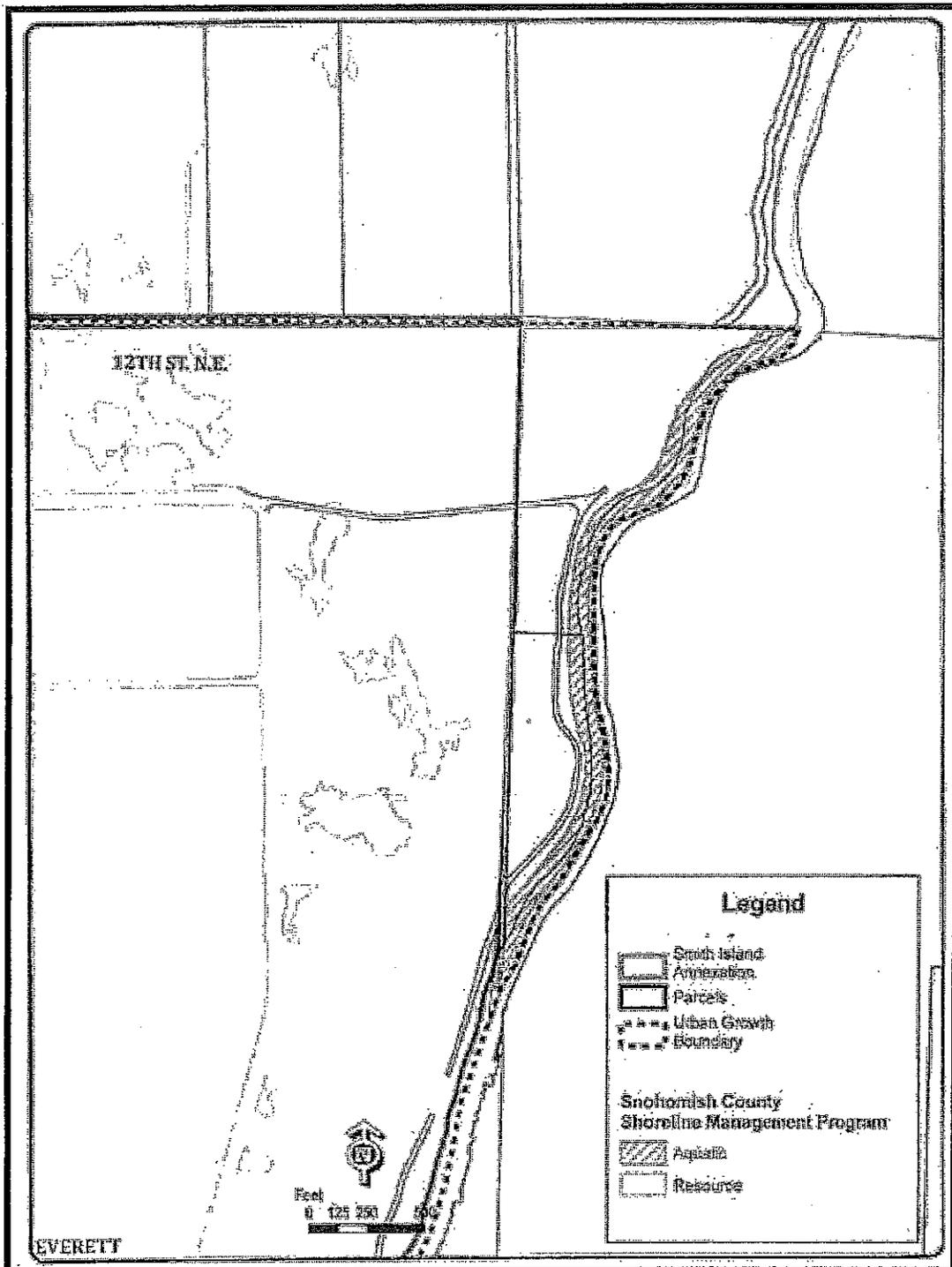
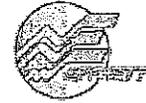


Exhibit E
SEPA #11-047 DNS

CITY OF EVERETT
DETERMINATION OF NON-SIGNIFICANCE (SEPA11-047)
And PLANNING COMMISSION PUBLIC HEARING NOTICE
Expansion of Urban Growth Area
Non-project action - Comprehensive Plan Map Amendment



Description of Proposal: Expand the boundary of the City's Urban Growth Area to account for a 20-acre Environmental mitigation area owned and managed by the City of Everett. This action would change the boundary depicted in the City's Comprehensive Plan map and would help clear the way for eventual County approval of the City's request to revise the UGA boundary, and eventual annexation, some time after 2015. Additional information is available at: <http://www.everettwa.org/default.aspx?ID=2018>.

Planning Commission Public Hearing:

Date & Time: March 6, 2012 at 6:30 p.m.
Location: 2930 Wetmore Avenue, 3rd floor Hearing Room

Applicant: Sponsored by Planning Commission

Representative: See contact person below

Location: South of 12th St NE, west of Union Slough

General Plan: Existing: Riverway Commercial Farm Land (Snohomish County)
Proposed: 2.8 (Public/Quasi Public Facilities)

Zoning: Existing: Ag 10 (Snohomish County)
Proposed: A-1 (Agriculture)

Lead Agency: City of Everett Planning Department

Contact Person: Dave Koenig or Bob Larsen Phone: (425) 257-8731

The lead agency for this proposal has determined that it does not have a probable significant adverse impact on the environment. An Environmental Impact Statement is not required under RCW 43.21C.030(2)(c). This determination assumes compliance with State law and City ordinances related to general environmental protection including but not limited to right-of-way improvement requirements, drainage, outdoor lighting, noise and vibration, etc. This decision was made after review of a completed environmental checklist and other information on file with the lead agency. This information is available to the public on request.

This DNS is issued under 197-11-340(2). The lead agency will not act on this proposal for 14 days from the date below (shown as February 17, 2012). Comments must be submitted by March 2, 2012.

Responsible Official: Allan Giffen
Title: Planning and Community Development Director
Address: 2930 Wetmore Avenue, Suite 8A, Everett, WA 98201
Date: February 17, 2012


(RWL)

Signature: _____

NOTE: A DNS may be withdrawn in the event of significant changes in the proposal, disclosure of new significant information, misrepresentation by the applicant, or failure to comply with the conditions upon which this Determination of Non-Significance is predicated.

There is no appeal period on this administrative determination.

Exhibit F
City Council Ordinance No. 3288-12



ORDINANCE NO. 3288-12

**An Ordinance Amending The Comprehensive Plan
Map Expanding The City's Urban
Growth Boundary on Smith Island, Amending
Ordinance No. 2021-94, As Amended
Smith Island UGA Expansion**

WHEREAS, the City of Everett adopted a Comprehensive Plan in August, 1994, in conformance with the Washington State Growth Management Act; and

WHEREAS, the City of Everett completed its 10 year update to the Comprehensive Plan with City Council adoption on July 20, 2005; and

WHEREAS, the Growth Management Act, codified as Chapter 36.70A, allows for comprehensive plans to be amended on an annual basis; and

WHEREAS, the City of Everett initiated its 2011 – 2012 annual Comprehensive Plan amendment process in July of 2011, which included consideration of Land Use Map amendments and rezone applications initiated by property owners and the Everett Planning Commission; and

WHEREAS, the City of Everett owns a 20 acre property on Smith Island, part of a larger mitigation / restoration area east of the Waste Water Treatment Facility, that is currently in Snohomish County and under the jurisdiction of Snohomish County for land use permits, and

WHEREAS, a larger associated restoration / mitigation area extending west and south of the subject property is currently inside the Everett City limits, and therefore under permitting control of the City, and

WHEREAS, the Everett Planning Commission made this recommendation in order to eventually bring the property as shown in Exhibit A into the City, and under City Jurisdiction, which will provide for more streamlined permitting and other benefits, and

WHEREAS, the Planning Commission held a public hearing on the matter on March 6, 2012, at which time it heard from the public, and staff, and considered the various aspects of the proposal before recommending approval; and

WHEREAS, THE CITY COUNCIL FINDS:

1. The purpose for the requested Comprehensive Plan land use map amendment is to expand the City of Everett's Urban Growth Area, which would allow the City to join the subject property to the larger restoration / mitigation areas associated with it which are currently in the City, and thereby place the subject expansion area under permitting control of Everett. This action would provide for the subject area's management needs and allow for provision of public safety services to the property.
2. The action undertaken here: Approving placement of the subject Urban Growth Area on the Comprehensive Plan map, demonstrates intent on the part of the City to bring this area into the City, but it is also recognized additional steps will be required before the area is legally made part of the City.
3. To achieve the proposed map amendment, the subject area needs to be indicated on the Comprehensive Plan map surrounded by Everett's proposed City limits boundary, and shown as 2.8 (Public / Quasi Public Facilities - Proposed) within the indicated expansion area.
4. Planning Commission held a public meeting to learn of and discuss the proposed change on November 11, 2011 and held a public hearing on this proposal on March 6, 2012.
5. On March 6, 2012, Planning Commission passed Resolution 12-12, recommending adoption of this action by City Council.
6. The public health safety and welfare would be provided for by the proposal under existing development regulations of the City.
7. The proposed amendment to the land use map and rezone promotes the best long term interest of the Everett Community.
8. Any conclusions below that may be construed as a finding is included here as such by this reference.

WHEREAS, CITY COUNCIL CONCLUDES:

1. Any finding above that may be construed as a conclusion is included here as such by this reference.
2. The requested action is supported by, or consistent with, the Comprehensive Plan based on Policy 2.16.8, "develop logical service areas." This action is specifically intended to include the subject area in the City's planning area in part, because it falls with natural boundaries; those being 12th street to the north, and Union Slough to the east, where currently the eastern boundary is a quarter section line on the City map. (findings 1 and 2)
3. Circumstances related to the subject property and the area in which it is located have changed because of new work the City is doing with the Pollution Control Facility's eastern dike. (findings 1 and 2)

4. There are no erroneous assumptions or new information regarding this action known at the time this action was taken. (findings 2, 3 and 4)
5. The change promotes and ensures a continued desired land use pattern because the expansion area will be used for environmental mitigation. (findings 1 and 2)
6. The proposed land use designation should not be applied to other properties in the vicinity without first meeting the policies of the Comprehensive Plan on their own merit, considered separately from this action. Therefore approval of this application does not constitute a granting of special privilege. (findings 1, 3 and 4)
7. This action would have only positive environmental impacts on other properties in the vicinity. (findings 1 and 2)
8. The change of the land use designation will not pressure other properties in the vicinity to do the same. (findings 1, 3 and 4)
9. To achieve the proposed change, the City needs to add the subject property within Everett's Municipal Urban Growth Area (MUGA) and designate it 2.8 (Public / Quasi-Public Facilities). (finding 2)
10. The public health, safety and welfare would be provided for by passage of this Ordinance. (findings 1, 2, 3, 5 and 6)
11. This proposed Comprehensive Plan amendment and rezone promotes the best long term interest of the Everett Community. (findings 1, 2, 3, 4, 5 and 7)

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1: Amendment of the Land Use Map of the Comprehensive Plan

Amend the Comprehensive Plan land use map in the subject area to expand the Urban Growth Area and to change the land use designation from Snohomish County Riverway Commercial Farm Land to 2.8 (Public / Quasi Public Facilities - Proposed), amending Ordinance No. 2021-94, as amended. See attached Exhibit A.

Section 2: Incorporation.

Exhibit A, is hereby made part of this approval and incorporated herein by reference.

Section 3. Validity.

Should any section, subsection, paragraph, sentence, clause or phrase set forth in this Ordinance or its application to any person or situation be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance, or its application to any other person or situation. The City Council of the City of Everett hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

Section 4. Purpose.

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

It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees.

Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City, its officers, employees or agents.

Section 5. Pending actions.

The enactment of this Ordinance shall not affect any case, proceeding, appeal or other matter currently pending before the City or in any court.

Section 6. Corrections.

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


Ray Stephanson, Mayor

ATTEST:


City Clerk

Passed: 8-1-12
Valid: 8-6-12
Published: 8-8-12
Effective Date: 8-21-12

Exhibit A

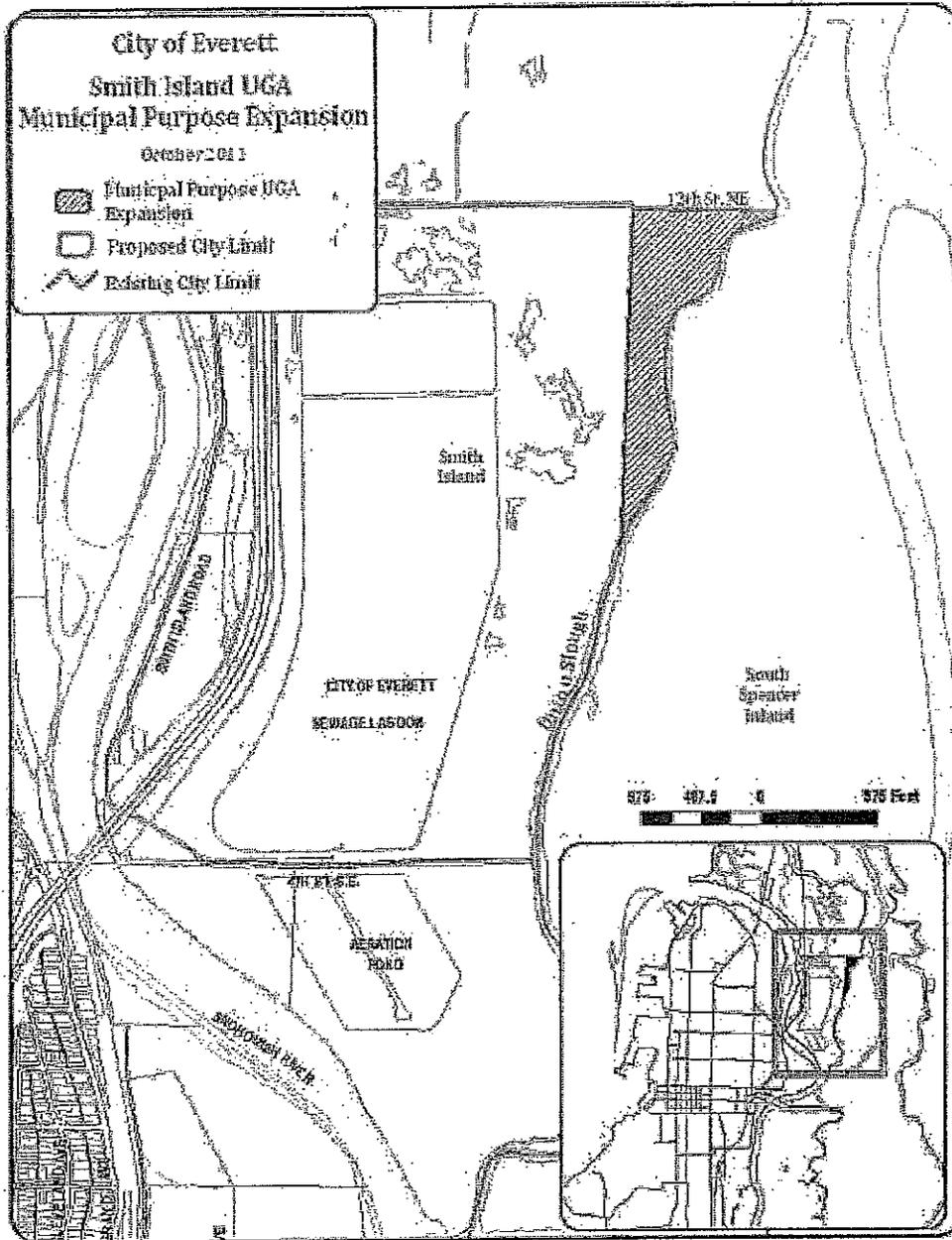


Exhibit G
Snohomish County Council Ordinance No. 14-131

1 Adopted: June 10, 2015
2 Effective: July 2, 2015

3
4
5 SNOHOMISH COUNTY COUNCIL
6 SNOHOMISH COUNTY, WASHINGTON

7
8 ORDINANCE NO. 14-131
9

10 RELATING TO THE GROWTH MANAGEMENT ACT, ADOPTING FUTURE LAND USE
11 MAP AMENDMENTS TO THE SNOHOMISH COUNTY GROWTH MANAGEMENT
12 ACT COMPREHENSIVE PLAN, AMENDING THE ZONING MAP TO IMPLEMENT
13 CHANGES TO THE FUTURE LAND USE MAP, AND REVISING THE SOUTHWEST
14 URBAN GROWTH AREA (EVR1 - CITY OF EVERETT)

15
16 WHEREAS, RCW 36.70A.130 and .470 direct counties planning under the
17 Growth Management Act (GMA) to adopt procedures for interested persons to propose
18 amendments and revisions to the Growth Management Act Comprehensive Plan
19 (GMACP) or development regulations; and

20
21 WHEREAS, the Snohomish County Council (county council) adopted chapter
22 30.74 of the Snohomish County Code (SCC), "Growth Management Act Public
23 Participation Program Docketing," to comply with the requirements of RCW 36.70A.130
24 and .470; and

25
26 WHEREAS, the Department of Planning and Development Services (PDS)
27 compiled a list of non-county initiated amendments and revisions received by the
28 October 31, 2012, deadline for Docket XVII proposals and evaluated these proposed
29 amendments, including the EVR1 - City of Everett docket proposal, for consistency with
30 the initial docket review criteria in SCC 30.74.030(1) and 30.74.040; and

31
32 WHEREAS, PDS briefed the Snohomish County Agricultural Advisory Board on
33 the EVR1 - City of Everett docket proposal on April 9, 2013; and

34
35 WHEREAS, on May 29, 2013, and June 26, 2013, the county council held public
36 hearings to receive public testimony on proposed non-county initiated amendments to
37 the GMACP for consideration on Final Docket XVII, including the EVR1 - City of Everett
38 proposal; and

39
40 WHEREAS, on July 17, 2013, the county council approved, by Amended Motion
41 No. 13-138, a list of proposed non-county initiated comprehensive plan amendments for
42 consideration and final action on Final Docket XVII, including the EVR1 - City of Everett

ORDINANCE NO. 14-131
RELATING TO THE GROWTH MANAGEMENT ACT, ADOPTING
FUTURE LAND USE MAP AMENDMENTS TO THE SNOHOMISH
COUNTY GROWTH MANAGEMENT ACT COMPREHENSIVE PLAN,
AMENDING THE ZONING MAP TO IMPLEMENT CHANGES TO
THE FUTURE LAND USE MAP, AND REVISING THE SOUTHWEST
URBAN GROWTH AREA (EVR1 - CITY OF EVERETT) - 1

1 proposal, and authorized the county executive, through PDS, to process Final Docket
2 XVII consistent with chapters 30.73 and 30.74 SCC; and

3
4 WHEREAS, the Snohomish County Planning Commission ("planning
5 commission") was provided information on Final Docket XVII, including the EVR1 – City
6 of Everett proposal, in study sessions and briefings held on May 13, 2014, and
7 September 9, 2014; and

8
9 WHEREAS, pursuant to chapter 30.74 SCC, PDS completed final review and
10 evaluation of Final Docket XVII, including the EVR1 – City of Everett proposal, and
11 forwarded recommendations to the planning commission; and

12
13 WHEREAS, the planning commission held a public hearing and received public
14 testimony on Final Docket XVII, including the EVR1 – City of Everett proposal, on
15 October 7, 2014; and

16
17 WHEREAS, on October 14, 2014, the planning commission completed
18 deliberations on Final Docket XVII, including the EVR1- City of Everett proposal, and
19 recommended adoption of the EVR1 – City of Everett proposal as enumerated in its
20 recommendation letter of December 4, 2014; and

21
22 WHEREAS, on May 13, 2015 and continued to June 10, 2016, the Snohomish
23 County Council held a public hearing, after proper notice, to hear public testimony on
24 this ordinance and consider the entire record, including the planning commission's
25 recommendation, on Final Docket XVII and the EVR1 – City of Everett proposal.

26
27 NOW, THEREFORE, BE IT ORDAINED:

28
29 Section 1. The county council makes the following findings:

- 30
31 A. The county council adopts and incorporates the foregoing recitals as findings as if
32 set forth fully herein.
33
34 B. The EVR1 – City of Everett proposal would revise the Southwest Urban Growth Area
35 (UGA) to add 21 acres of land that will remain designated on the Future Land Use
36 Map (FLUM) of the General Policy Plan (GPP) as Riverway Commercial Farmland
37 (RCF) and will remain zoned Agriculture-10 Acre (A-10). The proposal would not
38 result in a net increase in residential or employment land capacity.
39
40 C. The EVR1 – City of Everett proposal site is vacant and located on Smith Island, west
41 of Union Slough and east of Everett's sewage treatment facility. The proposal site is
42 owned by the City of Everett, and is being used for wetland enhancement and
43 restoration to mitigate impacts from future expansion of Everett's sewage treatment

ORDINANCE NO. 14-131
RELATING TO THE GROWTH MANAGEMENT ACT, ADOPTING
FUTURE LAND USE MAP AMENDMENTS TO THE SNOHOMISH
COUNTY GROWTH MANAGEMENT ACT COMPREHENSIVE PLAN,
AMENDING THE ZONING MAP TO IMPLEMENT CHANGES TO
THE FUTURE LAND USE MAP, AND REVISING THE SOUTHWEST
URBAN GROWTH AREA (EVR1 – CITY OF EVERETT) - 2

1 facility. The dike along the eastern boundary of the site, adjacent to Union Slough,
2 previously was breached by the city to allow intertidal wetland restoration on the
3 south portion of the site. Including this municipal property in the UGA would allow
4 Everett to have all of its municipally-owned land in this area within the City of
5 Everett's boundaries, following annexation. Bringing the proposal site into the UGA
6 for eventual annexation also would streamline permitting associated with future
7 habitat restoration projects and enable Everett to efficiently provide public services
8 to its property.
9

10 D. The EVR1 – City of Everett proposal is consistent with the GMA, including
11 RCW 36.70A.060(4), which provides: "Forest land and agricultural land located
12 within urban growth areas shall not be designated by a county or city as forest land
13 or agricultural land of long-term commercial significance under RCW 36.70A.170
14 unless the city or county has enacted a program authorizing transfer or purchase of
15 development rights." Both the City of Everett and Snohomish County have enacted
16 transfer of development rights (TDR) programs. The county's TDR regulations are
17 contained in chapter 30.35A SCC.
18

19 E. The EVR1 – City of Everett proposal is subject to GMA requirements for UGAs
20 under RCW 36.70A.110(8) as the proposal site is located within the 100-year
21 floodplain of the Snohomish River, which has a mean annual flow that is greater
22 than 1,000 cubic feet per second. However, the proposal is exempt from the
23 prohibition of UGA expansions into a 100-year floodplain under
24 RCW 36.70A.110(8)(b)(iii)(C) because: 1) the proposal site is owned by the City of
25 Everett; 2) the city plans under the GMA; 3) the use of the proposal site will be
26 limited to wetland enhancement and restoration; and 4) the use of the proposal site
27 will not decrease flood storage, increase stormwater runoff, discharge pollutants to
28 fresh or salt waters during normal operations or floods, or increase hazards to
29 people and property.
30

31 F. The EVR1 – City of Everett proposal is consistent with and advances the Puget
32 Sound Regional Council (PSRC) Multicounty Planning Policies (MPP), in particular
33 DP- 29, which provides that the County protect and enhance significant open
34 spaces, natural resources, and critical areas. The proposal provides for continued
35 protection and future enhancement of the open space, floodplain, and critical areas
36 through the public ownership and continued RCF designation and A-10 zoning of the
37 site.
38

39 G. The EVR1 – City of Everett proposal is consistent with and advances the
40 Countywide Planning Policies (CPP), in particular DP-1(f), which provides that the
41 County shall maintain UGAs that do not include designated agricultural or forest land
42 unless the city or county has enacted a program authorizing transfer or purchase of
43 development rights. Both the city and county have adopted TDR programs.

ORDINANCE NO. 14-131
RELATING TO THE GROWTH MANAGEMENT ACT, ADOPTING
FUTURE LAND USE MAP AMENDMENTS TO THE SNOHOMISH
COUNTY GROWTH MANAGEMENT ACT COMPREHENSIVE PLAN,
AMENDING THE ZONING MAP TO IMPLEMENT CHANGES TO
THE FUTURE LAND USE MAP, AND REVISING THE SOUTHWEST
URBAN GROWTH AREA (EVR1 – CITY OF EVERETT) -3

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H. The EVR1 – City of Everett proposal is consistent with and advances the GPP, in particular LU Policy 1.A.7, which provides that designated forest and agricultural lands shall not be included within a UGA unless the designated lands are maintained as natural resource lands and a TDR/PDR program has been enacted by the city or the county. The proposal site will continue to be designated RCF, a natural resource plan designation, and both the city and the county have adopted TDR programs.

