

COUNCIL AGENDA

Tuesday, January 3, 2023



Ellensburg City Council meetings are broadcast on Charter/Spectrum Channel 191 and available to livestream on Ellensburg Community Television at ectv2.