I. Procedural requirements.

1. This proposal is a Type 3 legislative action pursuant to SCC 30.73.010.
2. State Environmental Policy Act (SEPA) requirements with respect to this non-project action have been satisfied through the completion of a Draft EIS issued on September 8, 2014, and a Final EIS issued on June 3, 2015.
3. Pursuant to RCW 36.70A.106(1), a notice of intent to adopt this ordinance was transmitted to the Washington State Department of Commerce for distribution to state agencies on December 17, 2014.
4. The public participation process used in the adoption of this ordinance has complied with all applicable requirements of the GMA and the SCC.
5. The Washington State Attorney General last issued an advisory memorandum, as required by RCW 36.70A.370, in December of 2006 entitled "Advisory Memorandum: Avoiding Unconstitutional Takings of Private Property" to help local governments avoid the unconstitutional taking of private property. The process outlined in the State Attorney General's 2006 advisory memorandum was used by Snohomish County in objectively evaluating the amendments proposed by this ordinance.

J. The ordinance is consistent with the record.

1. No inconsistencies between the proposed amendments and the GMACP elements or development regulations have been identified.
2. The proposal complies with all requirements of the GMA, including: the requirement in RCW 36.70A.070 that a plan be an internally consistent document; the requirements in RCW 36.70A.130(1)(d) that any amendment to a comprehensive plan shall conform to the GMA and that any amendment to development regulations shall implement the comprehensive plan; the requirement in RCW 36.70A.130(2) that a county consider comprehensive plan amendments no more frequently than once per year; and the

ORDINANCE NO. 14-131
RELATING TO THE GROWTH MANAGEMENT ACT, ADOPTING
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THE FUTURE LAND USE MAP, AND REVISING THE SOUTHWEST
URBAN GROWTH AREA (EVR1 – CITY OF EVERETT) - 4

1 requirements in RCW 36.70A.130(1)(d) and .210(1) and (7) that the
2 comprehensive plan be consistent with the CPP and MPP.

3
4 Section 2. The county council makes the following conclusions:

- 5
6 A. The proposed amendments are consistent with the MPP and the CPP.
7
8 B. The proposal EVR1 – City of Everett meets the final docket criteria in
9 SCC 30.74.060.
10
11 C. The proposed amendments are consistent with the goals, objectives and policies of
12 the GPP.
13
14 D. The amendments are consistent with and comply with the procedural and
15 substantive requirements of the GMA.
16
17 E. The county has complied with all SEPA requirements with respect to this non-project
18 action.
19
20 F. The amendments do not result in an unconstitutional taking of private property for a
21 public purpose and they do not violate substantive due process guarantees.
22
23 G. The county complied with state and local public participation requirements under the
24 GMA and chapter 30.73 SCC.
25

26 Section 3. The county council bases its findings and conclusions on the entire record of
27 the county council, including all testimony and exhibits. Any finding which should be
28 deemed a conclusion, and any conclusion which should be deemed a finding, is hereby
29 adopted as such.
30

31 Section 4. The Future Land Use Map of the GPP, last amended by Amended
32 Ordinance No. 14-069 on October 8, 2014, is amended as indicated in Exhibit A to this
33 ordinance, which is attached hereto and incorporated by reference into this ordinance.
34

35 Section 5. The area-wide zoning map, last amended by Amended Ordinance No. 14-
36 068 on October 8, 2014, is amended as indicated in Exhibit B to this ordinance, which is
37 attached hereto and incorporated by reference into this ordinance.
38

39 Section 6. The county council directs the Code Reviser to update SCC 30.10.060
40 pursuant to SCC 1.02.020(3).
41

42 Section 7. Severability and Savings. If any section, sentence, clause or phrase of this
43 ordinance shall be held to be invalid by the Growth Management Hearings Board

ORDINANCE NO. 14-131
RELATING TO THE GROWTH MANAGEMENT ACT, ADOPTING
FUTURE LAND USE MAP AMENDMENTS TO THE SNOHOMISH
COUNTY GROWTH MANAGEMENT ACT COMPREHENSIVE PLAN,
AMENDING THE ZONING MAP TO IMPLEMENT CHANGES TO
THE FUTURE LAND USE MAP, AND REVISING THE SOUTHWEST
URBAN GROWTH AREA (EVR1 – CITY OF EVERETT) - 6

1 ("Board"), or unconstitutional by a court of competent jurisdiction, such invalidity or
2 unconstitutionality shall not affect the validity or constitutionality of any other section,
3 sentence, clause or phrase of this ordinance. Provided, however, that if any section,
4 sentence, clause or phrase of this ordinance is held to be invalid by the Board, then the
5 section, sentence, clause or phrase in effect prior to the effective date of this ordinance
6 shall be in full force and effect for that individual section, sentence, clause or phrase as
7 if this ordinance had never been adopted.

8
9 PASSED this 10th day of JUNE, 2015.

10
11 SNOHOMISH COUNTY COUNCIL
12 Snohomish County, Washington

13
14 
15 Council Chair

16 ATTEST:

17 
18

19
20
21 APPROVED
22 EMERGENCY
23 VETOED

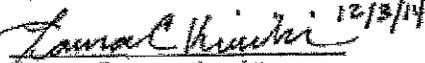
24 DATE: 6/30, 2015

25
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27 
28 County Executive

29 ATTEST:

30
31 
32

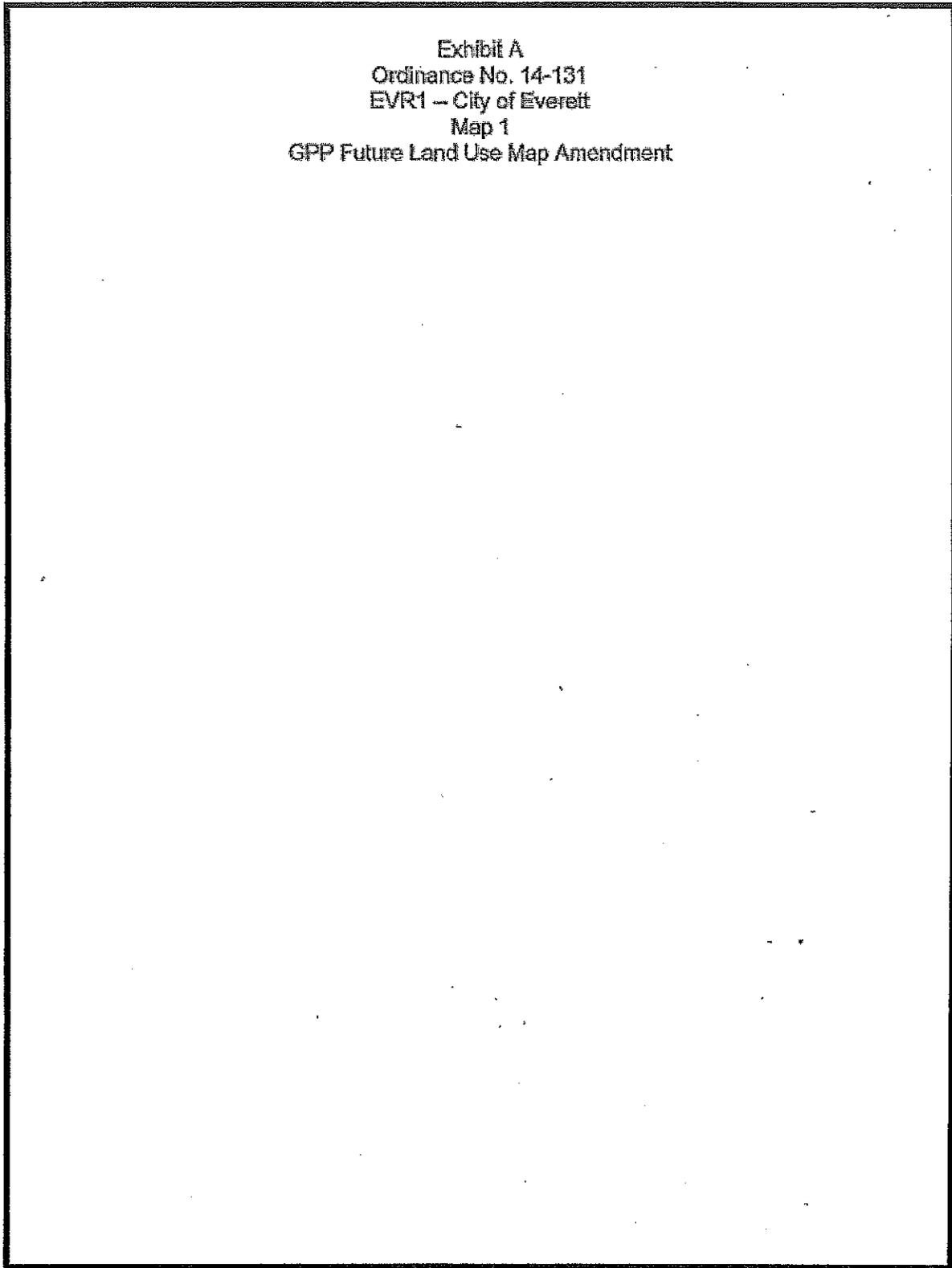
33 Approved as to form only:

34  12/3/14
35 Samuel Khouri
36 Deputy Prosecuting Attorney

D-4

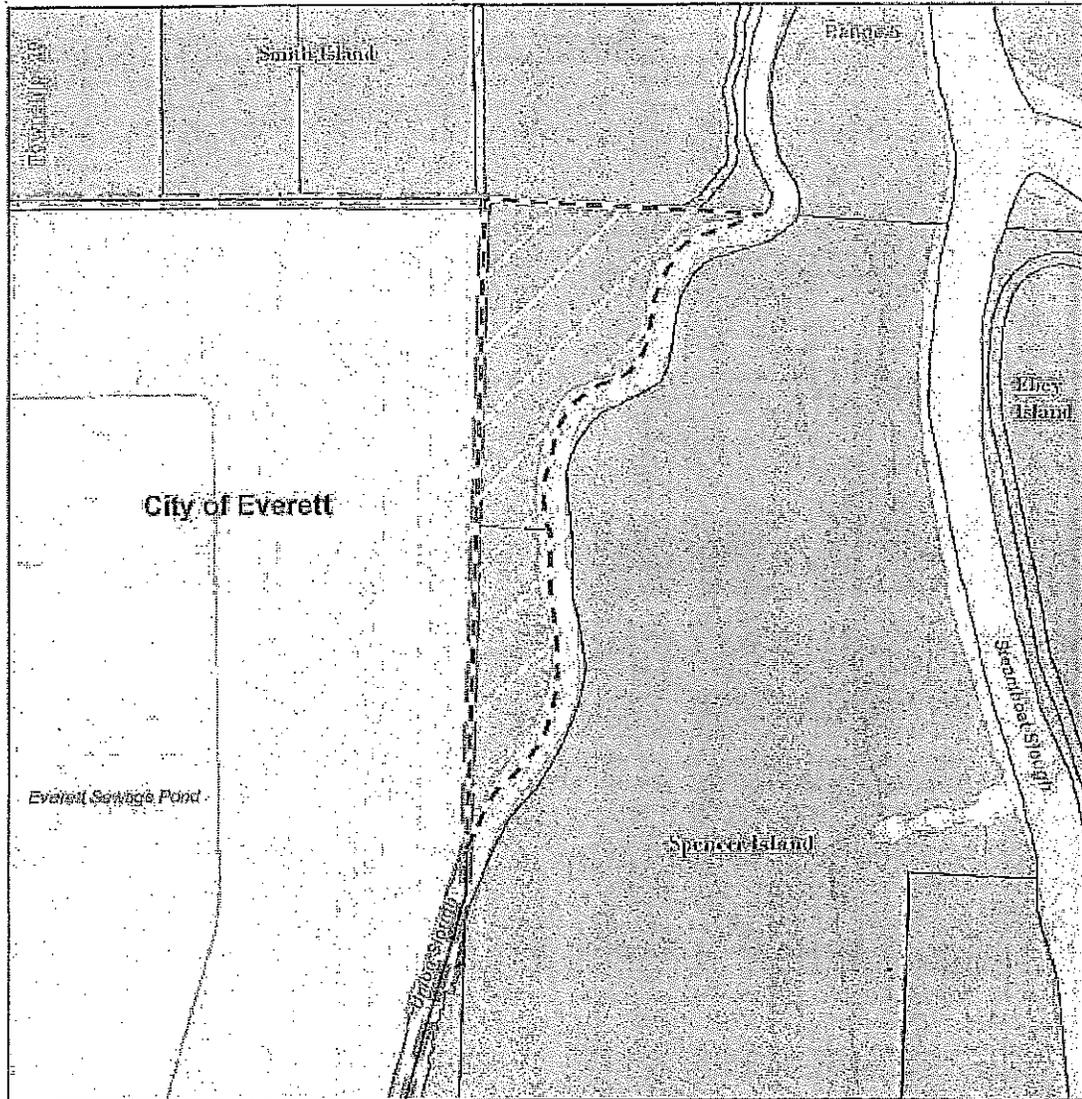
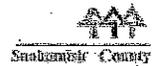
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THE FUTURE LAND USE MAP, AND REVISING THE SOUTHWEST
URBAN GROWTH AREA (EVR1 - CITY OF EVERETT) - 6

Exhibit A
Ordinance No. 14-131
EVR1 – City of Everett
Map 1
GPP Future Land Use Map Amendment



Final Docket XVII
 City of Everett (EVR1)
 June 10, 2015

Council Adopted Future Land Use Map
 Comprehensive Plan Amendment



<p>FLU Map Amendment:</p> <p>EVR1</p> <p>SW UGA Expansion</p> <p>No FLU redesignation</p>	<p>City of Everett</p> <p>Adjacent Parcel</p> <p>UGA Boundary</p> <p>Future Land Use Map Designation</p> <p>Residential Commercial Farmland</p>	<p>Scale: 1" = 100'</p> <p>North arrow</p> <p>Source: Snohomish County Department of Planning and Development, Records, Geographic Data, Aerial Imagery, and Topographic Data. All data is provided as is and is not to be used for any purpose other than that for which it was provided. Snohomish County does not warrant the accuracy or completeness of the data, and the user assumes all responsibility for the use of the data. All rights reserved.</p>
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Map: \\snohomish\gis\mxd\MapDocs\Planning\ComprehensivePlanAmendment\EVR1_FLU_Expansion.mxd Date: 6/10/15

Exhibit A

Exhibit B
Ordinance No. 14-131
EVR1 – City of Everett
Zoning Map Amendment

Exhibit H

Notice of Adoption of Snohomish County's FSEIS for their Shoreline Management Plan



ADOPTION OF EXISTING ENVIRONMENTAL DOCUMENT

Smith Island Municipal Annexation

ANNX #15-001

Description of Proposal: The City of Everett is proposing to annex unincorporated Snohomish County territory on Smith Island. The property is within the City's Urban Growth Area, is owned by the City, and is of a municipal purpose. The City's Comprehensive Plan designation of 2.8: Public/Quasi Public Facilities is currently applied to the area. Zoning of the site is proposed to be A-1: Agriculture Rural Flood Fringe District. The City proposes to adopt Snohomish County's Shoreline Management Program and interim Snohomish County Shoreline Management Program Resource and Aquatic designations for the subject area, until the City updates the Shoreline Master Program to include this area.

Proponent: City of Everett Planning and Community Development Department

Location of Proposal: Portion of Smith Island, west of Union Slough, south of 12th St NE.

Title of Document Being Adopted: Final Supplemental Environmental Impact Statement for Snohomish County Shoreline Management Program Update.

Agency that Prepared Document Being Adopted: Snohomish County Planning and Development Services.

Date Adopted Document was Prepared: The FSEIS was issued on August 25, 2010.

Description of Document Being Adopted: Snohomish County revised their Shoreline Management Program (SMP) as required by state law, RCW 90.58. The purpose of the document was to analyze the potential environmental impacts of the county's proposed updates to their SMP considering three proposed alternatives that evaluated maintaining the existing County SMP, modifying the County SMP to comply with new state SMP Guidelines, and modifying County SMP to be in compliance with new state SMP Guidelines with a reduced jurisdictional boundary.

If the Document Being Adopted has been Challenged (WAC 197-11-630), Please Describe: The document being adopted was not challenged.

Document is Available to Read at: The City of Everett Planning Department, 2930 Wetmore Avenue, Suite 8-A, Everett, WA, from 8:00 a.m. to 12 noon and 1:00 p.m. to 5:00 p.m., Monday through Friday.

We have identified and adopted this document as being appropriate for this proposal after independent review. The document meets our environmental review needs for the current proposal and will accompany the proposal to the decision makers.

Name of Agency Adopting Document: City of Everett Planning and Community Development Department.

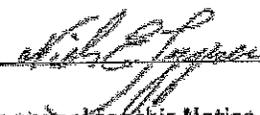
Contact Person: Niels Tygesen, phone: 425.257.8731

Responsible Official: Allan Giffen

Title: Director, Planning and Community Development Department

Address: 2930 Wetmore Avenue, Suite 8-A, Everett, WA 98201

Date: July 29, 2015

Signature:  FOR A.G.

There is no appeal for this Notice of Adoption.

Exhibit I
Planning Commission Resolution 15-06

**CITY OF EVERETT
PLANNING COMMISSION
RESOLUTION NO. 15-06**



Smith Island Municipal Annexation

A Resolution recommending that City Council set zoning of A-1: Agriculture Rural Flood Fringe District, and adopt interim Snohomish County Shoreline Management Program Resource and Aquatic designations for the Smith Island Municipal Annexation area.

WHEREAS, the Everett City Council passed a resolution on July 29, 2015, calling for annexation of the subject area; and

WHEREAS, the Land Use designation of the adjacent City owned property of 27.35 total acres (includes shoreline area) is 2.8: Public/Quasi Public Facilities with equivalent zoning of A-1: Agriculture Rural Flood Fringe District; and

WHEREAS, the subject property's Land Use designation is 2.8: Public/Quasi Public Facilities adopted in Ordinance 3288-12; and

WHEREAS, the equivalent zoning, according to the Land Use Element of the Comprehensive Plan, lists Existing Zoning as the implementing zone for the 2.8: Public/Quasi Public Facilities designation; and

WHEREAS, the equivalent zoning of A-1: Agriculture Rural Flood Fringe District for the subject property is the most appropriate designation to keep consistency with the zoning of adjacent property; and

WHEREAS, the subject property is designated as Resource and Aquatic by Snohomish County's Shoreline Management Program; and

WHEREAS, the City will be required to update its Shoreline Master Program by June 30, 2019; and

WHEREAS, the interim adoption of Snohomish County's Shoreline Management Program and equivalent designations for the subject property are the most appropriate designations until the City updates the Shoreline Master Program to include this property; and

WHEREAS, the City's responsible official issued a Determination of Non-significance SEPA No. 11-047 for the proposed zoning and a Notice of Adoption of Snohomish County's FSEIS for their Shoreline Management Plan was issued for the proposed interim shoreline designations; and

WHEREAS, the Planning Commission held a Public Hearing on the proposed zoning and interim Shoreline Management Program Designations on August 4, 2015; and

WHEREAS, the Planning Commission finds;

- I. The Everett Comprehensive Plan designation of 2.8: Public/Quasi Public Facilities has already been adopted and put in place for the annexation area.

2. The A-1: Agriculture Rural Flood Fringe District implementing zone is consistent with existing land use policies of the Everett Comprehensive Plan.
3. The recommended A-1: Agriculture Rural Flood Fringe District is consistent with the Comprehensive Plan map designation of 2.8: Public/Quasi Public Facilities and is the best fit for the anticipated future uses in the area.
4. The interim Snohomish County Shoreline Management Program Resource and Aquatic designations are consistent with existing land use policies of the Everett Comprehensive Plan.
5. The recommended interim Snohomish County Shoreline Management Program Resource and Aquatic designations are consistent with the Comprehensive Plan map designation of 2.8: Public/Quasi Public Facilities and are the best fit for the anticipated future uses in the area.
6. The proposed zoning and Shoreline Management Program designations bear a substantial relation to public health, safety or welfare and promote the best long-term interests of the Everett community.

NOW THEREFORE, THE PLANNING COMMISSION RECOMMENDS:

1. That City Council adopts A-1: Agriculture Rural Flood Fringe District as the zoning for the annexation area, (Exhibit A).
2. That City Council adopts Snohomish County Shoreline Management Program and designations of Resource and Aquatic as interim Shoreline Master Program designations for the annexation area, (Exhibit B).



 Planning Commission Chair

8/3/15

 Date



 Planning Commission Secretary

For: Commissioner Beck, Commissioner Tisdell, Commissioner Adams, and Chair Stewart

Against: None

Absent: Commissioner Zelinski, Commissioner Jordison, Commissioner Sand, and Commissioner Holland

Abstain: None

Exhibit A
Zoning Designation

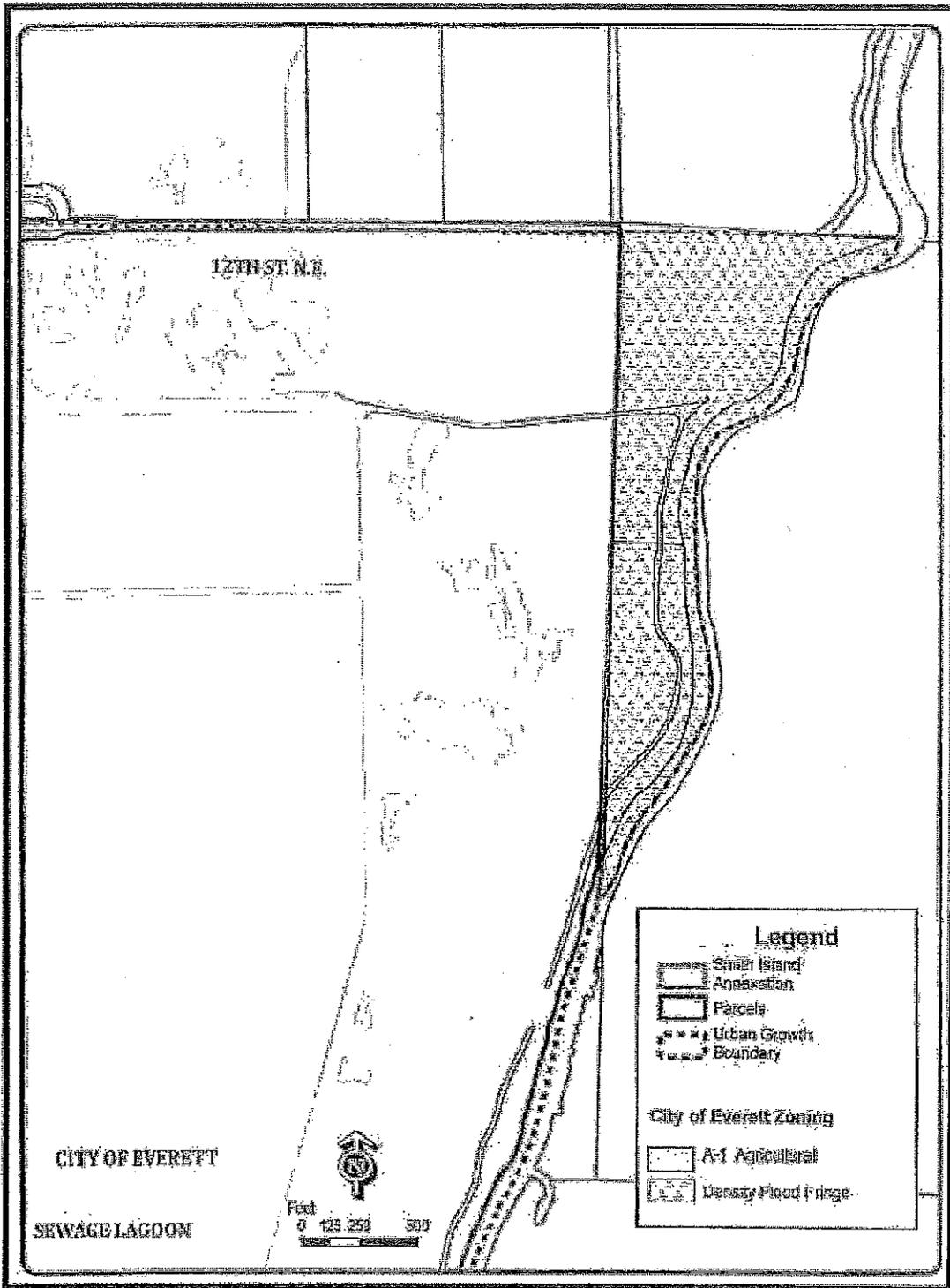
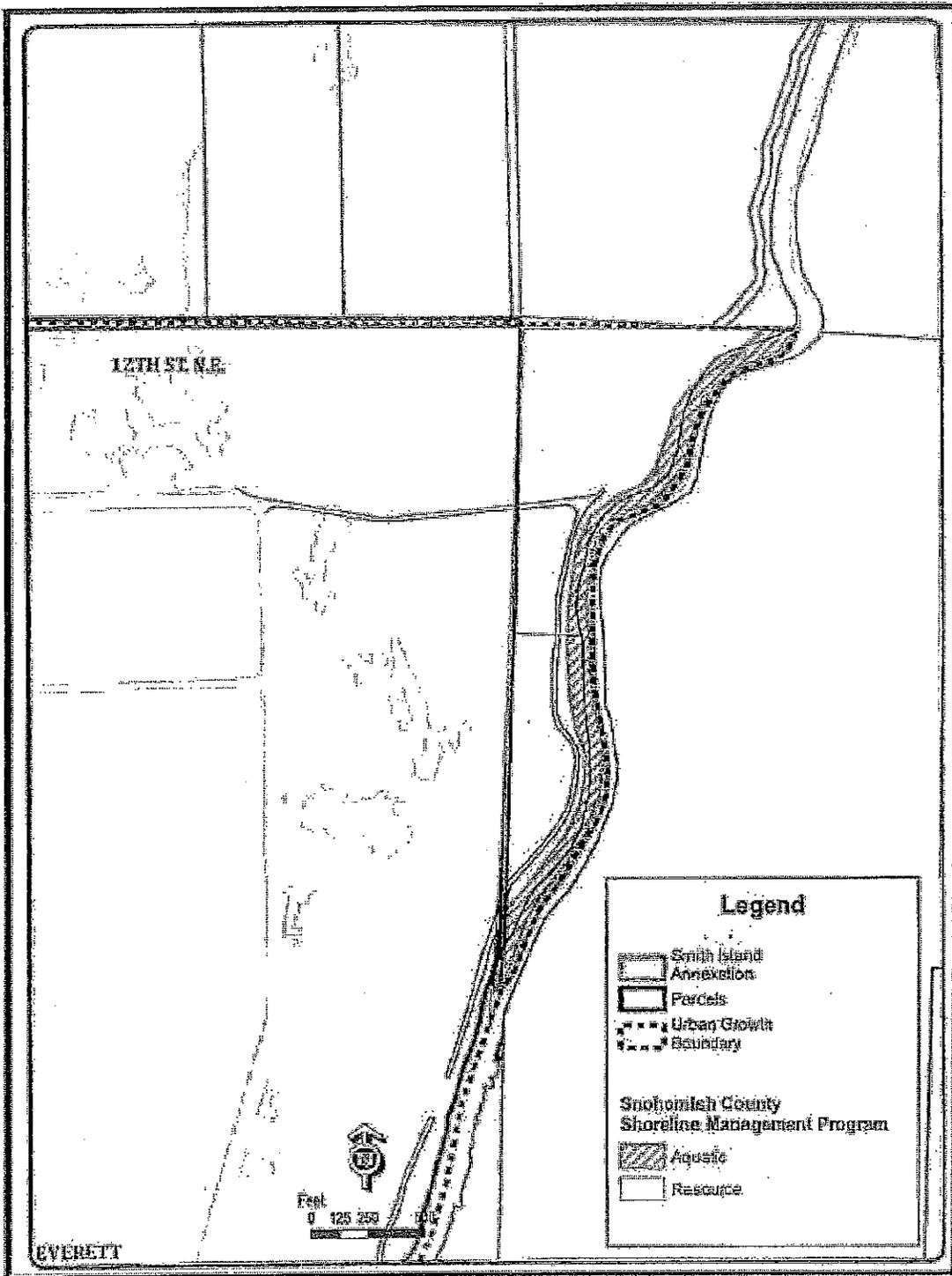


Exhibit B
Shoreline Master Program Designations



EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

AN ORDINANCE
 Establishing Zoning for the
 Smith Island Municipal
 Annexation Area, amending
 Exhibit A to Ordinance No.
 1671-89 (as amended)

_____	Briefing
_____	Consent
<u>8/10/16</u>	Action
<u>7/27/16</u>	First Reading
<u>8/3/16</u>	Second Reading
<u>8/10/16</u>	Third Reading
<u>8/10/16</u>	Public Hearing

COUNCIL BILL #
 Originating Dept.
 Contact Person
 Phone Number
 FOR AGENDA OF

CB1607-32
Planning
Allan Giffen
425-257-8725
July 27, 2016

Initialed by:
 Department Head
 CAA
 Council President

db

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Smith Island, west of Union Slough, south of 12 th Street	Planning Commission Hearing and Recommendation on 8/4/2015	Ordinance	Legal, Planning

Amount Budgeted	N/A	
Expenditure Required	N/A	
Budget Remaining	N/A	
Additional Required	N/A	

DETAILED SUMMARY STATEMENT:

The current Comprehensive Land Use designation for the Smith Island Municipal Annexation area is 2.8 (Public/Quasi-Public Facilities).

Planning Commission has recommended the implementing zone be set at A-1 RFFD (Agriculture Rural Flood Fringe District) consistent with the City's adjoining Water Pollution Control Facility property.

RECOMMENDATION (Exact action requested of Council):

Adopt an Ordinance Establishing Zoning for the Smith Island Municipal Annexation Area, amending Exhibit A to Ordinance No. 1671-89 (as amended).

ORDINANCE NO. _____

**AN ORDINANCE Establishing Zoning for the Smith Island Municipal Annexation Area,
amending Exhibit A to Ordinance No. 1671-89 (as amended)**

WHEREAS, the City of Everett is provided authority to annex contiguous unincorporated territory pursuant to RCW 35.13.180; and

WHEREAS, in 2012 a SEPA review was completed and a Determination of Nonsignificance No. 11-047 was issued that addressed a Comprehensive Plan designation of 2.8: Public/Quasi-Public Facilities and A-1 Agriculture zoning for the proposed Smith Island Annexation Area, an approximate 27.35 acre area owned by the City and located along Union Slough and adjoining other City-owned properties to the east; and

WHEREAS, on August 1, 2012, City Council passed Ordinance 3288-12 adopting the 2.8: Public/Quasi-Public Facilities designation for the subject property consistent with the designations for other City-owned properties to the west; and

WHEREAS, Snohomish County Council reviewed the City's request for expansion of the Urban Growth Area (UGA) and passed Ordinance 14-131 on June 10, 2015 amending the City's UGA to include the subject property; and

WHEREAS, on August 4, 2015, the Planning Commission held a public hearing regarding establishment of the enabling zone for the subject area upon annexation to the City and recommended that the Smith Island Municipal Annexation be zoned A-1 RFFD (Agriculture Rural Flood Fringe District) (Exhibit "A"); and

WHEREAS, on July 29, 2015 City Council passed Resolution 6882 stating the Council's intent to annex to Everett unincorporated Snohomish County Territory on Smith Island and City Council did conduct a public hearing on September 9, 2015, for the proposed annexation, for which proper notice of hearing was provided; and

WHEREAS, THE CITY COUNCIL FINDS:

1. The proposed zoning is consistent with the Everett Comprehensive Plan.

2. The proposed zoning bears a substantial relation to public health, safety or welfare.
3. The proposed zoning promotes the best long-term interests of the Everett community.
4. The area proposed to be zoned A-1 RFFD will be developed for environmental mitigation/restoration consistent with and supporting the uses on adjacent properties and the proposed zoning will not adversely impact adjacent uses.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1: Zoning. That the Zoning Map of that portion of the City of Everett shown on the map in Exhibit A and legally described below is hereby established as A-1 RFFD (Agriculture Rural Flood Fringe District), amending Exhibit A to Ordinance No. 1671-89(as amended):

SMITH ISLAND MUNICIPAL ANNEXATION AREA: LEGAL DESCRIPTION

IT IS THE INTENT OF THIS LEGAL DESCRIPTION TO FOLLOW THE EXISTING CORPORATE CITY LIMITS OF EVERETT. REFERENCES HEREIN ARE MEANT TO CONVEY THAT ALTHOUGH PRESENT RIGHTS OF WAY BOUNDARIES MAY BE DIFFERENT, THE RIGHTS OF WAY BOUNDARIES AT THE TIME OF THE ORIGINAL INCORPORATION AND SUBSEQUENTLY ADOPTED ORDINANCES ARE INTENDED TO BE FOLLOWED SO THAT NO GAP OR OVERLAP EXISTS BETWEEN THIS ANNEXATION AND THE EXISTING CITY LIMITS OF EVERETT.

All that portion of the West Half of the NW Quarter of Section 15, Township 29 North, Range 5 East, W.M. lying west of the MID-CHANNEL of UNION SLOUGH.

Situate in County of Snohomish, State of Washington.

Being an area of approximately 27.35 Acres.

Section 2: Severability. Should any section, paragraph, clause or phrase of this Ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulations, this shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 3: Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

Section 4: Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of

scrivener's/clerical errors, references, ordinance numbering, section/subsection number and any references thereto.

Section5: General Duty. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provisions or any term used in this Ordinance is intended to impose any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Ray Stephanson, MAYOR

ATTEST:

Sharon Fuller, CITY CLERK

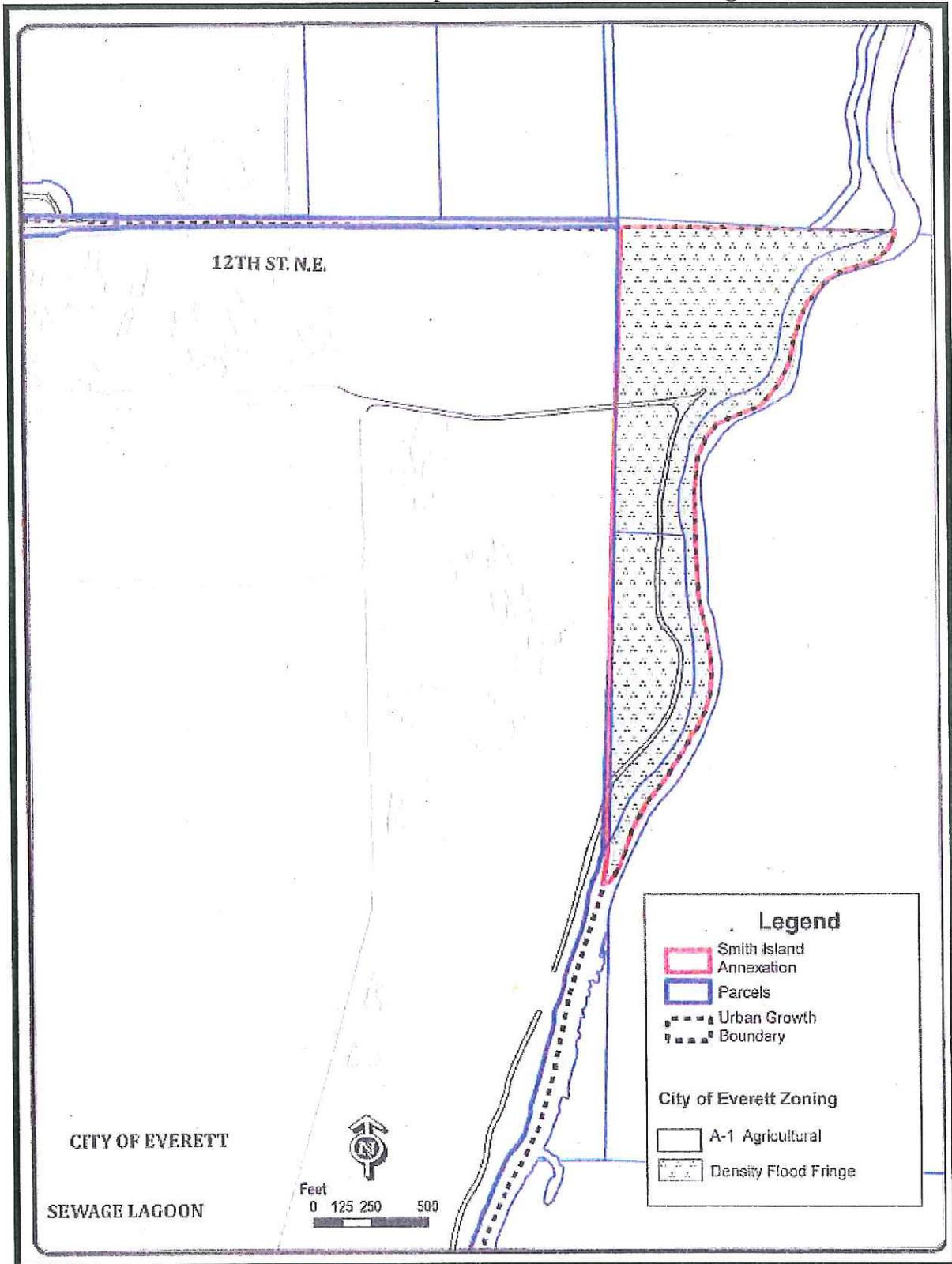
Passed: _____

Valid: _____

Published: _____

Effective Date: _____

Exhibit A
Smith Island Municipal Annexation Area Zoning



EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

AN ORDINANCE Adopting the
Snohomish County Shoreline
Management Program Resource
and Aquatic Designations and
Program Policies and
Regulations as Interim
Designations for the Smith
Island Municipal Annexation
Area, amending Ordinance No.'s
2600-02, 2021-94 and 1671-89
(as amended)

_____ Briefing
_____ Consent
8/10/16 Action
7/27/16 First Reading
8/3/16 Second Reading
8/10/16 Third Reading
8/10/16 Public Hearing

COUNCIL BILL #
Originating Dept.
Contact Person
Phone Number
FOR AGENDA OF

CB 1607-33
Planning
Allan Giffen
425-257-8725
July 27, 2016

Initialed by:
Department Head
CAA
Council President

db

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
Smith Island, west of Union Slough, south of 12 th Street	Planning Commission Hearing and Recommendation on 8/4/2015	Ordinance	Legal, Planning

Amount Budgeted	N/A	
Expenditure Required	N/A	
Budget Remaining	N/A	
Additional Required	N/A	

DETAILED SUMMARY STATEMENT:

The Planning Commission has recommended adopting Snohomish County Shoreline Management Program Resource and Aquatic designations as interim designations for the Smith Island Municipal Annexation area. The proposal also includes adoption and application of the Snohomish County's Shoreline Management Program Policies and Regulations to this area until such time as the City can update the City's Shoreline Master Program.

RECOMMENDATION (Exact action requested of Council):

Adopt an Ordinance Adopting the Snohomish County Shoreline Management Program Resource and Aquatic Designations and Program Policies and Regulations as Interim Designations for the Smith Island Municipal Annexation Area, amending Ordinance No.'s 2600-02, 2021-94 and 1671-89 (as amended).

ORDINANCE NO. _____

AN ORDINANCE Adopting the Snohomish County Shoreline Management Program Resource and Aquatic Designations and Program Policies and Regulations as Interim Designations for the Smith Island Municipal Annexation Area, amending Ordinance No.'s 2600-02, 2021-94 and 1671-89 (as amended)

WHEREAS, the City of Everett is provided authority to annex contiguous unincorporated territory pursuant to RCW 35.13.180; and

WHEREAS, Snohomish County Council reviewed the City's request for expansion of the Urban Growth Area (UGA) for properties on Smith Island and passed Ordinance 14-131 on June 10, 2015 amending the City's UGA to include the subject property; and

WHEREAS, WAC 173-26-160 requires local governments to amend their shoreline master programs to address newly annexed areas within one year of annexation, but until the master program is amended any decision on an application for a shoreline permit in the annexed shoreline area shall be based upon compliance with the master program in effect for the area prior to annexation; and

WHEREAS, on July 29, 2015 the City's Responsible Official issued a Notice of Adoption of Snohomish County's Final Environmental Impact Statement for Snohomish County's Shoreline Management Program update to meet the City's State Environmental Policy Act requirements for the proposal; and

WHEREAS, on August 4, 2015, the Planning Commission held a public hearing regarding establishing shoreline designations for the subject area upon annexation to the City and recommended that City Council adopt Resource and Aquatic designations as interim designations for the Smith Island Municipal Annexation Area; and

WHEREAS, the goals and policies of Shoreline Management / Master Programs are also part of the Comprehensive Plan and the regulations in Shoreline Management / Master programs are also part of the City's zoning regulations; and

WHEREAS, on July 29, 2015 City Council passed Resolution 6882 stating the Council's intent to annex to Everett unincorporated Snohomish County Territory on Smith Island and City

Council did conduct a public hearing on September 9, 2015, for the proposed annexation, for which proper notice of hearing was provided; and

WHEREAS, THE CITY COUNCIL FINDS:

1. The purpose for the proposed interim amendments to the Shoreline Master Program, Comprehensive Plan and Zoning are to address a newly annexed area of City-owned land on Smith Island adjacent to larger restoration / mitigation areas, providing for the subject area's management needs and allowing the provision of public safety services to the property.
2. The proposed interim designations, goals, policies and regulations are the same as that in Snohomish County's existing Shoreline Management Program and will be used for permitting purposes until such time as the City updates the Shoreline Master Program.
3. The proposed interim designations, goals, policies, and regulations are generally consistent with the City's Comprehensive Plan.
4. The amendments will not create pressure to change the designations of other properties in the vicinity.
5. The proposal bears a substantial relation to public health, safety or welfare.
6. The proposal promotes the best long-term interests of the Everett community.

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1: Shoreline Master Program. The Snohomish County Shoreline Management Program is hereby adopted to apply to the Smith Island Municipal Annexation area, amending Ordinances 2600-02 (Shoreline Master Program), as amended, Ordinance 2021-94 (Comprehensive Plan), as amended, and Ordinance 1671-89 (Title 19 EMC), as amended until such time as the City updates the Shoreline Master Program.

Section 2: Shoreline Master Program Designations. The Shoreline Master Program designation for that portion of the West Half of the NW Quarter of Section 15, Township 29 North, Range 5 East, W.M. lying west of the ordinary high water mark of Union Slough and shown on Exhibit "A" attached hereto and incorporated herein by reference is Resource Environment, and the Shoreline Master Program designation for that portion of the West Half of the NW Quarter of Section 15, Township 29 North, Range 5 East, W.M. lying east of the ordinary high water mark of Union Slough to the mid-channel of Union Slough and shown on Exhibit "A" attached hereto and incorporated herein by reference is Aquatic Environment, until such time as the City updates the Shoreline Master Program.

Section 3: Severability. Should any section, paragraph, clause or phrase of this Ordinance or its application to any person or circumstance be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or

regulations, this shall not affect the validity of the remaining portions of this ordinance or its application to other persons or circumstances.

Section 4: Conflict. In the event there is a conflict between the provisions of this Ordinance and any other City ordinance, the provisions of this Ordinance shall control.

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

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

Ray Stephanson, MAYOR

ATTEST:

Sharon Fuller, CITY CLERK

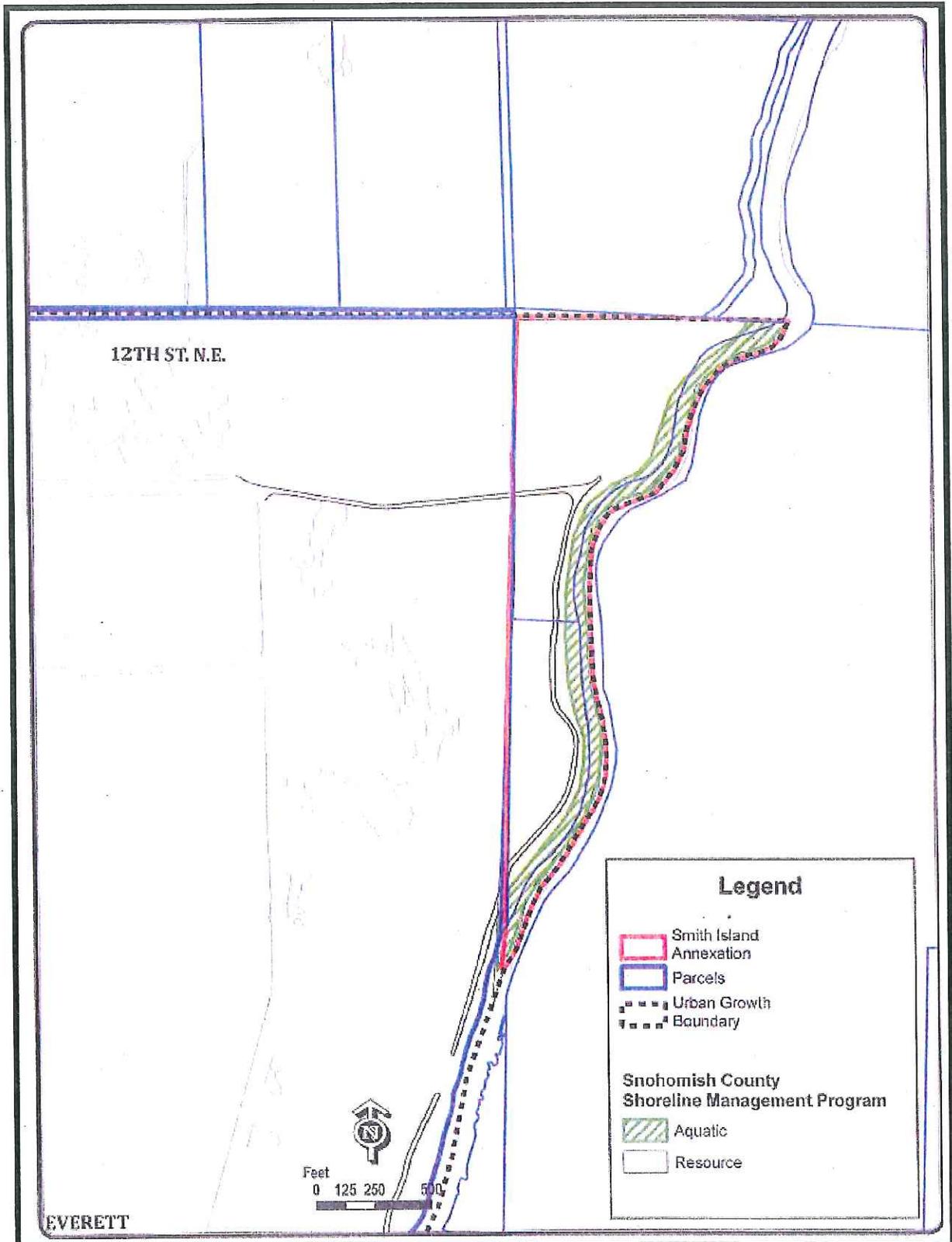
Passed: _____

Valid: _____

Published: _____

Effective Date: _____

Exhibit A
Smith Island Municipal Annexation Area Shoreline Master Program Designations



EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Resolution for financial support to the Snohomish County Transportation Coalition (SNOTRAC)

_____ Briefing
 _____ Proposed Action
 _____ Consent
 _____ Action
 _____ First Reading
 _____ Second Reading
 _____ Third Reading
 _____ Public Hearing
 _____ Budget Advisory

COUNCIL BILL # _____
 Originating Department Trans. Services
 Contact Person Tom Hingson
 Phone Number 425-257-8939
 FOR AGENDA OF August 3, 2016

Initialed by:
 Department Head _____
 CAA db
 Council President _____

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u> Resolution	<u>Department(s) Approval</u> Legal, Administration
Amount Budgeted	\$5,000		
Expenditure Required	\$5,000	Account Number: 425 5 090 010 010	
Budget Remaining			
Additional Required	-0-		

DETAILED SUMMARY STATEMENT:

The Snohomish County Transportation Coalition (SNOTRAC) is an organization dedicated to helping people with mobility challenges to access and use the transportation solution best suited for them. Through communication and coordination, SNOTRAC partners work together to reduce duplication of services in the county while looking for new ways to help ensure everyone has access to transportation.

SNOTRAC members include Snohomish County Senior Services, Snohomish County Government, City of Everett, Everett Transit, Community Transit, Tribes, private service providers, non-profit agencies, social service agencies, and customers. SNOTRAC is governed by an executive board of which Everett Transit is a member.

Senior Services of Snohomish County manages SNOTRAC staff and also serves as the fiscal agent. SNOTRAC is funded through competitive state grants and local match. Through the current state biennium (June 30, 2017), the grant and local match funding is insufficient to maintain current programs. To balance the budget, SNOTRAC has asked its major partners to make a contribution to help ensure continuity of service. SNOTRAC has requested that Everett Transit contribute \$5,000. Moving forward, SNOTRAC intends to use contributions from its partners for the local match for grant funded programs. The amounts of the future contributions have not yet been determined.

RECOMMENDATION (Exact action requested of Council):

Adopt a Resolution for financial support to the Snohomish County Transportation Coalition (SNOTRAC) in the amount of \$5,000.



RESOLUTION No. _____

A RESOLUTION for financial support to the Snohomish County Transportation Coalition (SNOTRAC)

WHEREAS, SNOTRAC is a coalition of public and private transportation providers, social service agencies, special needs advocacy groups, Native American tribes and customers; and

WHEREAS, SNOTRAC's mission is to coordinate existing transportation services and information, expand transportation options, and is a voice on transportation issues for people with transportation challenges; and

WHEREAS, Senior Services of Snohomish County manages SNOTRAC and serves as its fiscal agent; and

WHEREAS, SNOTRAC is funded through state grants and local match; and

WHEREAS, to support SNOTRAC, Snohomish County Senior Services employs a Regional Mobility Manager and a Mobility coordinator to manage and implement "Ride Around the Sound" and "Pay your Pal" to educate and assist the mobility challenged; and

WHEREAS, the City of Everett is the largest city in Snohomish County and its citizens have access to the opportunities created by SNOTRAC; and

WHEREAS, Everett Transit is represented on SNOTRAC's Executive Board and its staff regularly participates in the monthly planning and coordinating Partner meetings; and

WHEREAS, the funding for SNOTRAC through June 30, 2017 falls short of program plans; and

WHEREAS, Snohomish County Senior Services, with consent of the SNOTRAC Executive Board, has requested financial assistance from partner agencies to help ensure continuity of service and programs through June 30, 2017; and

WHEREAS, the requested contribution from Everett Transit is \$5,000.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF
EVERETT THAT:**

The City Council shall authorize the Mayor to direct staff to support SNOTRAC, through Snohomish County Senior Services in the amount of five thousand dollars and zero cents (\$5,000).

COUNCIL MEMBER INTRODUCING RESOLUTION

PASSED AND APPROVED THIS _____ DAY OF AUGUST,
2016.

SCOTT MURPHY,
COUNCIL PRESIDENT

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Settlement Agreement with
Brenda Kennedy in the amount
of \$35,000

_____ Briefing
_____ Proposed Action
_____ Consent
8/10/16 Action
_____ First Reading
_____ Second Reading
_____ Third Reading
_____ Public Hearing

COUNCIL BILL # _____
Originating Department Legal
Contact Person R. Ramerman
Phone Number 425-257-7000
FOR AGENDA OF August 10, 2016

Initialed by:
Department Head _____
CAA db
Council President _____

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u> Legal, Police
Amount Budgeted	-0-		
Expenditure Required	\$35,000	Account Number(s): Tort fund	
Budget Remaining	-0-		
Additional Required	-0-		

DETAILED SUMMARY STATEMENT:

Brenda Kennedy made ten different requests for public records, primarily correspondence, in November 2015. Although the City responded in December 2015 and January 2016, it was later determined that a number of records were missed in the original search. The City has now completed its responses, but has exposure for its failure to originally identify and provide all responsive records. Brenda Kennedy has filed suit against the City for failure to provide the requested public records. A settlement has been reached in the amount of \$35,000 that would resolve all outstanding issues regarding her public records requests.

RECOMMENDATION (Exact action requested of Council):

Authorize the Mayor to sign the settlement agreement to settle all claims with Brenda Kennedy in the amount of \$35,000.

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

Interlocal Agreement
 Establishing Snohomish
 Regional Drug & Gang Task
 Force

_____ Briefing
 _____ Proposed Action
 _____ Consent
 _____ Action
 _____ First Reading
 _____ Second Reading
 _____ Third Reading
 _____ Public Hearing
 _____ Budget Advisory

COUNCIL BILL # _____
 Originating Department Police
 Contact Person James Lever
 Phone Number 425-257-8418
 FOR AGENDA OF August 10, 2016

Initialed by:
 Department Head _____
 CAA db
 Council President _____

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u>	<u>Department(s) Approval</u>
	Continual SRDGT Interlocal Agreements in effect since 1/18/88	Interlocal Agreement	Legal, Police

Amount Budgeted	35,178.00	Account Number: 156-351-4200-240
Expenditure Required	35,178.00	Account Number: 156-524-0000-494
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

The City of Everett enters into an annual agreement with other jurisdictions for the operation of the Snohomish Regional Drug & Gang Task Force. The Interlocal Agreement Establishing Snohomish Regional Drug & Gang Task Force provides for each jurisdiction to contribute toward the local match requirements for federal grant funds. The City of Everett's share for the agreement of July 1, 2016, to September 30, 2017, is \$35,178.00. The agreement further provides that the City of Everett will assign its Narcotics Unit to the Task Force. The \$35,178.00 is drawn from the Narcotics Forfeiture Account and will not affect the General Fund. Historically a one year term, it should be noted that the agreement term has been extended a full quarter to allow future alignment with the federal fiscal year. This additional quarter accounts for the marked increase in the City of Everett's required financial contribution over the 2015-2016 agreement amount of \$27,697.00.

RECOMMENDATION (Exact action requested of Council):

Authorize the Mayor to sign the Interlocal Agreement Establishing Snohomish Regional Drug & Gang Task Force in the amount of \$35,178.00.

**INTERLOCAL AGREEMENT ESTABLISHING
SNOHOMISH REGIONAL DRUG & GANG TASK FORCE**

This Interlocal Agreement Establishing the Snohomish Regional Drug & Gang Task Force ("Agreement"), is entered into by and among Snohomish County, a political subdivision of the State of Washington, and the following jurisdictions (hereinafter collectively referred to as the "Participating Jurisdictions"):

City of Arlington	City of Mill Creek
City of Bethell	City of Monroe
City of Brier	City of Mountlake Terrace
City of Darrington	City of Mukilteo
City of Edmonds	City of Snohomish
City of Everett	City of Stanwood
City of Gold Bar	City of Sultan
City of Granite Falls	DSHS, Child Protective Services
City of Index	Washington State Patrol
City of Lake Stevens	Snohomish Health District
City of Lake Forest Park	
City of Lynnwood	
City of Marysville	

WITNESSES THAT:

WHEREAS, the State of Washington Department of Commerce (hereinafter "Commerce"), has received funds from the U.S. Department of Justice under authority of the Anti-Drug Abuse Act of 1988 to provide grants to local units of government for drug law enforcement; and

WHEREAS, eligible applicants include cities, counties and Indian tribes; and

WHEREAS, chapter 39.34 RCW permits one or more public agencies to contract with any one or more other public agencies to perform any governmental service, activity, or undertaking that each public agency is authorized by law to perform; and

WHEREAS, Snohomish County and Commerce have entered into a Narcotics Control Grant Contract (hereinafter "Grant Contract") whereby Snohomish County will use specified grant funds solely for a regional task force project consistent with the task force grant application submitted to Commerce on or before July 1, 2016, upon which the Grant Contract is based (by this reference both the Grant Contract and the grant application are incorporated in this agreement as though set forth fully herein); and

WHEREAS, the Participating Jurisdictions recognize the above-mentioned Grant Contract between Commerce and Snohomish County; and

WHEREAS, the Participating Jurisdictions desire to participate as members of the multi-jurisdictional task force with Snohomish County administering task force project grants on their behalf; and

WHEREAS, the Participating Jurisdictions desire to enter into an agreement with Snohomish County to enable Snohomish County to continue to be the receiver of any grant funds related to the task force project; and

WHEREAS, each of the Participating Jurisdictions represented herein is authorized to perform each service contemplated for it herein;

NOW, THEREFORE, in consideration of covenants, conditions, performances and promises hereinafter contained, the parties hereto agree as follows:

1.0 TASK FORCE CONTINUATION, TERM, AND PURPOSE

- 1.1 The countywide multi-jurisdictional task force, composed of law enforcement, prosecutor, and support personnel, known as the Snohomish Regional Drug & Gang Task Force (hereinafter "Task Force"), was created pursuant to the Interlocal Agreement Among Participating Jurisdictions dated January 18, 1988. The Task Force has operated on a continuous basis since that time under a series of interlocal agreements, the most recent effective from July 1, 2015, through June 30, 2016. This Agreement shall serve to continue the operation of the Task Force.
- 1.2 The term of this Agreement shall be from July 1, 2016, through September 30, 2017, unless earlier terminated or modified as provided in this Agreement.
- 1.3 The purpose of the Task Force is to formally structure and jointly coordinate selected law enforcement activities, resources, and functions in order to disrupt illegal drug trafficking systems and to remove traffickers through a cooperative program of investigation, prosecution, and asset forfeiture. The parties do not intend that this Agreement create a separate legal entity subject to suit.
- 1.4 The Task Force agrees to perform the statement of work indicated in the Task Force Abstract set forth in the application for funding between Commerce and Snohomish County. Therefore each Participating Jurisdiction adopts the following Task Force goals:
 - Reduce the number of drug traffickers and gang members in the communities of Snohomish County through the professional investigation, apprehension and conviction.
 - Efficiently attack, disrupt and prosecute individual and organized mid to upper level drug traffickers and street gang members who do not recognize jurisdictional boundaries or limitations, and by doing so, impact drug trafficking organizations previously impregnable.

- Enhance drug enforcement cooperation and coordination through multi-agency investigations, training of local jurisdictions and the sharing of resources and information.
 - To address these issues with the foremost consideration of safety for both law enforcement and the community.
- 1.5 The Task Force will follow a management system for the shared coordination and direction of personnel as well as financial, equipment and technical resources as stated in this Agreement.
- 1.6 The Task Force will implement operations, including:
- a. Development of intelligence
 - b. Target identification
 - c. Investigation
 - d. Arrest of Suspects
 - e. Successful prosecution of offenders, and
 - f. Asset forfeiture/disposition
- 1.7 The Task Force shall evaluate and report on Task Force performance to Commerce as required in the Grant Contract.

2.0 ORGANIZATION

- 2.1 Exhibit "D", incorporated herein by this reference, sets forth the organization of the Task Force.
- 2.2 The Task Force Executive Board shall be comprised of the Snohomish County Prosecuting Attorney, the Snohomish County Sheriff, the Everett Police Chief, the Everett City Attorney, and one (1) chief of police from the remaining Participating Jurisdictions chosen by the chiefs of police of the remaining Participating Jurisdictions. The Snohomish County Sheriff shall serve as Chair of the Executive Board. The Task Force Executive Board may adopt bylaws providing for appointment of alternates to attend Executive Board meetings in the absence of members. At such meetings the alternate shall have the same

rights as the appointing member. Any action taken by the Task Force Executive Board under this Agreement shall be based on a majority vote.

- 2.3 Personnel assigned to the Task Force shall be directed in their Task Force duties by the Snohomish County Sheriff's Office (SCSO) through the Task Force Commander. The Task Force Commander will be an employee of Snohomish County for all purposes and, if not a regular SCSO deputy, will hold a special commission for that purpose.
- 2.4 Exhibit "A", incorporated herein by this reference, sets forth the personnel currently assigned to the Task Force by each Participating Jurisdiction. Nothing in this Agreement shall restrict the ability of the Snohomish County Prosecuting Attorney, Snohomish County Sheriff, Everett Police Chief, or chief law enforcement officer of any Participating Jurisdiction to reassign personnel now or later assigned to the Task Force.
- 2.5 Participating Jurisdiction Employees: Personnel assigned to the Task Force by Participating Jurisdiction shall be considered employees of that Participating Jurisdiction. All rights, duties, and obligations of the employer and the employee shall remain with that individual jurisdiction. Each Participating Jurisdiction shall be responsible for ensuring compliance with all applicable laws, collective bargaining agreements, and/or civil service rules and regulations, with regard to its employees.

3.0 FINANCING

- 3.1 Exhibit "B", incorporated herein by reference, sets forth the estimated Task Force Grant Contract budget. Participating Jurisdictions agree to provide funds that in the aggregate will allow for at least a one-third match of the funds awarded under the Grant Contract ("Local Match").
- 3.2 Exhibit "C", incorporated herein by reference, sets forth the Local Match breakdown for the period from July 1, 2016, to September 30, 2017. Although State and/or Federal Grant funds may vary from the amount initially requested,

each Participating Jurisdiction agrees to provide funding that is no less than the amount indicated in Exhibit "C", and to pay its funding share to Snohomish County as administrator of Task Force funds promptly upon request.

- 3.3 As required by the Grant Contract, each Participating Jurisdiction agrees that the funding it contributes shall be provided in addition to that currently appropriated to narcotics enforcement activities and that no Task Force activity will supplant or replace any existing narcotic enforcement activities.
- 3.4 Except as modified by section 5.3 below, all revenues collected or generated by or for the Task Force shall be forwarded to the Snohomish County Treasurer and placed in a designated special account for the purpose of supporting Task Force operations, and all real or personal property of the Task Force will be held in Snohomish County's name for the benefit of the Task Force.
- 3.5 Upon termination of the Task Force, all funds remaining in said special account shall be disbursed pro rata to the then-current Participating Jurisdictions in proportion to the percentage of their most recent contribution to the Local Match indicated in Exhibit "C".

4.0 GENERAL ADMINISTRATION

- 4.1 Snohomish County agrees to provide Commerce with the necessary documentation to receive grant funds.
- 4.2 By executing this Agreement, each Participating Jurisdiction agrees to make any certified assurances required by the Grant Contract that are within its particular control, and agrees to make all its records related to the Task Force available for inspection consistent with the Grant Contract.
- 4.3 All Task Force contracts and agreements executed on behalf of Participating Jurisdictions under this Agreement must first be approved on motion of the Task Force Executive Board. By executing this Agreement, each Participating Jurisdiction agrees that, for the purpose of administering the assets and

resources available to the Task Force, Snohomish County is hereby granted the authority to execute on behalf of the Participating Jurisdictions all agreements and contracts signed as approved by the Task Force Executive Board, by and through its Chair, including but not limited to all contracts for professional services. Agreements and contracts executed in this manner shall have the same legal effect as if they were executed by each Participating Jurisdiction. No such agreement or contract may impose or waive liability with respect to a Participating Jurisdiction in a manner that is inconsistent with the hold harmless provision in section 10.0 of this Agreement.

- 4.4 Any dispute arising under this Agreement will be forwarded to the Task Force Executive Board for arbitration. The determination made by the Executive Board shall be final and conclusive as between the parties. This provision shall not apply to issues of indemnity and liability governed by the hold harmless provision in section 10.0 of this Agreement.

5.0 ASSET FORFEITURE

- 5.1 The Participating Jurisdictions shall refer all potential asset forfeitures initiated or investigated by officers assigned to the Task Force during the pendency of this Agreement to the Task Force for disposition at the discretion of the Task Force Executive Board or prosecuting authority (Prosecuting Attorney or United States Attorney). Any such referred asset forfeiture that is pursued in state court will be prosecuted in the name of Snohomish County on behalf of the Task Force and its Participating Jurisdictions.
- 5.2 The Task Force Commander, under the direction of the Task Force Executive Board, shall manage the acquisition and disposition of assets seized or forfeited as a result of this Agreement in compliance with law and Task Force procedures.
- 5.3 A portion of the net monetary proceeds of each asset forfeiture made by the Task Force shall be distributed to the involved investigating agencies

commensurate with their participation as determined by prior agreement between the Task Force Commander and said agencies, or in the absence of such agreement, by the Task Force Executive Board, prior to dedication of the remaining proceeds to the Task Force as specified in section 3.4. As long as the personnel assignments stated in Exhibit "A" remain unchanged, distributions to Snohomish County and the City of Everett under this subparagraph shall be 40 percent each of the net monetary proceeds remaining after distributions under this subparagraph to Participating Jurisdictions other than Snohomish County and the City of Everett. If assignments change from those stated in Exhibit "A", the Task Force Executive Board may modify the relative percentage allocations to Snohomish County and the City of Everett on a case-by-case or permanent basis. For purposes of this subparagraph, the term "net monetary proceeds" means cash proceeds realized from property forfeited during the term of this Agreement that is not retained for use by the Task Force after deducting all costs and expenses incurred in its acquisition, including but not limited to the cost of satisfying any bona fide security interest to which the property may be subject at the time of seizure, the cost of sale in the case of sold property (including reasonable fees or commissions paid to independent selling agencies), amounts paid to satisfy a landlord's claim for damages, and the amount of proceeds (typically ten percent) payable to the State of Washington under RCW 69.50.505(9) or similar law.

- 5.4 The Task Force may retain funds in an amount up to \$250,000.00 from the net proceeds of vehicle seizures for the purchase of Task Force vehicles and related fleet costs.
- 5.5 Any Participating Jurisdiction receiving a distribution of assets forfeited under RCW 69.50.505 shall use such assets in accordance with RCW 69.50.505(10), which limits use to the expansion and improvement of controlled substances related law enforcement activity and prohibits use to supplant preexisting funding sources.

5.6 Upon termination of the Task Force, the Task Force Executive Board shall dispose of the Task Force's interest in assets seized or forfeited as a result of this Agreement in accordance with applicable federal, state and county requirements, and shall distribute proceeds in accordance with sections 5.3 and 3.5.

6.0 ACQUISITION AND USE OF EQUIPMENT

6.1 For purposes of this Agreement, the term "Equipment" shall refer to all personal property used by the Task Force in performing its purpose and function, including but not limited to: materials, tools, machinery, equipment, vehicles, supplies, and facilities.

6.2 In the event that any Equipment is acquired with grant funds, the Participating Jurisdictions agree that the Task Force will use that equipment only for specified law enforcement purposes for the term of the grant.

6.3 Personnel assigned to the Task Force may use Equipment that is provided or acquired for Task Force purposes as directed by the Task Force Commander.

6.4 Upon termination of the Task Force, any Equipment provided to the Task Force by a Participating Jurisdiction will be returned to that jurisdiction.

6.5 Upon termination of the Task Force, the Task Force Executive Board shall dispose of all acquired equipment in accordance with applicable federal, state and county requirements, and shall distribute proceeds in accordance with section 3.5.

7.0 MODIFICATION

Participating Jurisdictions reserve the right to amend this Agreement in the future from time to time as may be mutually agreed upon. No such amendment shall be effective unless written and signed by all then-contributing jurisdictions with the same formality as this Agreement.

8.0 NONDISCRIMINATION PROVISION

There shall be no discrimination against any employee who is paid by the grant funds or against any applicant for such employment because of race, color, religion, handicap, marital status, political affiliation, sex, age, or national origin. This provision shall include, but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, lay-off or termination, rates of pay or other forms of compensation, and selection for training.

9.0 TERMINATION OF AGREEMENT

9.1 Notwithstanding any provisions of this Agreement, any party may withdraw from the Agreement as it pertains to it by providing written notice of such withdrawal to all other parties, specifying the effective date thereof at least thirty (30) days prior to such date. A withdrawing party may take with it any Equipment it has provided to the Task Force, and shall be entitled to distributions under section 5.3 of this Agreement with respect to asset forfeitures initiated before the effective date of withdrawal.

9.2 If there is a reduction in funds by the source of those funds, and if such funds are the basis of this Agreement, Snohomish County may unilaterally terminate all or part of the Agreement, or may reduce its scope of work and budget.

10.0 HOLD HARMLESS

Each party hereto agrees to save, indemnify, defend and hold the other parties harmless from any allegations, complaints, or claims of wrongful and/or negligent acts or omissions, by said party and/or its officers, agents, or employees to the fullest extent allowed by law. In the case of allegations, complaints, or claims against more than one party, any damages allowed shall be levied in proportion to the percentage of fault attributable to each party, and each party shall have the right to seek contribution from each of the other parties in proportion to the percentage of fault attributable to each of the other parties. Moreover, the parties agree to cooperate and jointly defend

any such matter to the extent allowed by law. An agency that has withdrawn assumes no responsibility for the actions of the remaining members arising after the date of withdrawal, but shall remain liable for claims of loss or liability arising prior to the effective date of withdrawal.

11.0 GOVERNING LAW AND VENUE

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Washington without reference to choice of law principles, and venue of any suit between the parties arising out of this Agreement shall be in the Superior Court of Snohomish County, Washington.

12.0 INTEGRATION

With the exception of necessary operational agreements between law enforcement agencies of the Participating Jurisdictions and agreements pursuant to section 5.3 hereof, this Agreement constitutes the whole and entire agreement among those parties as to the Task Force and no other understandings, oral, or otherwise, regarding the Task Force shall be deemed to exist or bind the parties.

13.0 EXECUTION OF MULTIPLE ORIGINAL COUNTERPARTS

This Agreement may be reproduced in any number of original counterparts. Each party need sign only one counterpart and when the signature pages are all assembled with one original counterpart, that compilation constitutes a fully executed and effective agreement among all the Participating Jurisdictions. In the event that fewer than all named parties execute this Agreement, the Agreement, once filed as specified in section 15.0, shall be effective as between the parties that have executed the Agreement to the same extent as if no other parties had been named.

14.0 SEVERABILITY

If any part of this Agreement is unenforceable for any reason the remainder of the Agreement shall remain in full force and effect.

15.0 POSTING/RECORDING

This Agreement will be filed with the Snohomish County Auditor or posted on the County's or Participating Jurisdiction's interlocal agreements webpage, in compliance with RCW 39.34.040.

In witness whereof, the parties have executed this Agreement.

THE COUNTY:

Snohomish County, a political subdivision
of the State of Washington

By _____
Name: _____
Title: _____

Approved as to Form:

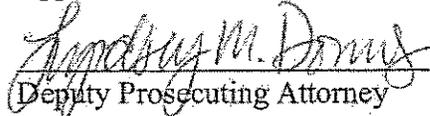
 7/18/16
Deputy Prosecuting Attorney

EXHIBIT A

Snohomish Regional Drug & Gang Task Force

Personnel Assigned by Jurisdiction
July 1, 2016 through September 30, 2017

EVERETT POLICE DEPARTMENT

1 Lieutenant
1 Sergeant
1 Detective
1 Detective
1 Detective
1 Detective
1 Detective
1 Detective
1 Support Personnel

FUNDING

Everett PD
Everett PD

VACANT
VACANT

SNOHOMISH COUNTY SHERIFF'S OFFICE

1 Task Force Commander
1 Lieutenant
1 Sergeant
1 Sergeant
1 Detective
1 Detective
1 Detective
1 Detective
1 Detective
1 Detective
1 Information Deputy
1 K9 Detective
1 Support Staff

FUNDING

Justice Assistance Grant
Snohomish County Sheriff
Justice Assistance Grant
Snohomish County Sheriff
Snohomish County Sheriff

VACANT

SNOHOMISH HEALTH DISTRICT

1 Local Health Officer

FUNDING

Snohomish Health District

SNOHOMISH COUNTY PROSECUTOR'S OFFICE

1 Deputy Prosecutor
1 Support Staff

FUNDING

Seizure Funding
Seizure Funding

STATE OF WASHINGTON

1 Detective
1 Case Worker
1 Agent

FUNDING

Washington State Patrol
DSHS, Child Protective Services
Department of Corrections

WA STATE GAMBLING COMMISSION

1 Agent

FUNDING

Washington State

VACANT

NATIONAL GUARD

1 Intelligence Analyst

FUNDING

Washington National Guard

VACANT

BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES

1 Agent

FUNDING

ATF

VACANT

DRUG ENFORCEMENT AGENCY

1 Agent

FUNDING

Drug Enforcement Agency

VACANT

INTERNAL REVENUE SERVICE

1 Agent

FUNDING

Internal Revenue Service

VACANT

ICE / H.S.I.

2 Agent

FUNDING

Immigration And Customs Enforcement

NAVAL CRIMINAL INTELLIGENCE SERVICE

1 Agent

FUNDING

NCIS

VACANT

FEDERAL BUREAU OF INVESTIGATIONS

1 Agent

FUNDING

FBI

EXHIBIT B

Snohomish Regional Drug & Gang Task Force

Byrne/IAG Grant Estimated Operating Budget for July 1, 2016 through September 30, 2017

	<u>FEDERAL FUNDS</u>	<u>LOCAL MATCH</u>	<u>TOTAL</u>
Salaries	111,500	192,856	324,356
Benefits	21,500	58,600	60,100
Contracted Services	0	0	0
Goods and Services	0	0	0
Travel	0	0	0
Training	0	0	0
Equipment	0	0	0
Confidential Funds	0	0	0
TOTALS	\$133,000	\$251,456	\$384,456

EXHIBIT C

Snohomish Regional Drug & Gang Task Force

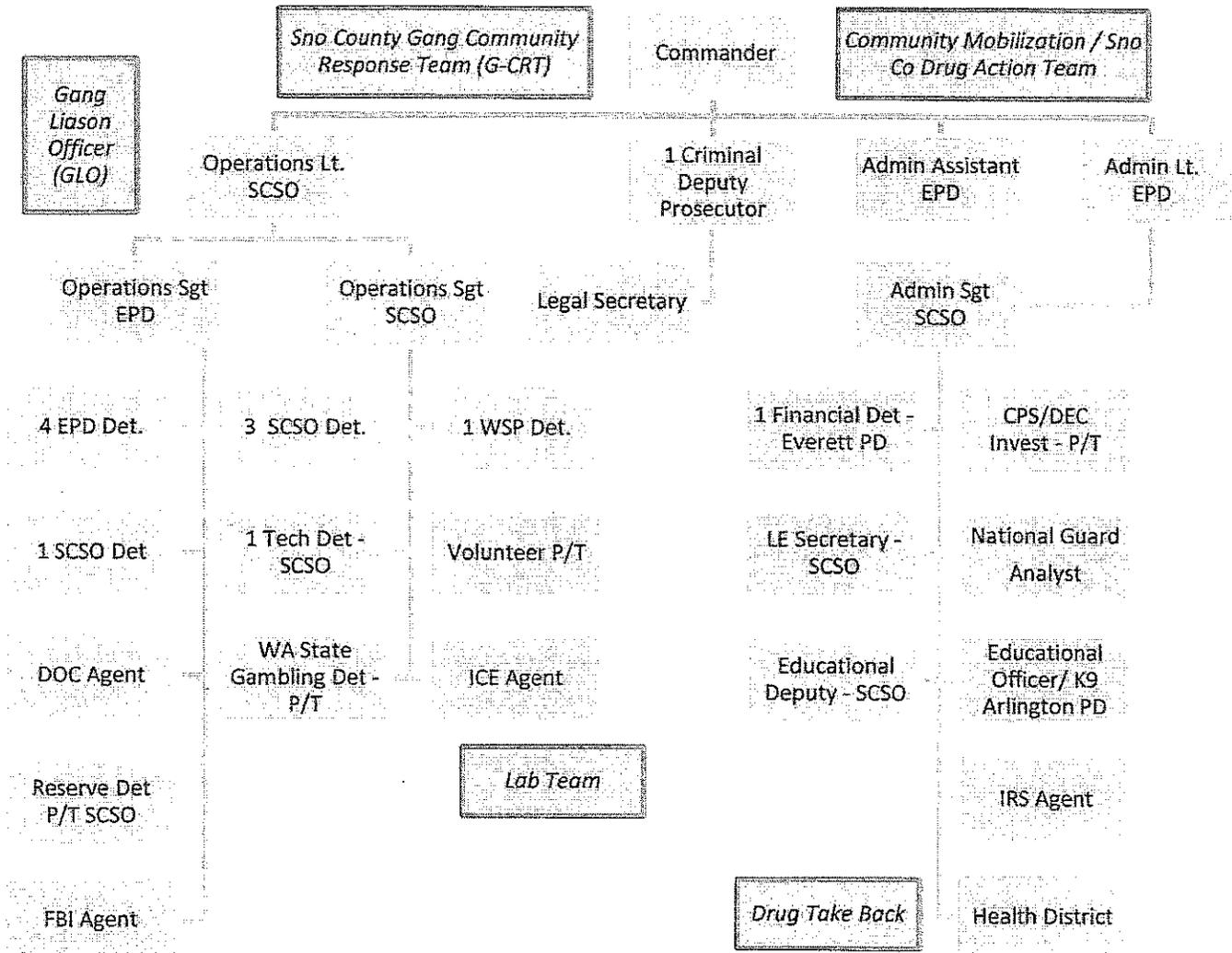
Local Contributions for July 1, 2016 through September 30, 2017

JURISDICTION	POPULATION	2016 BRIDGE AMOUNT	OCT 2016- SEPT 2017 AMOUNT	CONTRACT GRAND TOTAL
Arlington	18,490	\$ 1,230	\$ 4,918	\$ 6,148
Bothell	17,230	\$ 1,146	\$ 4,583	\$ 5,729
Brier	6,500	\$ 432	\$ 1,729	\$ 2,161
Darrington	1,350	\$ 90	\$ 359	\$ 449
Edmonds	40,490	\$ 2,693	\$ 10,770	\$ 13,463
Everett	105,800	\$ 7,036	\$ 28,142	\$ 35,178
Gold Bar	2,115	\$ 141	\$ 563	\$ 704
Granite Falls	3,390	\$ 226	\$ 902	\$ 1,128
Index	160	\$ 11	\$ 43	\$ 54
Lake Stevens	29,900	\$ 1,988	\$ 7,953	\$ 9,941
Lake Forest Park	-	\$ -	\$ -	\$ -
Lynnwood	36,420	\$ 2,422	\$ 9,687	\$ 12,109
Marysville	64,140	\$ 4,265	\$ 17,061	\$ 21,326
Mill Creek	19,760	\$ 1,314	\$ 5,256	\$ 6,570
Monroe	17,620	\$ 1,172	\$ 4,687	\$ 5,859
Mountlake Terrace	21,090	\$ 1,403	\$ 5,610	\$ 7,013
Mukilteo	20,900	\$ 1,390	\$ 5,559	\$ 6,949
Snohomish	9,385	\$ 624	\$ 2,496	\$ 3,120
Snohomish County	330,260	\$ 21,962	\$ 87,847	\$ 109,809
Stanwood	6,585	\$ 438	\$ 1,752	\$ 2,190
Sultan	4,680	\$ 311	\$ 1,245	\$ 1,556
DSHS, CPS	-	\$ -	\$ -	\$ -
Snohomish Health District	-	\$ -	\$ -	\$ -
Washington State Patrol	-	\$ -	\$ -	\$ -
PARTICIPATING JURISDICTIONS' TOTALS:		\$ 50,294	\$ 201,162	\$ 251,456

EXHIBIT D

SRDGTF Executive Board

Chief of Everett (Asst Chair), Chief of Lynnwood, Snohomish County Sheriff (Chair),
Snohomish County Prosecutor, City of Everett Attorney, SRDGTF Commander



ATTEST:

APPROVED AT THE DIRECTION OF THE PARTICIPATING JURISDICTION:

Title _____

Dated _____
Jurisdiction of _____

ATTEST:

Jurisdiction Clerk

Dated _____

APPROVED AS TO FORM:

Jurisdiction Attorney

Dated _____



INTERAGENCY AGREEMENT

BETWEEN

**THE WASHINGTON STATE INTERNET
CRIMES AGAINST CHILDREN TASK FORCE
ACTING THROUGH THE CITY
OF SEATTLE POLICE DEPARTMENT**

AND

EVERETT POLICE DEPARTMENT

This Interagency Agreement is entered into by and between the Washington State Internet Crimes against Children Task Force (WA ICAC TF), acting through the City of Seattle Police Department and Everett Police Department (Affiliate Agency) acting through its duly authorized representative.

WHEREAS, The United States **Department of Justice (DOJ) Office of Juvenile Justice and Delinquency Prevention (OJJDP)** have created the Internet Crimes Against Children (ICAC) Task Force Program, which is a national network of state and local law enforcement cybercrime units. The mission of the national ICAC Task Force Program is to assist state and local law enforcement agencies develop an effective response to technology-facilitated child sexual exploitation and Internet crimes against children. This assistance encompasses forensic and investigative components, training and technical assistance, victim services, prevention and community education. Due in large part to the technological aspects of these cases, the ICAC Task Force Program promotes a multi-jurisdictional, multi-agency, team approach to investigating and prosecuting ICAC cases; and

WHEREAS, the ICAC Task Force Program is a national network of 61 coordinated task forces representing more than 3,500 federal, state, and local law enforcement and prosecutorial agencies with each task force having an agency designated by the **OJJDP** as the "Lead Agency" which is the law enforcement agency that is awarded federal funding to serve as the "Lead" "Agency" for the corresponding Task Force.

WHEREAS, the SPD has been designated by the **OJJDP** as the "Lead Agency" to oversee the multi-jurisdictional **Washington State Internet Crimes Against Children Task Force (WA ICAC TF)** intended to combat crimes related to the sexual exploitation, enticement and victimization of children through the Internet, online communication systems, telecommunications technology and other computer technology; and

WHEREAS, the SPD is the recipient of a Federal grant through the **OJJDP** to assist in the investigation and prosecution of Internet crimes against children; and

WHEREAS, the SPD will assist law enforcement agencies in Washington State to increase their computer forensic capabilities and receive appropriate training to investigate Internet related cases; and

WHEREAS, agencies that agree to work with the SPD as the "Lead Agency" shall be identified in the program as an "Affiliate" or "Affiliate Agency" will execute this signed agreement under the authorization of the proper authority of said agency following all of the terms, conditions and tenets contained herein.

NOW THEREFORE, the parties hereto agree as follows:

This Interagency Agreement contains thirteen (13) Articles.

ARTICLE I TERM OF AGREEMENT

Affiliate Agencies may withdraw from this Interagency Agreement and new Affiliate Agencies may be added by executing an Interagency Agreement with the SPD in substantially the same form as this Interagency Agreement. The term of this Interagency Agreement shall be in effect until terminated pursuant to the provisions hereof. Either agency may cancel this agreement with (30) thirty days of written notification to the other agency. Said notification must be provided from the appropriate authorized authority within that agency. Upon receipt of the written notification the SPD will permanently remove the agency from Affiliate Agency status with the ICAC Program.

ARTICLE II OPERATIONAL STANDARDS

Affiliate Agencies agree to adhere to the *ICAC Task Force Program Operational and Investigative Standards*, attached to and made part of this Agreement, as Attachment A. The undersigned law enforcement agency agrees to investigate ICAC cases within their jurisdiction, and assist other jurisdictions to investigate these cases.

Affiliate Agencies agree to participate on the Washington Internet Crimes Against Children Task Force that is overseen by the SPD.

Affiliate Agencies agree to use only sworn law enforcement investigators to conduct ICAC investigations. Each investigator involved with undercover operations **must** receive ICAC Program training prior to initiating proactive investigations and shall submit reports of all undercover activity to the **SPD ICAC**.

Affiliate Agencies agree to conduct reactive investigations where subjects are associated within the Affiliate Agencies jurisdiction, including investigations of child pornography, Cybertip (CT) referrals from the National Center for Missing and Exploited Children (NCMEC), Internet Service Provider (ISP) and law enforcement referrals, and other ICAC-related investigations. Additional case initiations may develop from subject interviews,

documented public sources, direct observations of suspicious behavior, public complaints, etc.

Affiliate Agencies agree to record and document all undercover online activity. Any deviations from this policy due to unusual circumstances shall be documented in the relevant case file, reviewed and authorized by the ICAC Unit Commander, or equivalent, for that agency.

Affiliate Agencies agree to provide the SPD with access to all ICAC investigative files including, without limitation, computer records, in order to ensure compliance with all national ICAC standards.

Affiliate Agencies agree to locate its ICAC investigators in secured space, to be provided by the Affiliate Agency, with controlled access to all equipment, software, and investigative files. At a minimum, information should be maintained in locked cabinets and under control of **each** Affiliate Agencies ICAC personnel, with restricted access to authorized personnel.

Affiliate Agencies agree to conduct education and prevention programs to foster awareness and provide practical, relevant guidance to children, parents, educators, librarians, the business and law enforcement communities, and other individuals concerned about Internet child safety issues. Presenters shall not discuss ongoing investigative techniques and undercover operations utilized by the WA ICAC TF, its Affiliate Agencies or the national ICAC Program.

Affiliate Agencies agree to be responsible for proper maintenance and use of any equipment purchased with OJJDP Grant funds and loaned to an Affiliate Agency by the SPD. Upon termination of this Interagency Agreement, ownership of equipment, hardware, and other non-expendable items will revert to the SPD.

Affiliate Agencies agree to utilize applicable State and Federal laws to prosecute criminal, civil, and forfeiture actions against identified violators, as appropriate.

Affiliate Agencies shall maintain accurate records pertaining to prevention, education and enforcement activities, to be collected and forwarded not less than monthly to the SPD ICAC Commander, Seattle Police Department, PO Box 34986, Seattle, WA 98124-4986, for statistical reporting purposes (form provided.)

ARTICLE III SUPERVISION

Each Affiliate Agency will be responsible for the day-to-day operational supervision, administrative control, and personal and professional conduct of its officers and agents assigned to assist the WA ICAC TF. WA ICAC TF investigations are a cooperative effort and investigative decisions will be a joint process guided by the WA ICAC TF standards.

ARTICLE IV JURISDICTION

The principal sites of WA ICAC TF activities will be in the respective jurisdictional area of each Affiliate Agency. Nothing in this agreement shall otherwise limit or enhance the jurisdiction and powers normally possessed by an Affiliate Agency's employee(s) as a member of the WA ICAC TF. Affiliate Agencies may on occasion be referred investigations that are outside of the physical boundaries of their respective municipalities due to specific needs, capabilities or expertise as identified by the WA ICAC TF Lead Agency. Affiliate Agencies agree to take these referrals and conduct appropriate investigations in conformance with the ICAC Operational Standards, investigative or operational training, and their agency policing policies.

ARTICLE V EVIDENCE

Seized evidence and any other related forfeiture will be handled in a manner consistent with the seizing law enforcement agency's policies.

ARTICLE VI INSURANCE AND LIABILITY

Each Affiliate Agency shall maintain sufficient insurance coverage or a fully funded self-insurance program, approved by the State of Washington, for the protection and handling of the liabilities including injuries to persons and damage to property. Each Affiliate Agency agrees to maintain, at its own expense, insurance or self-insurance coverage for all of its liability exposures for this Agreement and agrees to provide the City of Seattle with at least 30 days prior written notice of any material change in the Affiliate Agency's liability coverage.

ARTICLE VII REPORTING STANDARDS

Using a process provided by the SPD, **each** Affiliate Agency shall submit monthly statistics to the SPD on all ICAC investigations or other investigative work pertaining to the sexual exploitation of children via the Internet. These statistics shall be submitted in the appropriate format by the 10th day of each successive month that the statistics were acquired and shall include data on all related investigations opened or closed during the month in all of the categories as designated on the provided form.

In addition, a breakdown or summary of basic case data shall be included for each sexual exploitation of a minor (child pornography) case, and/or criminal solicitation of a minor (enticement/traveler) case investigated by an Affiliate Agency along with references to any local media reporting on the investigation. The SPD will be responsible for all required reporting to the **OJJDP**.

ARTICLE VIII TRAINING

Affiliate Agencies **shall** make every effort to make investigators designated as Task Force Members available for applicable specialized training provided through the national ICAC Program and other appropriate training programs. The SPD will review training requests and provide funding for ICAC-approved training when appropriate. This funding will include, but is not limited to; WA ICAC TF hosted, or sponsored or facilitated training through the national ICAC Programs authorized vendors.

Affiliate Agencies seeking funding assistance will be required to submit requests at least thirty (30) days in advance in writing and to comply with the procedures set forth in a separate Interagency Agreement for funding requests. A sample of this Interagency Agreement is available upon request but in no way is tacit or expressed authorization of requested funding or financial assistance given in advance. Funding under the Interagency Agreement is limited to the available funds that are received by the SPD under the **OJJDP** Grant program for the national ICAC program.

ARTICLE IX CONFIDENTIALITY

The parties agree that any confidential information pertaining to investigations of WA ICAC TF will be held in the strictest confidence, and will only be shared with other Affiliate Agencies or other law enforcement agencies not participating in the WA ICAC TF where necessary or as otherwise permitted by federal and/or state law.

ARTICLE X COMPLIANCE WITH EQUAL OPPORTUNITY LAWS

To the extent required by law, the Affiliate Agency shall comply with all applicable laws, standards, orders and regulations regarding equal employment which are applicable to the Affiliate Agency's performance of this Interagency Agreement, including Rules of Practice for Administrative Proceeding to Enforce Equal Opportunity under Executive Order No. 11246, title 41, subtitle B, Chapter 60, part 60-30, which are incorporated herein by reference.

ARTICLE XI GOVERNING LAW AND VENUE

This Interagency Agreement is governed in all respects by applicable local, State, and Federal laws which shall supersede any provisions made in this Interagency Agreement to the contrary. Any provision effected will not negate the rest of the Interagency Agreement. In case any one or more of the provisions contained in this Interagency Agreement shall be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision thereof and this Interagency Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. Exclusive venue is in Seattle, King County, Washington.

ARTICLE XII EFFECTIVE DATE

This Interagency Agreement shall be effective on July 1, 2016 and continue for one (1) years. Upon expiration of the two (2) years this Interagency Agreement shall automatically be renewed for one (1) additional year until such time as federal funding for the ICAC Task Force Program ends or the Interagency Agreement is canceled by either party upon 30 days' written notice delivered to both parties' as delineated in ARTICLE I TERM OF AGREEMENT. This Interagency may be executed in multiple counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

The additional or deletion of Affiliate Agencies to or from this Interagency Agreement shall not affect the Interagency Agreement with the remaining Affiliate Agencies.

This Interagency Agreement can be amended or replaced in the event of new requirements under the national ICAC Task Force Program or as designated by law or other proper lawful authority.

ARTICLE XIII AMENDMENTS

No modification or amendment of the provisions hereof shall be effective unless in writing and signed by authorized representatives of the parties hereto. The parties hereto expressly reserve the right to modify this Agreement, by mutual agreement.

**WASHINGTON STATE
INTERNET CRIMES AGAINST CHILDREN
TASK FORCE**

INTERAGENCY AGREEMENT

EXECUTED BY

The **SEATTLE POLICE DEPARTMENT (SPD)**,
a department of the City of Seattle, hereinafter referred to as "SPD",
Department Authorization Representative:
Captain Michael Edwards
PO Box 34986
Seattle WA 98124-4986

AND

The **EVERETT POLICE DEPARTMENT**,
a department of the City of Everett, hereinafter referred to as "EPD",
Department Authorized Representative:
Chief of Police Dan Templeman
Everett Police Department
3002 Wetmore Ave
Everett, WA 98201

In Witness Whereof, the parties have executed this Agreement by having their representatives affix their signatures below.

EVERETT POLICE DEPARTMENT



Dan Templeman, Chief of Police

Date:

SEATTLE POLICE DEPARTMENT

Kathleen O'Toole, Chief of Police

Date:



City of Seattle

Seattle Police Department

July 7, 2016

Greetings,

This is to clarify a clause in the WA ICAC TF Interagency Agreement found in ARTICLE II OPERATIONAL STANDARDS:

Paragraph one sentence one page 2 of 7 states:

"Affiliate Agencies agree to adhere to the ICAC Task Force Program Operational and Investigative Standards, attached to and made part of this Agreement, as Attachment A."

Paragraph 8 sentence one page 3 of 7 states:

"Affiliate Agencies agree to conduct education and prevention programs to foster awareness and provide practical, relevant guidance to children, parents, educators, librarians, the business and law enforcement communities, and other individuals concerned about Internet child safety issues."

The intent of the WA ICAC TF Paragraph 8 sentence one page 3 of 7 clause should be interpreted as "where practical" to remain consistent with the intent of the national program Operational and Investigative Standards.

Please attach this clarification letter to the original agreement as an addendum.

Sincerely,

Mike Edwards, Captain
Seattle Police Department
Internet Crimes Against Children Commander
WA ICAC Task Force Commander
610 Fifth Avenue
Seattle, WA 98104-4986



City of Seattle

Seattle Police Department

July 7, 2016

Greetings,

This is to clarify a clause in the WA ICAC TF Interagency Agreement found in ARTICLE XII EFFECTIVE DATE:

Paragraph one sentence one page 5 of 7 states:

"This Interagency Agreement shall be effective on July 1, 2016 and continue for one (1) years. Upon expiration of the two (2) years this Interagency Agreement shall automatically be renewed for one (1) additional year until such time as federal funding for the ICAC Task Force Program ends or the Interagency Agreement is canceled by either party upon 30 days' written notice delivered to both parties' as delineated in ARTICLE I TERM OF AGREEMENT."

This was a typographical error that should read the following to be consistent with the intent of the agreement:

"This Interagency Agreement shall be effective on July 1, 2016 and continue for one (1) *year*. Upon expiration of the *first year* this Interagency Agreement shall automatically be renewed for one (1) additional year until such time as federal funding for the ICAC Task Force Program ends or the Interagency Agreement is canceled by either party upon 30 days' written notice delivered to both parties' as delineated in ARTICLE I TERM OF AGREEMENT."
(Amended language is italicized)

Please attach this clarification letter to the original agreement as an addendum.

Sincerely,

A handwritten signature in black ink that reads "Mike Edwards".

Mike Edwards, Captain
Seattle Police Department
Internet Crimes Against Children Commander
WA ICAC Task Force Commander
610 Fifth Avenue
Seattle, WA 98104-4986

CITY OF EVERETT
WASHINGTON

By: _____
Ray Stephanson, Mayor

Date

ATTEST:

Sharon Fuller, City Clerk
Date: _____
APPROVED AS TO FORM:

James D. Iles, City Attorney
Date: _____

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

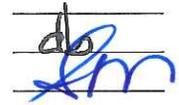
An Ordinance Relating to Noise, Amending Ordinance 534-78 as Amended (Chapter 20.08 EMC) and Repealing Sections Under Section 16

07/27/16 Briefing
 Proposed
 Action
 Consent
 08/10/16 Action
 07/27/16 First Reading
 08/03/16 Second Reading
 08/10/16 Third Reading
 Public Hearing

COUNCIL BILL #
 Originating Department
 Contact Person
 Phone Number
 FOR AGENDA OF

CB1607-34
 Human Resources
 Megan Munro
 425-257-8775
 July 27, 2016
 August 3, 2016
 August 10, 2016

Initialed by:
 Department Head
 CAA
 Council President



<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u> Ordinance	<u>Department(s) Approval</u> Legal, Police, Public Works, Code Enforcement, Planning, Human Resources
-----------------	-------------------------	---------------------------------	---

Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

The purpose of this proposed ordinance is to amend chapter 20.08 EMC (Everett Municipal Code chapter relating to noise) with a comprehensive update to repeal outdated regulations and meet changes in state law, in the American National Standards Institute specifications, and in the Noise Control Districts in the City. It also clarifies noise control enforcement and variance procedures, including the authority of the noise control administrator, code enforcement, and police officers.

The current draft of this proposed ordinance has been approved by the Department of Ecology to ensure that it meets state law requirements. All changes to the proposed ordinance will need to be reviewed and approved by the Department of Ecology prior to enactment (approximately 60 days).

RECOMMENDATION (Exact action requested of Council):

Adopt an Ordinance Relating to Noise, Amending Ordinance 534-78 as Amended (Chapter 20.08 EMC) and Repealing Sections Under Section 16.

ORDINANCE No. _____

**AN ORDINANCE Relating to Noise, Amending Ordinance 534-78 as Amended
(Chapter 20.08 EMC) and Repealing Sections Under Section 16.**

Whereas, the City of Everett enacted a Noise Control Ordinance, Ordinance No. 534-78, on July 19, 1978 which established comprehensive noise control regulations in order to promote the use, value and enjoyment of property and environment by the citizens of Everett and the health, safety and welfare of the general public; and

Whereas, the City Council finds that a comprehensive update to the Noise Control Ordinance including repealing of outdated regulations is appropriate to reflect the present needs of the community, changes in the American National Standards Institute specifications, changes in state law, and updates to the Noise Control Districts; and

Whereas, updates to noise variance requirements and procedures will clarify the variance process and better serve variance applicants and the City; and

Whereas, updates clarifying the role of the noise control administrator, code enforcement, and the authority of police officers regarding noise control enforcement will benefit the general public by promoting such enforcement; and

Whereas, these proposed amendments promote the health, safety and welfare of the general public; and

Whereas, therefore, City Council finds it appropriate to update the Noise Control Ordinance as provided herein;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 1 of Ordinance No. 534-78 (EMC 20.08.010), which reads as follows:

Declaration of policy and Finding of Special Conditions.

- a. **DECLARATION OF POLICY.** It is hereby declared to be the policy of the City of Everett to minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise. It is the express intent of the City Council to control the level of noise in a manner which promotes commerce; the use, value, and enjoyment of property; sleep and repose; and the quality of the environment.

- b. FINDINGS OF SPECIAL CONDITONS. The problem of noise in the City has been studied since 1972 by the Safety Director of Everett. On the basis of these studies the City Council hereby finds that special conditions exist within the City of Everett which make necessary any and all differences between this ordinance and the regulations adopted by the Department of Ecology.

Be and the same is hereby amended to read as follows:

Declaration of policy—Findings of special conditions.

- A. DECLARATION OF POLICY. It is hereby declared to be the policy of the cCity of Everett to minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise. It is the express intent of the cCity cCouncil to control the level of noise and to promote and preserve the public health, safety, and welfare while affording protection to free speech activity as required by applicable constitutional law. It is the express intent of the cCity cCouncil to control the level of noise in a manner which promotes commerce; the use, value, and enjoyment of property; sleep and repose; ~~and~~ the quality of the environment; and which enables all residents of the city to peacefully coexist in a manner which is mutually respectful of the interests and rights of others.
- B. FINDINGS OF SPECIAL CONDITONS. The problem of noise in the City has been studied since 1972 by the Safety Director of Everett city. On the basis of these studiethis experience and knowledge of conditions within the city, the cCity cCouncil finds that special conditions exist within the cCity of Everett which makes necessary any and all differences between this ordinance and the regulations adopted by the Department of Ecology.

Section 2. Section 2 of Ordinance No. 534-78, as amended by Section 2 of Ordinance No. 690-80, as amended by Section 1 of Ordinance No. 1556-89 (EMC 20.08.020), which reads as follows:

Definitions.

All technical terminology used in this chapter not defined herein shall be interpreted in conformance with American National Standards Institute Specifications, Section 1.1-1960 and Section 1.4-1971. For purposes of this chapter, the words and phrases used herein shall have the meaning indicated below:

- A. "Administrator" means the noise control administrator as established in Section 20.08.130.
- B. "dB(A)" means a sound level, measured in decibels, using the A frequency-weighting network of a sound level meter.

C. "District" means the land use zones to which the provisions of this chapter are applied. For the purposes of this chapter the following noise control districts shall be established which include land use zones designated in the Everett zoning code as follows:

Noise Control District	Land Use Zones
1. District I	All residentially zoned districts including but not limited to R.S., R-1, R-2, R-3(A), R-4 and R-5.
2. District II	All business and commercially zoned districts including but not limited to B-1, B-2(A), B-2, B-2(B), B-3, C-1 and C-2.
3. District III	All agricultural and manufacturing zoned districts including but not limited to A, M-M and M-1, and all other nonresidential, nonbusiness and noncommercially zoned districts.

D. "Emergency work" means work made necessary to restore property to a safe condition following a public calamity, work required to protect persons or property from imminent exposure to danger, or work by private or public utilities for providing or restoring immediately necessary utility service.

E. "Gross combination weight rating (GCWR)" means the value specified by the manufacturer as the recommended maximum loaded weight of a combination vehicle.

F. "Gross vehicle weight rating" means the value specified by the manufacturer as the recommended maximum loaded weight of a single vehicle.

G. "Motorcycle" means any motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, except farm tractors and such vehicles powered by engines of less than five horsepower.

- H. "Motor vehicle" means any vehicle which is self-propelled, used primarily for transporting persons or property upon public highways, and required to be licensed under RCW 46.16A.030. (Aircraft, watercraft, and vehicles used on rails or tracks are not motor vehicles as that term is used herein.)
- I. "New motor vehicle" means a motor vehicle manufactured after December 31, 1976, the equitable or legal title of which has never been transferred to a person who, in good faith, purchases the new motor vehicle for purposes other than resale.
- J. "Noise" means the intensity, duration and character of sounds from any and all sources.
- K. "Off-highway vehicle" means any self-propelled motor driven vehicle not used primarily for transporting persons or property upon public highways nor required to be licensed under RCW 46.16A.030.
- L. "Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.
- M. "Property boundary" means the survey line at ground surface which separates the real property owned, rented or leased by one or more other persons and its vertical extension.
- N. "Public nuisance noise" means any sound which unreasonably either annoys, injures, interferes with or endangers the comfort, repose, health or safety of three or more persons residing within separate residences in the same community or neighborhood, although the extent of damage may be unequal.
- O. "Receiving property" means real property within which sound originating from sources outside the property is received.
- P. "Sound level" means a weighted sound pressure level obtained by the use of a sound level meter and weighted as specified in American National Standards Institute Specifications, Section 1.4-1971.
- Q. "Sound level meter" means a sound-level measuring device, either Type I or Type II, as defined by American National Standards Institute Specifications, Section 1.4-1971.
- R. "Watercraft" means any contrivance, excluding aircraft, used or capable of being used as a means of transportation or recreation on water.
- S. "Weekend" means Saturday and Sunday or any legal holiday.

Be and the same is hereby amended to read as follows:

Definitions.

All technical terminology used in this ~~ordinance chapter~~ not defined herein shall be interpreted in conformance with American National Standards Institute Specifications, ~~Section 1.1-1960 and~~ Section 1.4-~~1971~~2014 as it currently exists or is later amended. For purposes of this ~~chapter ordinance~~, the words and phrases used herein shall have the meaning indicated below:

- A. "Administrator" means the noise control administrator as established in Section 20.08.130, or designee.
- B. "dB(A)" means a sound level, measured in decibels, using the A frequency-weighting network of a sound level meter.
- C. "District" means the land use zones to which the provisions of this ~~chapter ordinance~~ are applied. For the purposes of this ~~chapter ordinance~~ the following noise control districts shall be established which include land use zones designated in the Everett zoning code as follows:

Noise Control District	Land Use Zones
1. District I	All residentially zoned districts including but not limited to R.S., R-1, <u>R-1A</u> , R-2, <u>R-2A</u> , <u>R-3(A)</u> , <u>R-3L</u> , R-4 and R-5.
2. District II	All business and commercially zoned districts including but not limited to B-1, <u>B-2(A)</u> , B-2, <u>B-2(B)</u> , B-3, <u>BMU, E1, E-1MUO, C-1, C-1R, and C-2 and C-2ES.</u>
3. District III	All agricultural and manufacturing zoned districts including but not limited to A, <u>M-M</u> , and M-1 , <u>M-S, W-C</u> and all other nonresidential, nonbusiness and noncommercially zoned districts.

For any land use zone not listed in subsection C of this section, the Administrator may determine that the zone is substantially similar to a zone listed in subsection C and may classify it similarly for purposes of this ordinance.

D. "Emergency work" means work made necessary to restore property to a safe condition following a public calamity, work required to protect persons or property from imminent exposure to danger, or work by private or public utilities for providing or restoring immediately necessary utility service.

~~E. "Gross combination weight rating (GCWR)" means the value specified by the manufacturer as the recommended maximum loaded weight of a combination vehicle.~~

~~F.E.~~ _____ "Gross vehicle weight rating" means the value specified by the manufacturer as the recommended maximum loaded weight of a single vehicle.

~~G.F.~~ _____ "Motorcycle" means any motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, except farm tractors and such vehicles powered by engines of less than five horsepower.

~~H.G.~~ _____ "Motor vehicle" means any vehicle which is self-propelled, used primarily for transporting persons or property upon public highways, and required to be licensed under RCW 46.16A.030. (Aircraft, watercraft, and vehicles used on rails or tracks are not motor vehicles as that term is used herein.)

~~I.H.~~ _____ "New motor vehicle" means a motor vehicle manufactured after December 31, 1976, the equitable or legal title of which has never been transferred to a person who, in good faith, purchases the new motor vehicle for purposes other than resale.

~~J.I.~~ "Noise" means the intensity, duration and character of sounds from any and all sources.

~~K.J.~~ _____ "Off-highway vehicle" means any self-propelled motor driven vehicle not used primarily for transporting persons or property upon public highways nor required to be licensed under RCW 46.16A.030.

~~L.K.~~ _____ "Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.

~~L.~~ _____ "Property boundary" means the survey line at ground surface which separates the real property owned, rented or leased by one or more other persons and its vertical extension.

- M. “Public Highway” means the entire width between the boundary lines of every way publicly maintained by the department of highways or any county or city when any part thereof is generally open to the use of the public for purposes of vehicular travel as a matter of right.
- N. “Public nuisance noise” means any sound which ~~unreasonably either~~ annoys, injures, interferes with or endangers the comfort, repose, health or safety of ~~three or more persons residing within separate residences in the same community or neighborhood, an entire community or neighborhood~~ although the extent of the damage may be unequal.
- O. “Receiving property” means real property within which sound originating from sources outside the property boundary is received.
- P. “Sound level” means a weighted sound pressure level obtained by the use of a sound level meter and weighted as specified in American National Standards Institute Specifications, Section 1.4-~~1974~~2014.
- P.Q. “Sound Level Measurement Procedures” means standardized procedures for the measurement of sound levels of sources regulated by this ordinance and performed in accordance with the Washington State Department of Ecology rules WAC 173-58.
- R. “Sound level meter” means a sound-level measuring device, either Type I or Type II, as defined by American National Standards Institute Specifications, Section 1.4-~~1974~~2014.
- S. “Temporary Construction Site” means any location where site clearing, construction of plat improvements, or construction or remodeling of a structure, facility, improvement or other feature attached to the land occurs. This includes roadway, bikeway, trail, sidewalk or other similar construction, repair or improvement.
- Q.T. “WAC” means the Washington Administrative Code as currently enacted or hereafter amended.
- R.U. “Watercraft” means any contrivance, excluding aircraft, used or capable of being used as a means of transportation or recreation on water.
- S.V. “Weekend” means Saturday and Sunday or any legal holiday observed by the State of Washington.

Section 3. Section 3(a) of Ordinance No. 534-78 (EMC 20.08.030), which reads as follows:

Environmental Sound Levels. UNLAWFUL SOUNDS. It is unlawful for any person to cause or permit noise to intrude into the property of another person which noise exceeds the maximum permissible noise levels set forth below.

Be and the same is hereby amended to read as follows:

~~Environmental Sound Levels. UNLAWFUL SOUNDS. Environmental sound—Unlawful sounds designated.~~

It is unlawful for any person to cause or permit noise to intrude into the real property of another person which noise exceeds the maximum permissible noise sound pressure levels set forth below in this ordinance.

Section 4. Section 3(b) of Ordinance No. 534-78 (EMC 20.08.040), which reads as follows:

Environmental Sound Levels. MAXIMUM PERMISSIBLE NOISE LEVELS. For sound sources located within the City of Everett the maximum permissible noise levels are as follows:

District Sound Source	District of Receiving Property Within the City of Everett		
	I	II	III
I	55 dB(A)	57 dB(A)	60 dB(A)
II	57 dB(A)	60 dB(A)	65 dB(A)
III	60 dB(A)	65 dB(A)	70 dB(A)

Be and the same is hereby amended to read as follows:

~~Environmental Sound Levels. MAXIMUM PERMISSIBLE NOISE LEVELS.
Environmental sound—Maximum permissible levels.~~

For sound sources located within the City of Everett the maximum permissible noise levels are as follows:

District Sound Source	District of Receiving Property Within the City of Everett		
	I	II	III
I	55 dB(A)	57 dB(A)	60 dB(A)
II	57 dB(A)	60 dB(A)	65 dB(A)
III	60 dB(A)	65 dB(A)	70 dB(A)

Where a receiving property lies within more than one district, the most restrictive maximum permissible noise level shall apply to the receiving property.

Section 5. Section 3(c) of Ordinance No. 534-78 (EMC 20.08.050), which reads as follows:

Environmental Sound Levels. MODIFICATIONS TO MAXIMUM PERMISSIBLE NOISE LEVELS. The maximum permissible noise levels established by this section shall be modified, reduced or increased as follows:

1. Between the hours of 10:00 p.m. and 7:00 a.m. during weekdays, and between the hours of 10:00 p.m. and 9:00 a.m. on weekends, the levels established in Section 3(b) of this ordinance are reduced by 10 dB(A) where the receiving property lies within District I of the City of Everett.
2. At any hour of the day or night, for any source of sound which is of short duration, the levels established by this chapter are increased by: 5 dB(A) for a total of 15 minutes in any one-hour period; or 10 dB(A) for a total of 5 minutes in any one-hour period; or 15 dB(A) for a total of 1.5 minutes in any one-hour period.
3. This subsection shall be subject to amendment by the addition of a provision which establishes a correction factor for sources of sound which cannot accurately be measured on the "A" weighted scale. Said provision shall be added upon recommendation of the Administrator and approval of the City Council and State Department of Ecology at such time when the Administrator deems necessary and funding for equipment, personnel and other items necessary for the implementation of the provision are available.

Be and the same is hereby amended to read as follows:

~~Environmental Sound Levels. MODIFICATIONS TO MAXIMUM PERMISSIBLE NOISE LEVELS. Environmental sound—Modifications to maximum permissible noise levels.~~

The maximum permissible ~~noise-sound~~ levels established by this ~~section-ordinance~~ shall be modified, reduced or increased as follows:

A. Between the hours of ~~10:00~~ten p.m. and ~~7:00~~seven a.m. during weekdays, and between the hours of ~~10:00~~ten p.m. and ~~9:00~~nine a.m. on weekends, the levels established in Section 3(b) of this ordinance are reduced by ~~10~~ten dB(A) where the receiving property lies within District I of the City of Everett.

B. At any hour of the day or night, for any source of sound which is of short duration, the levels established by this ~~chapter-ordinance~~ are increased by:

1. 5-Five dB(A) for a total of ~~15~~fifteen minutes in any one-hour period;
- or
2. 10-Ten dB(A) for a total of ~~5~~five minutes in any one-hour period; or
- B. 3. 15-Fifteen dB(A) for a total of 1.5 minutes in any one-hour period.

~~C. This subsection shall be subject to amendment by the addition of a provision which establishes a correction factor for sources of sound which cannot accurately be measured on the "A" weighted scale. Said provision shall be added upon recommendation of the Administrator and approval of the City Council and State Department of Ecology at such time when the Administrator deems necessary and funding for equipment, personnel and other items necessary for the implementation of the provision are available.~~

Section 6. Section 4(a) of Ordinance No. 534-78 (EMC 20.08.060), which reads as follows:

Motor Vehicle Noise Levels. MAXIMUM PERMISSIBLE MOTOR VEHICLE NOISE LEVELS. It is unlawful for any person to operate any motor vehicle upon any public highway or any combination of such vehicles under any conditions of grade, load, acceleration, or deceleration in such a manner as to exceed the maximum permissible sound levels for the category of vehicle, as measured at a distance of fifty feet from the center of the lane of travel within the speed limits specified, under procedures established by the State Commission on equipment in WAC 204-56.

VEHICLE CATEGORY	35 MPH or Less	Over 35 MPH
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VEHICLE CATEGORY	35 MPH or Less	Over 35 MPH
Motor vehicles over 10,000 pounds GVWR or GCWR	86 dB(A)	90 dB(A)
Motorcycles	80 dB(A)	84 dB(A)
All other motor vehicles	76 dB(A)	80 dB(A)

Be and the same is hereby amended to read as follows:

~~Motor Vehicle Noise Levels. MAXIMUM PERMISSIBLE MOTOR VEHICLE NOISE LEVELS. Motor vehicle noise—Maximum permissible levels.~~

It is unlawful for any person to operate any motor vehicle upon any public highway or any combination of such vehicles under any conditions of grade, load, acceleration, or deceleration in such a manner as to exceed the maximum permissible sound levels for the category of vehicle, as measured at a distance of fifty feet from the center of the lane of travel within the speed limits specified, under procedures ~~established by the State Commission on equipment in WAC 204-56 set forth in chapter 173-62 WAC~~ "Motor Vehicle Noise Performance Standards" including:-

<u>VEHICLE CATEGORY</u> <u>Vehicle Category Type</u>	<u>35 45 MPH or Less</u>	<u>Over 35 45 MPH</u>
Motor vehicles over 10,000 pounds GVWR or <u>GCWR</u>	86 dB(A)	90 dB(A)
Motorcycles	<u>80-78</u> dB(A)	<u>84 82</u> dB(A)
All other motor vehicles	<u>76 72</u> dB(A)	<u>80 78</u> dB(A)

Section 7. Section 4(b) of Ordinance No. 534-78 (EMC 20.08.070), which reads as follows:

Motor Vehicle Noise Levels. MAXIMUM NOISE LEVELS FOR NEW MOTOR VEHICLES. It is unlawful for any person to sell or offer for sale a new motor vehicle, except an off-highway vehicle, which produces a maximum noise exceeding the following noise levels at a distance of fifty feet under acceleration test procedures established by the State Commission on equipment in WAC 204-56.

Vehicle Category

Motorcycles manufactured after 1975	83 dB(A)
Any motor vehicle over 10,000 pounds GVWR or GCWR manufactured after 1975	86 dB(A)
Any motor vehicle over 10,000 pounds GVWR or GCWR manufactured after January 1, 1978	83 dB(A)
Any motor vehicle over 10,000 pounds GVWR or GCWR manufactured after January 1, 1982	80 dB(A)
All other motor vehicles	80 dB(A)

Be and the same is hereby amended to read as follows:

~~Motor Vehicle Noise Levels. MAXIMUM NOISE LEVELS FOR NEW MOTOR VEHICLES. Motor vehicle noise—Maximum levels for new vehicles.~~

It is unlawful for any person to sell or offer for sale a new motor vehicle, except an off-highway vehicle, which produces a maximum noise exceeding the following noise levels at a distance of fifty feet under acceleration test procedures ~~established by the State Commission on equipment in WAC 204-56~~ set forth in Chapter 173-62 WAC.

~~**Vehicle Category**~~

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

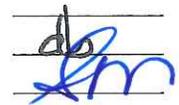
An Ordinance Relating to Noise, Amending Ordinance 534-78 as Amended (Chapter 20.08 EMC) and Repealing Sections Under Section 16

07/27/16 Briefing
 Proposed Action
 Consent
08/10/16 Action
07/27/16 First Reading
08/03/16 Second Reading
08/10/16 Third Reading
 Public Hearing

COUNCIL BILL #
 Originating Department
 Contact Person
 Phone Number
 FOR AGENDA OF

CB1607-34
Human Resources
Megan Munro
425-257-8775
July 27, 2016
August 3, 2016
August 10, 2016

Initialed by:
 Department Head
 CAA
 Council President



<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u> Ordinance	<u>Department(s) Approval</u> Legal, Police, Public Works, Code Enforcement, Planning, Human Resources
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Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

The purpose of this proposed ordinance is to amend chapter 20.08 EMC (Everett Municipal Code chapter relating to noise) with a comprehensive update to repeal outdated regulations and meet changes in state law, in the American National Standards Institute specifications, and in the Noise Control Districts in the City. It also clarifies noise control enforcement and variance procedures, including the authority of the noise control administrator, code enforcement, and police officers.

The current draft of this proposed ordinance has been approved by the Department of Ecology to ensure that it meets state law requirements. All changes to the proposed ordinance will need to be reviewed and approved by the Department of Ecology prior to enactment (approximately 60 days).

RECOMMENDATION (Exact action requested of Council):

Adopt an Ordinance Relating to Noise, Amending Ordinance 534-78 as Amended (Chapter 20.08 EMC) and Repealing Sections Under Section 16.

EVERETT CITY COUNCIL AGENDA ITEM COVER SHEET

PROJECT TITLE:

An Ordinance Relating to Noise, Amending Ordinance 534-78 as Amended (Chapter 20.08 EMC) and Repealing Sections Under Section 16

07/27/16 Briefing
 Proposed Action
 Consent
08/10/16 Action
07/27/16 First Reading
08/03/16 Second Reading
08/10/16 Third Reading
 Public Hearing

COUNCIL BILL #
 Originating Department
 Contact Person
 Phone Number
 FOR AGENDA OF

CB1607-34
Human Resources
Megan Munro
425-257-8775
July 27, 2016
August 3, 2016
August 10, 2016

Initialed by:
 Department Head
 CAA
 Council President

do
lm

<u>Location</u>	<u>Preceding Action</u>	<u>Attachments</u> Ordinance	<u>Department(s) Approval</u> Legal, Police, Public Works, Code Enforcement, Planning, Human Resources
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Amount Budgeted	-0-	
Expenditure Required	-0-	Account Number(s):
Budget Remaining	-0-	
Additional Required	-0-	

DETAILED SUMMARY STATEMENT:

The purpose of this proposed ordinance is to amend chapter 20.08 EMC (Everett Municipal Code chapter relating to noise) with a comprehensive update to repeal outdated regulations and meet changes in state law, in the American National Standards Institute specifications, and in the Noise Control Districts in the City. It also clarifies noise control enforcement and variance procedures, including the authority of the noise control administrator, code enforcement, and police officers.

The current draft of this proposed ordinance has been approved by the Department of Ecology to ensure that it meets state law requirements. All changes to the proposed ordinance will need to be reviewed and approved by the Department of Ecology prior to enactment (approximately 60 days).

RECOMMENDATION (Exact action requested of Council):

Adopt an Ordinance Relating to Noise, Amending Ordinance 534-78 as Amended (Chapter 20.08 EMC) and Repealing Sections Under Section 16.

ORDINANCE No. _____

AN ORDINANCE Relating to Noise, Amending Ordinance 534-78 as Amended (Chapter 20.08 EMC) and Repealing Sections Under Section 16.

Whereas, the City of Everett enacted a Noise Control Ordinance, Ordinance No. 534-78, on July 19, 1978 which established comprehensive noise control regulations in order to promote the use, value and enjoyment of property and environment by the citizens of Everett and the health, safety and welfare of the general public; and

Whereas, the City Council finds that a comprehensive update to the Noise Control Ordinance including repealing of outdated regulations is appropriate to reflect the present needs of the community, changes in the American National Standards Institute specifications, changes in state law, and updates to the Noise Control Districts; and

Whereas, updates to noise variance requirements and procedures will clarify the variance process and better serve variance applicants and the City; and

Whereas, updates clarifying the role of the noise control administrator, code enforcement, and the authority of police officers regarding noise control enforcement will benefit the general public by promoting such enforcement; and

Whereas, these proposed amendments promote the health, safety and welfare of the general public; and

Whereas, therefore, City Council finds it appropriate to update the Noise Control Ordinance as provided herein;

NOW, THEREFORE, THE CITY OF EVERETT DOES ORDAIN:

Section 1. Section 1 of Ordinance No. 534-78 (EMC 20.08.010), which reads as follows:

Declaration of policy and Finding of Special Conditions.

- a. **DECLARATION OF POLICY.** It is hereby declared to be the policy of the City of Everett to minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise. It is the express intent of the City Council to control the level of noise in a manner which promotes commerce; the use, value, and enjoyment of property; sleep and repose; and the quality of the environment.

- b. FINDINGS OF SPECIAL CONDITONS. The problem of noise in the City has been studied since 1972 by the Safety Director of Everett. On the basis of these studies the City Council hereby finds that special conditions exist within the City of Everett which make necessary any and all differences between this ordinance and the regulations adopted by the Department of Ecology.

Be and the same is hereby amended to read as follows:

Declaration of policy—Findings of special conditions.

- A. DECLARATION OF POLICY. It is hereby declared to be the policy of the ~~c~~City ~~of Everett~~ to minimize the exposure of citizens to the harmful physiological and psychological effects of excessive noise. It is the express intent of the ~~c~~City ~~c~~Council to control the level of noise and to promote and preserve the public health, safety, and welfare while affording protection to free speech activity as required by applicable constitutional law. It is the express intent of the ~~c~~City ~~c~~Council to control the level of noise in a manner which promotes commerce; the use, value, and enjoyment of property; sleep and repose; ~~and~~ the quality of the environment; and which enables all residents of the city to peacefully coexist in a manner which is mutually respectful of the interests and rights of others.
- B. FINDINGS OF SPECIAL CONDITONS. The problem of noise in the City has been studied since 1972 by the ~~Safety Director of Everett city.~~ On the basis of ~~these studies~~ this experience and knowledge of conditions within the city, the ~~c~~City ~~c~~Council finds that special conditions exist within the ~~c~~City ~~of Everett~~ which makes necessary any and all differences between this ordinance and the regulations adopted by the Department of Ecology.

Section 2. Section 2 of Ordinance No. 534-78, as amended by Section 2 of Ordinance No. 690-80, as amended by Section 1 of Ordinance No. 1556-89 (EMC 20.08.020), which reads as follows:

Definitions.

All technical terminology used in this chapter not defined herein shall be interpreted in conformance with American National Standards Institute Specifications, Section 1.1-1960 and Section 1.4-1971. For purposes of this chapter, the words and phrases used herein shall have the meaning indicated below:

- A. "Administrator" means the noise control administrator as established in Section 20.08.130.
- B. "dB(A)" means a sound level, measured in decibels, using the A frequency-weighting network of a sound level meter.

- C. "District" means the land use zones to which the provisions of this chapter are applied. For the purposes of this chapter the following noise control districts shall be established which include land use zones designated in the Everett zoning code as follows:

Noise Control District	Land Use Zones
1. District I	All residentially zoned districts including but not limited to R.S., R-1, R-2, R-3(A), R-4 and R-5.
2. District II	All business and commercially zoned districts including but not limited to B-1, B-2(A), B-2, B-2(B), B-3, C-1 and C-2.
3. District III	All agricultural and manufacturing zoned districts including but not limited to A, M-M and M-1, and all other nonresidential, nonbusiness and noncommercially zoned districts.

- D. "Emergency work" means work made necessary to restore property to a safe condition following a public calamity, work required to protect persons or property from imminent exposure to danger, or work by private or public utilities for providing or restoring immediately necessary utility service.
- E. "Gross combination weight rating (GCWR)" means the value specified by the manufacturer as the recommended maximum loaded weight of a combination vehicle.
- F. "Gross vehicle weight rating" means the value specified by the manufacturer as the recommended maximum loaded weight of a single vehicle.
- G. "Motorcycle" means any motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, except farm tractors and such vehicles powered by engines of less than five horsepower.

- H. "Motor vehicle" means any vehicle which is self-propelled, used primarily for transporting persons or property upon public highways, and required to be licensed under RCW 46.16A.030. (Aircraft, watercraft, and vehicles used on rails or tracks are not motor vehicles as that term is used herein.)
- I. "New motor vehicle" means a motor vehicle manufactured after December 31, 1976, the equitable or legal title of which has never been transferred to a person who, in good faith, purchases the new motor vehicle for purposes other than resale.
- J. "Noise" means the intensity, duration and character of sounds from any and all sources.
- K. "Off-highway vehicle" means any self-propelled motor driven vehicle not used primarily for transporting persons or property upon public highways nor required to be licensed under RCW 46.16A.030.
- L. "Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.
- M. "Property boundary" means the survey line at ground surface which separates the real property owned, rented or leased by one or more other persons and its vertical extension.
- N. "Public nuisance noise" means any sound which unreasonably either annoys, injures, interferes with or endangers the comfort, repose, health or safety of three or more persons residing within separate residences in the same community or neighborhood, although the extent of damage may be unequal.
- O. "Receiving property" means real property within which sound originating from sources outside the property is received.
- P. "Sound level" means a weighted sound pressure level obtained by the use of a sound level meter and weighted as specified in American National Standards Institute Specifications, Section 1.4-1971.
- Q. "Sound level meter" means a sound-level measuring device, either Type I or Type II, as defined by American National Standards Institute Specifications, Section 1.4-1971.
- R. "Watercraft" means any contrivance, excluding aircraft, used or capable of being used as a means of transportation or recreation on water.
- S. "Weekend" means Saturday and Sunday or any legal holiday.

Be and the same is hereby amended to read as follows:

Definitions.

All technical terminology used in this ~~ordinance chapter~~ not defined herein shall be interpreted in conformance with American National Standards Institute Specifications, ~~Section 1.1-1960 and~~ Section 1.4-~~1971~~2014 as it currently exists or is later amended. For purposes of this ~~chapter ordinance~~, the words and phrases used herein shall have the meaning indicated below:

- A. "Administrator" means the noise control administrator as established in Section 20.08.130, or designee.
- B. "dB(A)" means a sound level, measured in decibels, using the A frequency-weighting network of a sound level meter.
- C. "District" means the land use zones to which the provisions of this ~~chapter ordinance~~ are applied. For the purposes of this ~~chapter ordinance~~ the following noise control districts shall be established which include land use zones designated in the Everett zoning code as follows:

Noise Control District	Land Use Zones
1. District I	All residentially zoned districts including but not limited to R.S., R-1, <u>R-1A</u> , R-2, <u>R-2A</u> , R-3(A), <u>R-3L</u> , R-4 and R-5.
2. District II	All business and commercially zoned districts including but not limited to B-1, <u>B-2(A)</u> , B-2, <u>B-2(B)</u> , B-3, <u>BMU</u> , <u>E1</u> , <u>E-1MUO</u> , C-1, <u>C-1R</u> , and C-2 and C-2ES.
3. District III	All agricultural and manufacturing zoned districts including but not limited to A, M-M, and M-1 , <u>M-S</u> , <u>W-C</u> and all other nonresidential, nonbusiness and noncommercially zoned districts.

For any land use zone not listed in subsection C of this section, the Administrator may determine that the zone is substantially similar to a zone listed in subsection C and may classify it similarly for purposes of this ordinance.

D. "Emergency work" means work made necessary to restore property to a safe condition following a public calamity, work required to protect persons or property from imminent exposure to danger, or work by private or public utilities for providing or restoring immediately necessary utility service.

~~E. "Gross combination weight rating (GCWR)" means the value specified by the manufacturer as the recommended maximum loaded weight of a combination vehicle.~~

~~F.E.~~ _____ "Gross vehicle weight rating" means the value specified by the manufacturer as the recommended maximum loaded weight of a single vehicle.

~~G.F.~~ _____ "Motorcycle" means any motor vehicle having a saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, except farm tractors and such vehicles powered by engines of less than five horsepower.

~~H.G.~~ _____ "Motor vehicle" means any vehicle which is self-propelled, used primarily for transporting persons or property upon public highways, and required to be licensed under RCW 46.16A.030. (Aircraft, watercraft, and vehicles used on rails or tracks are not motor vehicles as that term is used herein.)

~~I.H.~~ _____ "New motor vehicle" means a motor vehicle manufactured after December 31, 1976, the equitable or legal title of which has never been transferred to a person who, in good faith, purchases the new motor vehicle for purposes other than resale.

~~J.I.~~ "Noise" means the intensity, duration and character of sounds from any and all sources.

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~~L.K.~~ _____ "Person" means any individual, firm, association, partnership, corporation or any other entity, public or private.

~~L.~~ _____ "Property boundary" means the survey line at ground surface which separates the real property owned, rented or leased by one or more other persons and its vertical extension.

- M. “Public Highway” means the entire width between the boundary lines of every way publicly maintained by the department of highways or any county or city when any part thereof is generally open to the use of the public for purposes of vehicular travel as a matter of right.
- N. “Public nuisance noise” means any sound which ~~unreasonably either~~ annoys, injures, interferes with or endangers the comfort, repose, health or safety of ~~three or more persons residing within separate residences in the same community or neighborhood, an entire community or neighborhood~~ although the extent of the damage may be unequal.
- O. “Receiving property” means real property within which sound originating from sources outside the property boundary is received.
- P. “Sound level” means a weighted sound pressure level obtained by the use of a sound level meter and weighted as specified in American National Standards Institute Specifications, Section 1.4-~~1971~~2014.
- P.Q. “Sound Level Measurement Procedures” means standardized procedures for the measurement of sound levels of sources regulated by this ordinance and performed in accordance with the Washington State Department of Ecology rules WAC 173-58.
- R. “Sound level meter” means a sound-level measuring device, either Type I or Type II, as defined by American National Standards Institute Specifications, Section 1.4-~~1971~~2014.
- S. “Temporary Construction Site” means any location where site clearing, construction of plat improvements, or construction or remodeling of a structure, facility, improvement or other feature attached to the land occurs. This includes roadway, bikeway, trail, sidewalk or other similar construction, repair or improvement.
- Q.T. “WAC” means the Washington Administrative Code as currently enacted or hereafter amended.
- R.U. “Watercraft” means any contrivance, excluding aircraft, used or capable of being used as a means of transportation or recreation on water.
- S.V. “Weekend” means Saturday and Sunday or any legal holiday observed by the State of Washington.

Section 3. Section 3(a) of Ordinance No. 534-78 (EMC 20.08.030), which reads as follows:

Environmental Sound Levels. UNLAWFUL SOUNDS. It is unlawful for any person to cause or permit noise to intrude into the property of another person which noise exceeds the maximum permissible noise levels set forth below.

Be and the same is hereby amended to read as follows:

~~Environmental Sound Levels. UNLAWFUL SOUNDS. Environmental sound—Unlawful sounds designated.~~

It is unlawful for any person to cause or permit noise to intrude into the real property of another person which noise exceeds the maximum permissible noise sound pressure levels set forth belowin this ordinance.

Section 4. Section 3(b) of Ordinance No. 534-78 (EMC 20.08.040), which reads as follows:

Environmental Sound Levels. MAXIMUM PERMISSIBLE NOISE LEVELS. For sound sources located within the City of Everett the maximum permissible noise levels are as follows:

District Sound Source	District of Receiving Property Within the City of Everett		
	I	II	III
I	55 dB(A)	57 dB(A)	60 dB(A)
II	57 dB(A)	60 dB(A)	65 dB(A)
III	60 dB(A)	65 dB(A)	70 dB(A)

Be and the same is hereby amended to read as follows:

~~Environmental Sound Levels. MAXIMUM PERMISSIBLE NOISE LEVELS.
Environmental sound—Maximum permissible levels.~~

For sound sources located within the City of Everett the maximum permissible noise levels are as follows:

District Sound Source	District of Receiving Property Within the City of Everett		
	I	II	III
I	55 dB(A)	57 dB(A)	60 dB(A)
II	57 dB(A)	60 dB(A)	65 dB(A)
III	60 dB(A)	65 dB(A)	70 dB(A)

Where a receiving property lies within more than one district, the most restrictive maximum permissible noise level shall apply to the receiving property.

Section 5. Section 3(c) of Ordinance No. 534-78 (EMC 20.08.050), which reads as follows:

Environmental Sound Levels. MODIFICATIONS TO MAXIMUM PERMISSIBLE NOISE LEVELS. The maximum permissible noise levels established by this section shall be modified, reduced or increased as follows:

1. Between the hours of 10:00 p.m. and 7:00 a.m. during weekdays, and between the hours of 10:00 p.m. and 9:00 a.m. on weekends, the levels established in Section 3(b) of this ordinance are reduced by 10 dB(A) where the receiving property lies within District I of the City of Everett.
2. At any hour of the day or night, for any source of sound which is of short duration, the levels established by this chapter are increased by: 5 dB(A) for a total of 15 minutes in any one-hour period; or 10 dB(A) for a total of 5 minutes in any one-hour period; or 15 dB(A) for a total of 1.5 minutes in any one-hour period.
3. This subsection shall be subject to amendment by the addition of a provision which establishes a correction factor for sources of sound which cannot accurately be measured on the "A" weighted scale. Said provision shall be added upon recommendation of the Administrator and approval of the City Council and State Department of Ecology at such time when the Administrator deems necessary and funding for equipment, personnel and other items necessary for the implementation of the provision are available.

Be and the same is hereby amended to read as follows:

~~Environmental Sound Levels. MODIFICATIONS TO MAXIMUM PERMISSIBLE NOISE LEVELS. Environmental sound—Modifications to maximum permissible noise levels.~~

The maximum permissible ~~noise sound~~ levels established by this ~~section ordinance~~ shall be modified, reduced or increased as follows:

A. Between the hours of ~~10:00~~ten p.m. and ~~7:00~~seven a.m. during weekdays, and between the hours of ~~10:00~~ten p.m. and ~~9:00~~nine a.m. on weekends, the levels established in Section 3(b) of this ordinance are reduced by ~~10~~ten dB(A) where the receiving property lies within District I of the City of Everett.

~~B.~~ At any hour of the day or night, for any source of sound which is of short duration, the levels established by this ~~chapter ordinance~~ are increased by:

1. ~~5~~Five dB(A) for a total of ~~15~~fifteen minutes in any one-hour period;
- or
2. ~~10~~Ten dB(A) for a total of ~~5~~five minutes in any one-hour period; or
- ~~B.~~ 3. ~~15~~Fifteen dB(A) for a total of 1.5 minutes in any one-hour period.

~~C. This subsection shall be subject to amendment by the addition of a provision which establishes a correction factor for sources of sound which cannot accurately be measured on the "A" weighted scale. Said provision shall be added upon recommendation of the Administrator and approval of the City Council and State Department of Ecology at such time when the Administrator deems necessary and funding for equipment, personnel and other items necessary for the implementation of the provision are available.~~

Section 6. Section 4(a) of Ordinance No. 534-78 (EMC 20.08.060), which reads as follows:

Motor Vehicle Noise Levels. MAXIMUM PERMISSIBLE MOTOR VEHICLE NOISE LEVELS. It is unlawful for any person to operate any motor vehicle upon any public highway or any combination of such vehicles under any conditions of grade, load, acceleration, or deceleration in such a manner as to exceed the maximum permissible sound levels for the category of vehicle, as measured at a distance of fifty feet from the center of the lane of travel within the speed limits specified, under procedures established by the State Commission on equipment in WAC 204-56.

VEHICLE CATEGORY	35 MPH or Less	Over 35 MPH
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VEHICLE CATEGORY	35 MPH or Less	Over 35 MPH
Motor vehicles over 10,000 pounds GVWR or GCWR	86 dB(A)	90 dB(A)
Motorcycles	80 dB(A)	84 dB(A)
All other motor vehicles	76 dB(A)	80 dB(A)

Be and the same is hereby amended to read as follows:

~~Motor Vehicle Noise Levels. MAXIMUM PERMISSIBLE MOTOR VEHICLE NOISE LEVELS. Motor vehicle noise—Maximum permissible levels.~~

It is unlawful for any person to operate any motor vehicle upon any public highway or any combination of such vehicles under any conditions of grade, load, acceleration, or deceleration in such a manner as to exceed the maximum permissible sound levels for the category of vehicle, as measured at a distance of fifty feet from the center of the lane of travel within the speed limits specified, under procedures ~~established by the State Commission on equipment in WAC 204-56 set forth in chapter 173-62 WAC~~ “Motor Vehicle Noise Performance Standards” including:-

VEHICLE CATEGORY <u>Vehicle</u> <u>Category Type</u>	35 <u>45</u> MPH or Less	Over 35 <u>45</u> MPH
Motor vehicles over 10,000 pounds GVWR or <u>GCWR</u>	86 dB(A)	90 dB(A)
Motorcycles	80-78 <u>80</u> dB(A)	84 <u>82</u> dB(A)
All other motor vehicles	76 <u>72</u> dB(A)	80 <u>78</u> dB(A)

Section 7. Section 4(b) of Ordinance No. 534-78 (EMC 20.08.070), which reads as follows:

Motor Vehicle Noise Levels. MAXIMUM NOISE LEVELS FOR NEW MOTOR VEHICLES. It is unlawful for any person to sell or offer for sale a new motor vehicle, except an off-highway vehicle, which produces a maximum noise exceeding the following noise levels at a distance of fifty feet under acceleration test procedures established by the State Commission on equipment in WAC 204-56.

Vehicle Category

Motorcycles manufactured after 1975	83 dB(A)
Any motor vehicle over 10,000 pounds GVWR or GCWR manufactured after 1975	86 dB(A)
Any motor vehicle over 10,000 pounds GVWR or GCWR manufactured after January 1, 1978	83 dB(A)
Any motor vehicle over 10,000 pounds GVWR or GCWR manufactured after January 1, 1982	80 dB(A)
All other motor vehicles	80 dB(A)

Be and the same is hereby amended to read as follows:

~~Motor Vehicle Noise Levels. MAXIMUM NOISE LEVELS FOR NEW MOTOR VEHICLES. Motor vehicle noise—Maximum levels for new vehicles.~~

It is unlawful for any person to sell or offer for sale a new motor vehicle, except an off-highway vehicle, which produces a maximum noise exceeding the following noise levels at a distance of fifty feet under acceleration test procedures ~~established by the State Commission on equipment in WAC 204-56~~ set forth in Chapter 173-62 WAC.

~~Vehicle Category~~

Vehicle Category

Motorcycles manufactured after 1975—	83 dB(A)
Any motor vehicle over 10,000 pounds GVWR or GCWR manufactured after 1975—	86 dB(A)
Any motor vehicle over 10,000 pounds GVWR or GCWR manufactured after January 1, 1978—	83 dB(A)
Any motor vehicle over 10,000 pounds GVWR or GCWR manufactured after January 1, 1982—	80 dB(A)
All other motor vehicles—	80 dB(A)

<u>Vehicle Category</u>	<u>Date of Manufacture</u>	<u>Maximum Sound</u>
<u>Any motor vehicle over 10,000 pounds GVWR excluding buses</u>	<u>Before January 1, 1978</u>	<u>86 dBA</u>
<u>Any motor vehicle over 10,000 pounds GVWR excluding buses</u>	<u>After January 1, 1978</u>	<u>83 dBA</u>
<u>Any motor vehicle over 10,000 pounds GVWR excluding buses</u>	<u>After January 1, 1982</u>	<u>80 dBA</u>
<u>All buses over 10,000 pounds GVWR</u>	<u>After January 1, 1980</u>	<u>85 dBA</u>
<u>All buses over 10,000 pounds GVWR</u>	<u>After January 1, 1983</u>	<u>83 dBA</u>
<u>All buses over 10,000 pounds GVWR</u>	<u>After January 1, 1986</u>	<u>80 dBA</u>
<u>Any motor vehicle 10,000 pounds GVWR or less</u>	<u>After January 1, 1976</u>	<u>80 dBA</u>
<u>Motorcycles</u>	<u>After January 1, 1976</u>	<u>83 dBA</u>
<u>Motorcycles</u>	<u>After January 1, 1986</u>	<u>80 dBA</u>

Section 8. Section 4(c) of Ordinance No. 534-78 (EMC 20.08.080), which reads as follows:

Motor Vehicle Noise Levels. SPECIFIC PROHIBITIONS.

1. MUFFLERS. Every motor vehicle operated upon the public highways shall at all times be equipped with a muffler in good working order and constant operation.
2. TIRE NOISE. It is unlawful for any person to operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching or other such sound from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason, provided that noise resulting from emergency braking to avoid imminent danger shall be exempt from this section.
3. ALTERATION OF MOTOR VEHICLES. It is unlawful for any person to change or modify any part of a motor vehicle or install any device thereon in any manner that permits sound to be emitted by the motor vehicle in excess of the limits prescribed in Section 4(a) and (b) of this chapter.

Be and the same is hereby amended to read as follows:

Motor Vehicle Noise Levels. ~~SPECIFIC PROHIBITIONS~~ Specific Prohibitions.

- A. ~~MUFFLERS~~ Mufflers and Exhaust Systems. Every motor vehicle operated upon the public highways shall at all times be equipped with an exhaust system and a muffler in good working order and constant operation to prevent excessive or unusual noise.
- B. ~~TIRE NOISE~~ Tire Noise. It is unlawful for any person to operate a motor vehicle in such a manner as to cause or allow to be emitted squealing, screeching or other such sound noise from the tires in contact with the ground because of rapid acceleration or excessive speed around corners or other such reason, provided except that noise resulting from emergency braking to avoid imminent danger shall be exempt from this section.
- C. ~~ALTERATION OF MOTOR VEHICLES~~ Alteration of Motor Vehicles. It is unlawful for any person to change or modify any part of a motor vehicle or install any device thereon in any manner that permits sound to be emitted by the motor vehicle in excess of the limits prescribed in Section 4(a) and (b) Sections 20.08.060 and 20.08.070 of this chapter.
- D. Violation of this section is a misdemeanor.

Section 9. Section 5 of Ordinance No. 534-78, as amended by Section 2 of Ordinance No. 690-80, as amended by Section 1 of Ordinance No. 1971-93, as amended by Section 11 of Ordinance 2394-99 (EMC 20.08.090), which reads as follows:

Public nuisance and disturbance noises.

- A. Public Nuisance Noises. Pursuant to Section 20.08.200 of this chapter, the administrator may determine that a sound constitutes a public nuisance noise as defined herein. It is unlawful for any person to cause or allow to be emitted a noise which has been determined a public nuisance noise.
- B. Public Disturbance Noises. It is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, sound that is a public disturbance. No sound source specifically exempted from a maximum permissible sound level by this chapter shall be a public nuisance noise or public disturbance noise insofar as the particular source is exempted. The following sources of sound shall be public disturbance noises and are also subject to regulation under the provisions of Sections 20.08.030 through 20.08.050:
1. The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law;
 2. The creation of frequent, repetitive or continuous noise in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine within District I so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property;
 3. Yelling, shouting, hooting, whistling or singing on or near the public streets, particularly between the hours of eleven p.m. and seven a.m. or at any time and place so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property;
 4. The use of a sound amplifier or other device capable of producing or reproducing amplified sound upon public streets for the purpose of commercial advertising or sales or for attracting the attention of the public to any vehicle, structure or property or the contents therein, except as permitted by law, and except that vendors whose sole method of selling is from a moving vehicle shall be exempt from this subsection;
 5. The creation of frequent, repetitive or continuous sounds which emanate from any building, structure, apartment or condominium, which unreasonably interferes with the peace, comfort and repose of owners or

possessors of real property, such as sounds from musical instruments, audio sound systems, band sessions or social gatherings;

6. Sound from motor vehicle audio sound systems, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than fifty feet from the source, and if not operated upon the property of the operator;
7. Sound from audio equipment, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than fifty feet from the source, and if not operated upon the property of the operator; and
8. The foregoing provisions shall not apply to regularly scheduled events at parks, such as public address systems for baseball games or park concerts.

Be and the same is hereby amended to read as follows:

Public nuisance and disturbance noises.

- A. Public Nuisance Noises. Pursuant to Section 20.08.200 of this chapter, the administrator may determine that a sound constitutes a public nuisance noise as defined herein. It is unlawful for any person to cause or allow to be emitted a noise which has been determined a public nuisance noise.
- B. Public Disturbance Noises Originating from Real or Personal Property. It is unlawful for any person to cause, or for any person in possession of property to allow to originate from the property, sound that is a public disturbance. No sound source specifically exempted from a maximum permissible sound level by this chapter shall be a public nuisance noise or public disturbance noise insofar as the particular source is exempted. The following sources of sound shall be public disturbance noises and are also subject to regulation under the provisions of Sections 20.08.030 through 20.08.050: Unless specifically exempted, public disturbance noises emanating from real or personal property possessed or controlled by the person causing or permitting the public disturbance noise are prohibited at all times. These include but are not limited to the following sounds if the sound is plainly audible across a real property line or 50 feet from the source, whichever is less.
 1. The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as a warning of danger or as specifically permitted or required by law; The frequent, repetitive and/or continuous sounding of any horn, siren or alarm attached to a motor vehicle, except when used as a warning of danger or as specifically permitted or required by law.

- ~~2. The creation of frequent, repetitive or continuous noise in connection with the starting, operation, repair, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine within District I so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property; The frequent, repetitive and/or continuous sounds in connection with the starting, operation, repair and/or testing of any motor vehicle, motorcycle, off-highway vehicle or internal combustion engine.~~
- ~~3. Yelling, shouting, hooting, whistling or singing on or near the public streets, particularly between the hours of eleven p.m. and seven a.m. or at any time and place so as to unreasonably disturb or interfere with the peace, comfort and repose of owners or possessors of real property;~~
- ~~4. The use of a sound amplifier or other device capable of producing or reproducing amplified sound upon public streets for the purpose of commercial advertising or sales or for attracting the attention of the public to any vehicle, structure or property or the contents therein, except as permitted by law, and except that vendors whose sole method of selling is from a moving vehicle shall be exempt from this subsection;~~
- ~~5.3. _____ The creation of frequent, repetitive or continuous sounds which emanate from any building, structure, apartment or condominium, which unreasonably interferes with the peace, comfort and repose of owners or possessors of real property, such as sounds from musical instruments, audio sound systems, band sessions or social gatherings; The creation of frequent, repetitive and/or continuous sounds which emanate from real property possessed or controlled by the person causing or permitting the sound, such as sounds from audio equipment, television, video equipment, musical instruments, band sessions and/or social gatherings.~~
- ~~6. Sound from motor vehicle audio sound systems, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than fifty feet from the source, and if not operated upon the property of the operator;~~
- ~~7. Sound from audio equipment, such as tape players, radios and compact disc players, operated at a volume so as to be audible greater than fifty feet from the source, and if not operated upon the property of the operator; and~~
- ~~8. The foregoing provisions shall not apply to regularly scheduled events at parks, such as public address systems for baseball games or park concerts.~~
4. Violation of this section is a misdemeanor.

C. Public Disturbance Noises Originating from Public Property. Unless specifically exempted, public disturbance noises originating from a person or personal property while on public property or a public right-of-way are prohibited at all times. In addition to public disturbance noises defined in subsection B herein, the following are public disturbance noises:

1. A person or performer creating a sound, whether amplified or unamplified, between the hours of ten p.m. and seven a.m. so as to be plainly audible across a real property boundary which is not the source of sound;
2. A person or performer creating a sound, whether amplified or unamplified, between the hours of seven a.m. and ten p.m. so as to be plainly audible 100 feet or more from the source of the sound;
3. The use of a sound amplifier or other device capable of producing or reproducing amplified sound upon public streets for the purpose of commercial advertising or sales or for attracting the attention of the public to any vehicle, structure or property or the contents therein, except that vendors whose sole method of selling is from a moving vehicle shall be exempt from this subsection;
4. Sound from the frequent, repetitive and/or continuous operating or playing of motor vehicle audio equipment, whether portable or stationary or mounted on or within a motor vehicle.
5. Violation of this section is a misdemeanor.

D. It is unlawful to intentionally fail to cease a public disturbance noise when directed to do so by a law enforcement officer. The content of the sound will not be considered in determining any violation of this section. Violation of this section is a misdemeanor.

Section 10. Section 6(a-b) of Ordinance No. 534-78, as amended by Sections 1-3 of Ordinance No. 564-78, as amended by Section 2 of Ordinance No. 1556-89, as amended by Section 2 of Ordinance 1971-93 (EMC 20.08.100), which reads as follows:

Noises exempt—At all times—Partially exempt noises.

- A. The following noises are exempt from the provisions of this chapter at all times: provided, that nothing in these exemptions is intended to preclude the administrator from requiring installation of the best available noise abatement technology consistent with economic feasibility. The establishment of any such requirement shall be subject to the provisions of the Administrative Procedure Act, Chapter 34.04 RCW:

1. Noise originating from aircraft in flight, and sounds which originate at airports and are directly related to flight operations;
 2. Noise created by safety and protective devices, such as relief valves where noise suppression would defeat the safety release intent of the device;
 3. Noise created by fire alarms;
 4. Noise created by emergency equipment, including, but not limited to, emergency standby or backup equipment, and emergency work necessary in the interests of law enforcement or of the health, safety or welfare of the community; and including, but not limited to, any emergency work necessary to replace or repair essential utility services;
 5. Noise created by auxiliary equipment on motor vehicles used for highway maintenance;
 6. Noise originating from officially sanctioned parades, sporting events and other public events;
 7. Noise created by warning devices not operated continuously for more than thirty minutes per incident;
 8. Noise created by motor vehicles when regulated by Sections 20.08.060 through 20.08.080;
 9. Noise caused by natural phenomena;
 10. Noise created by motor vehicles, licensed or unlicensed, when operated off public highways except when such sounds are received in District I of the city;
 11. Noise originating from existing natural gas transmission facilities until such time as the state sets regulations governing said facilities.
- B. The following sources of noise are exempt or partially exempt from the provisions of this chapter:
1. Noise created by the operation of equipment or facilities of surface carriers engaged in commerce by railroad;
 2. Noise created by watercraft and float planes;
 3. Noise emanating from temporary construction sites except between the hours of ten p.m. and seven a.m.; provided, however, noise emanating

from temporary construction sites is exempt or partially exempt from the provisions of this chapter except between the hours of ten p.m. and seven a.m. on weekdays and six p.m. and eight a.m. on Saturdays, Sundays and state recognized holidays if the receiving property is located within District I of the city;

4. Noise emanating from marine-oriented construction sites except between the hours of ten p.m. and seven a.m. on weekdays and weekends if the receiving property is located in District I of the city;
 5. Noise created by aircraft-engine testing and maintenance not related to flight operations, except between the hours of ten p.m. and seven a.m.;
 6. Noise originating from motor vehicle racing events at existing authorized facilities.
- C. It is the intention of the city council to consider amendments to this chapter controlling the sources exempted in subsection B of this section after the State Department of Ecology promulgates specific regulations relating to these sources in the future.

Be and the same is hereby amended to read as follows:

Noises exempt—At all times—~~Partially exempt noises.~~

- A. ~~The following noises are exempt from the provisions of this chapter at all times: provided, that nothing in these exemptions is intended to preclude the administrator from requiring installation of the best available noise abatement technology consistent with economic feasibility. The establishment of any such requirement shall be subject to the provisions of the Administrative Procedure Act, Chapter 34.04 RCW: The following noises are exempt at all times from this chapter.~~
1. Noise originating from aircraft in flight, and sounds which originate at airports and are directly related to flight operations;
 2. Noise created by the operation of equipment or facilities of surface carriers engaged in commerce by railroad;
 3. Noises created on property of federal military facilities;
 - 1.4. Noise created by watercraft and float planes in operation;
 - 2.5. Noise created by safety and protective devices, such as relief valves where noise suppression would defeat the safety release intent of the device;

~~3.6.~~ Noise created by fire alarms being used for its intended purpose;

~~4.7.~~ Noise created by emergency equipment, including, but not limited to, emergency standby or backup equipment, and emergency work necessary in the interests of law enforcement or of the health, safety or welfare of the community; and including, but not limited to, any emergency work necessary to replace or repair essential utility services;

~~5.8.~~ Noise created by auxiliary equipment on motor vehicles used for highway maintenance;

~~6.9.~~ Noise originating from officially sanctioned parades, sporting events and other public events;

~~7.~~ Noise created by warning devices not operated continuously for more than thirty minutes per incident;

~~8-10.~~ Noise created by motor vehicles when regulated by Sections 20.08.060 through 20.08.080;

~~9-11.~~ Noise caused by natural phenomena;

~~10-12.~~ Noise created by motor vehicles, licensed or unlicensed, when operated off public highways except when such sounds are received in District I of the city; Noise originating from motor vehicle racing events at existing authorized facilities;

~~13.~~ Noise originating from existing natural gas transmission facilities until such time as the state sets regulations governing said facilities. Noise created by existing stationary equipment used in the conveyance of water by a utility and noise created by existing electrical substations.

~~11-14.~~ Noises in compliance with a lawfully issued conditional use permit or SEPA determination.

~~B.~~ The following sources of noise are exempt or partially exempt from the provisions of this chapter:

~~1.~~ Noise created by the operation of equipment or facilities of surface carriers engaged in commerce by railroad;

~~2.~~ Noise created by watercraft and float planes;

~~3.~~ Noise emanating from temporary construction sites except between the hours of ten p.m. and seven a.m.; provided, however, noise emanating

~~from temporary construction sites is exempt or partially exempt from the provisions of this chapter except between the hours of ten p.m. and seven a.m. on weekdays and six p.m. and eight a.m. on Saturdays, Sundays and state recognized holidays if the receiving property is located within District I of the city;~~

~~4. Noise emanating from marine-oriented construction sites except between the hours of ten p.m. and seven a.m. on weekdays and weekends if the receiving property is located in District I of the city;~~

~~5. Noise created by aircraft engine testing and maintenance not related to flight operations, except between the hours of ten p.m. and seven a.m.;~~

~~6. Noise originating from motor vehicle racing events at existing authorized facilities.~~

~~C. It is the intention of the city council to consider amendments to this chapter controlling the sources exempted in subsection B of this section after the State Department of Ecology promulgates specific regulations relating to these sources in the future.~~

Section 11. Section 6(c) of Ordinance No. 534-78 (EMC 20.08.110), which reads as follows:

NOISES EXEMPT DURING DAYTIME HOURS. The following noises shall be exempt from the provisions of this chapter between the hours of 7:00 a.m. and 10:00 p.m. on weekdays and 9:00 a.m. and 10:00 p.m. on weekends:

1. Noise created by powered equipment used in temporary or periodic maintenance or repair of residential property, including but not limited to grounds and appurtenances, such as lawn mowers, powered hand tools, and composters;
2. Noise created by the discharge of firearms on authorized shooting ranges;
3. Noise created by the installation or repair of essential utility services;
4. Noise created by blasting;
5. Noise created by bells, chimes or carillons not operating for more than five minutes in any one hour;
6. Noise originating from forest harvesting and silvicultural activity.

Be and the same is hereby amended to read as follows:

~~NOISES EXEMPT DURING DAYTIME HOURS~~Noises Exempt During Daytime Hours.
The following noises shall be exempt from the provisions of this chapter between the

hours of ~~7:00~~seven a.m. and ~~10:00~~ten p.m. on weekdays and ~~9:00~~nine a.m. and ~~10:00~~ten p.m. on weekends and holidays:

A. Noise created by powered equipment used in temporary or periodic maintenance or repair of residential property, ~~including but not limited to grounds and appurtenances, such as lawn mowers, powered hand tools, and composters;~~

~~A.B.~~ Noise created by aircraft-engine testing and maintenance not related to flight operations.

~~B.C.~~ _____ Noise created by the discharge of firearms on authorized shooting ranges;

~~C.D.~~ _____ Noise created by the installation or repair of essential utility services;

~~D.E.~~ _____ Noise created by blasting;

~~E.F.~~ _____ Noise created by bells, chimes or carillons not operating for more than five minutes in any one hour;

G. Noise originating from forest harvesting and silvicultural activity.

H. Noise originating from temporary construction sites, excepting that noise from a temporary construction site that is received in a District 1 property is exempt between seven a.m. and ten p.m. on weekdays and between eight a.m. and six p.m. on weekends and holidays.

F.I. Noise emanating from marine-oriented construction sites except between the hours of ten p.m. and seven a.m. on weekdays and weekends if the receiving property is located in District I of the city.

Section 12. Section 7 of Ordinance No. 534-78 (EMC 20.08.130), which reads as follows:

Administrator.

A. ESTABLISHMENT. The position of Administrator is hereby established. The Administrator is authorized and directed to administer and enforce the provisions of this ordinance.

B. QUALIFICATIONS OF ADMINISTRATOR. The Administrator shall be a person having a working knowledge of acoustics and competent in the field of noise control. The Administrator shall have completed instructional guidance provided by the State Department of Ecology or other recognized institution to operate

Type I and Type II sound level meters, and make all computations and calculations necessary to enforce this ordinance.

C. DUTIES OF ADMINISTRATOR. The duties of the Administrator shall include but are not limited to:

1. Obtaining assistance from other appropriate City departments and officials.
2. Training police officers and staff.
3. Purchasing measuring instruments and training inspectors in their calibration and use.
4. To establish a noise control field procedures manual providing techniques and procedures for measuring or reducing noise and to provide for clarification, interpretation and implementation of this ordinance.
5. Investigating citizens' noise complaints.
6. Issuing orders for the reduction or elimination of noise in accordance with Section 11 of this ordinance.
7. Granting or denying variances according to procedures specified in Section 9.
8. Assisting citizens and City departments in evaluating and reducing the noise impact of their activities.
9. Assisting City planning officials in evaluating the noise component in planning and zoning actions.
10. Develop a generalized sound exposure map of the City; a long term plan for achieving quiet in the City, and with the approval of the City Council, integrating this plan into the planning process of the City;
11. Instituting a public education program on noise;
12. Reviewing at least every three years the provisions of this ordinance and recommending revisions consistent with technology to reduce noise.

Be and the same is hereby amended to read as follows:

Administrator established—Qualifications, powers and duties.

- A. ~~ESTABLISHMENT. Establishment.~~ The position of ~~a~~Administrator is hereby established. The ~~a~~Administrator ~~or her designee~~ is authorized ~~and directed~~ to administer and enforce the provisions of this ordinance.
- B. ~~QUALIFICATIONS OF ADMINISTRATOR. Qualifications of Administrator.~~ ~~The Administrator shall be a person having a working knowledge of acoustics and competent in the field of noise control.~~ The ~~a~~Administrator shall ~~have completed instructional guidance~~ ~~be qualified to perform and interpret sound level measurements consistent with guidance~~ provided by the State Department of Ecology or other recognized institution to operate Type I and Type II sound level meters, and make all computations and calculations necessary to enforce this ordinance.
- C. ~~DUTIES OF ADMINISTRATOR. Authority of Administrator.~~ The ~~duties~~ ~~authority~~ of the ~~a~~Administrator shall include but ~~are~~ ~~is~~ not limited to:
- ~~1. Promulgate rules and regulations consistent with the terms of this ordinance and reasonably necessary to implement the provisions of this ordinance;~~
 - ~~1.2. _____ Obtaining assistance from other appropriate cCity departments and officials to effectively administer this noise ordinance;-~~
 - ~~2.3. _____ Training police officers and staff in noise ordinance enforcement;-~~
 - ~~3.4. _____ Purchasing and maintaining sound measuring instruments equipment and training inspectors-city staff in their calibration and use;-~~
 - ~~4. To establish a noise control field procedures manual providing techniques and procedures for measuring or reducing noise and to provide for clarification, interpretation and implementation of this ordinance.~~
 5. Investigating citizens' noise complaints;-
 - ~~6. Issuing orders for the reduction or elimination of noise in accordance with Section 11 of this ordinance.~~
 - ~~7.6. _____ Granting or denying variances according to procedures specified in Section 9. set forth in this ordinance;~~
 - ~~8.7. _____ Assisting citizens and Ccity departments in evaluating and reducing the noise impact of their activities;-~~
 - ~~9. Assisting City planning officials in evaluating the noise component in planning and zoning actions.~~

~~10.8. _____ Develop a generalized sound exposure map of the City; a long term plan for achieving quiet in the City, and with the approval of the City Council, integrating this plan into the planning process of the City;~~

~~11. Instituting a public education program on noise; Providing public education and information regarding noise, this noise ordinance and City of Everett noise control districts;~~

~~12. Reviewing at least every three years the provisions of this ordinance and recommending revisions consistent with technology to reduce noise.~~

Section 13. Section 8 of Ordinance No. 534-78 (EMC 20.08.140), which reads as follows:

Measurement of Sound.

- a. If the measurements of sound are made with a sound level meter, it shall be an instrument in good operating condition meeting the requirements for a Type I or Type II instrument, as delineated in American National Standards Institute Specifications (ANSI) Section 1.4-1971. If the measurements are made with other instruments, or assemblages of instruments, the procedure must be carried out in such a manner that the overall accuracy shall be at least that called for in Section 1.4-1971 ANSI for Type II instruments.
- b. When the location, distance, or technique for measurement of sound is impractical or would yield misleading or inaccurate results, measurements shall be taken at other locations or distances utilizing appropriate correction factors, as specified in the rules promulgated by the Administrator.
- c. Where a receiving property is partly within one district and partly within another, the maximum permissible noise level at a point within the property boundary shall be that permitted into a receiving property wholly within the district in which the sound is measured.

Be and the same is hereby amended to read as follows:

Measurement of ~~s~~Sound.

- A. If the measurements of sound are made with a sound level meter, it shall be an instrument in good operating condition meeting the requirements for a Type I or Type II instrument, as delineated in American National Standards Institute Specifications (ANSI) Section 1.4-~~1971~~2014. ~~If the measurements are made with other instruments, or assemblages of instruments, the procedure must be carried out in such a manner that the overall accuracy shall be at least that called for in Section 1.4-1971 ANSI for Type II instruments.~~

- B. ~~When the location, distance, or technique for measurement of sound is impractical or would yield misleading or inaccurate results, measurements shall be taken at other locations or distances utilizing appropriate correction factors, as specified in the rules promulgated by the Administrator. Sound measurements shall be taken using the guidance of WAC 173-58 "Sound level measurement procedures" and using any additional methods recognized as best practice by the noise industry.~~
- C. ~~Where a receiving property is partly within one district and partly within another, the maximum permissible noise level at a point within the property boundary shall be that permitted into a receiving property wholly within the district in which the sound is measured. Any sound measurements performed by a third party may be considered by the noise administrator, provided they are in accordance with this section and performed by an individual trained to operate Type I and Type II sound level meters.~~

Section 14. Section 9 of Ordinance No. 534-78 (EMC 20.08.150), which reads as follows:

Variances.

- a. VARIANCE PROCEDURE.
1. Any person who owns or is in possession of any property or use, or any process or equipment, may make a request for a variance to the administrator as established in Section 7 for relief from any provision of this ordinance governing the quality, nature, duration or extent of discharge of noise. The application shall be accompanied by such information and data as the Administrator may require.
 2. The City Council shall promulgate, and the Administrator shall enforce the rules and regulations governing the application for and granting of such variances, including hearings and notice.
- b. A variance or its renewal shall not be the right of the applicant or holder thereof, but shall be at the reasonable discretion of the Administrator.
- c. No variance shall be granted pursuant to this section until the Administrator has considered the relative interests of the applicant, other owners or possessors of property likely to be affected by the noise, and the general public.
- d. An implementation schedule for achieving compliance with this ordinance shall be incorporated into any variance granted.
- e. Variances granted pursuant to this ordinance may be renewed on terms and conditions and for periods which would be appropriate on the initial granting of a

variance. No renewal shall be granted except on application made at least sixty days prior to the expiration of the variance.

- f. Any person aggrieved by the denial, grant or terms and conditions on the grant of an application or renewal of a variance by the Administrator may appeal such decision under procedures set forth in Sections 10 of this ordinance.

Be and the same is hereby amended to read as follows:

Variances.

~~a. VARIANCE PROCEDURE.~~

- ~~1. Any person who owns or is in possession of any property or use, or any process or equipment, may make a request for a variance to the administrator as established in Section 7 for relief from any provision of this ordinance governing the quality, nature, duration or extent of discharge of noise. The application shall be accompanied by such information and data as the Administrator may require.~~
 - ~~2. The City Council shall promulgate, and the Administrator shall enforce the rules and regulations governing the application for and granting of such variances, including hearings and notice.~~
- ~~b. A variance or its renewal shall not be the right of the applicant or holder thereof, but shall be at the reasonable discretion of the Administrator.~~
 - ~~c. No variance shall be granted pursuant to this section until the Administrator has considered the relative interests of the applicant, other owners or possessors of property likely to be affected by the noise, and the general public.~~
 - ~~d. An implementation schedule for achieving compliance with this ordinance shall be incorporated into any variance granted.~~
 - ~~e. Variances granted pursuant to this ordinance may be renewed on terms and conditions and for periods which would be appropriate on the initial granting of a variance. No renewal shall be granted except on application made at least sixty days prior to the expiration of the variance.~~
 - ~~f. Any person aggrieved by the denial, grant or terms and conditions on the grant of an application or renewal of a variance by the Administrator may appeal such decision under procedures set forth in Sections 10 of this ordinance.~~

A. A person may request a variance from compliance with this ordinance by making an application with the administrator at least thirty (30) days before the time period for the variance is to take effect. The application shall be in writing and shall be accompanied by a fee in the amount of One Hundred

Dollars (\$100). The variance may not be used for private activities (weddings, parties, etc.). The applicant shall explain the:

1. Nature of the noise.
2. Source of the noise.
3. Duration for which the noise will be created.
4. Time period for which the variance will be necessary.
5. Reason why the noise violation cannot be avoided, and
6. Mitigating conditions the applicant will implement to minimize the noise level violations.
7. The applicant shall list all property owners who adjoin the subject property per County Assessor records, except that (1) the administrator may waive this property owner list requirement if the administrator determines that the granting of the variance would have no significant effect on adjoining property owners, and (2) the administrator may increase the required property owner list to include all property owners within five hundred feet (500') of the subject property per County Assessor records if the administrator determines that the granting of the variance would have a significant impact on such property owners.

B. The administrator, after informing the affected City departments, and after considering the relative interests of the applicant, of the other owners or possessors of property likely to be affected by the noise, and of the general public, may grant a variance if the administrator determines that the noise level violations:

1. Cannot be avoided,
2. Will exist for a specific period of time,
3. Will not endanger public health, safety or welfare, and
4. Have been mitigated to the greatest extent reasonably possible.

C. Variances granted pursuant to this ordinance shall be in writing and must include the time period the variance will be in effect and the location of the variance.

D. The administrator may deny a variance application if:

1. The administrator determines that the applicant does not meet the criteria listed in subsection B of this section; or
2. The variance was obtained with false or misleading information.

E. The administrator may revoke a variance if:

1. At any time during the variance the administrator determines that the variance holder no longer meets the criteria listed in subsection B of this section;

2. The variance holder causes or permits noise that fails to comply with the variance or other provisions of this ordinance not affected by the variance and the issuance of a violation citation or stop work order has been or would be ineffective to secure compliance; or
 3. The variance was obtained with false or misleading information.
- F. The variance holder must post the variance in a viewable area at the location of the variance or keep it on their person during the effective period of the variance.
- G. If the administrator grants a variance, notice shall be mailed by first class mail to those property owners appearing on the list provided by the applicant per the application requirement herein. The applicant shall be responsible for paying all mailing costs, which shall be in addition to the variance application fee.
- H. Any variance granted by the administrator shall be restricted in duration and an implementation schedule for achieving compliance with this ordinance shall be incorporated therein. No variance shall exceed thirty (30) days. Variances may be renewed, but no renewal shall be granted unless application is made at least sixty (60) days prior to expiration of the issued variance and the applicant complies with all other requirements of this section.
- I. Any person aggrieved by a variance decision may file an appeal in writing with the land use hearing examiner within ten (10) days of issuance of the administrator's decision. The appeal shall be a proceeding pursuant to Title 15, Review Process IIIA. The appellant must prove by clear and convincing evidence that the administrator abused his or her discretion in a decision made pursuant to this section. Any appeal of a variance decision by the administrator may be affirmed, reversed, or modified by the hearing examiner. The decision of the hearing examiner shall be final. The applicable provisions of Title 15 shall govern procedure and process of any appeal of an administrator's decision, except that public notice requirements established in EMC 15.24.110 do not apply to this appeal process. Further, where a provision of Title 15 conflicts with a provision of this section, this section controls.

Section 15. Section 12 of Ordinance No. 534-78, as amended by Section 3 of Ordinance No. 690-80 (EMC 20.08.220), which reads as follows:

Violation—Penalty.

- A. Punishment for Violations and Crimes. Every offense defined by this chapter or conduct made unlawful thereby shall also constitute an offense under the Everett criminal code, and any person convicted of such an offense shall be punished by a fine not to exceed five hundred dollars or by imprisonment in the jail not to exceed six months, or both imprisonment and fine.
- B. Evidence in Criminal Proceedings. In any criminal prosecution under Section 4(c) of Ordinance No. 534-78 (codified as Everett Municipal Code Sections 20.08.090) and 20.08.080(A) and 20.08.080(B) or Section 5 of Ordinance No. 534-78 (codified as Everett Municipal Code 20.08.090), evidence of sound level through the use of a sound-level meter reading shall not be necessary to establish the commission of the offense.
- C. Penalty for Failure to Comply with Final Orders. In addition to any other sanction or remedial injunctive procedure which may be available at law or equity, any person failing to comply with a final order issued by the administrator or board of adjustment (hearing officer if appropriate), shall be subject to a cumulative civil penalty in an amount not to exceed one hundred dollars per day from the date set for compliance until such order is complied with. The civil penalty shall be collected by such action brought in the name of the city.

Be and the same is hereby amended to read as follows:

Enforcement--Violation—Penalty.

- ~~A. Punishment for Violations and Crimes. Every offense defined by this chapter or conduct made unlawful thereby shall also constitute an offense under the Everett criminal code, and any person convicted of such an offense shall be punished by a fine not to exceed five hundred dollars or by imprisonment in the jail not to exceed six months, or both imprisonment and fine.~~
- ~~B. Evidence in Criminal Proceedings. In any criminal prosecution under Section 4(c) of Ordinance No. 534-78 (codified as Everett Municipal Code Sections 20.08.090) and 20.08.080(A) and 20.08.080(B) or Section 5 of Ordinance No. 534-78 (codified as Everett Municipal Code 20.08.090), evidence of sound level through the use of a sound-level meter reading shall not be necessary to establish the commission of the offense.~~
- ~~C. Penalty for Failure to Comply with Final Orders. In addition to any other sanction or remedial injunctive procedure which may be available at law or equity, any person failing to comply with a final order issued by the administrator or board of adjustment (hearing officer if appropriate), shall be subject to a cumulative civil penalty in an amount not to exceed one hundred dollars per day from the date set for compliance until such order is complied with. The civil penalty shall be collected by such action brought in the name of the city.~~

- A. It shall be unlawful to violate or be in conflict with this ordinance. Each day, defined as the twenty-four-hour period beginning at 12:01 a.m., in which violation of this ordinance occurs, shall constitute a separate violation.
- B. Any person, firm, corporation, or association or any agent thereof who violates any of the provisions of this chapter shall be subject to the provisions of chapter 1.20 EMC. In the event an appeal of an order issued pursuant to chapter 1.20 EMC is not subject to RCW 36.70C (the Land Use Petition Act), appeal shall be by writ of certiorari.
- C. A violation of Section 8 or of Section 9(B), 9(C), or 9(D) of this ordinance is a criminal misdemeanor punishable in accordance with EMC 10.04.080.
- D. Evidence in Criminal Proceedings. In any criminal prosecution under Section 8 or Section 9(B), 9(C), or 9(D) of this ordinance, evidence of sound level through the use of a sound-level meter reading shall not be necessary to establish the commission of the offense.

Section 16. Repealer

Sections 6(d) (EMC 20.08.120), 10(a) (EMC 20.08.160), 10(b) (EMC 20.08.170), 10 (c-d) (EMC 20.08.180), 10(e) (EMC 20.08.190), and 11 (EMC 20.08.200) of Ordinance No. 534-78, all as amended, are hereby repealed, including all ordinances in conflict herewith.

Section 17. Severability

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

Section 18. General Duty

It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this Ordinance. It is the specific intent of this Ordinance that no provision or any term used in this Ordinance is intended to impose

any duty whatsoever upon the City or any of its officers or employees. Nothing contained in this Ordinance is intended nor shall be construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City related in any manner to the enforcement of this Ordinance by its officers, employees or agents.

Section 19. Savings

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

Section 20. Corrections

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

Ray Stephanson, Mayor

ATTEST:

City Clerk

Passed:

Valid:

Published:

Effective Date: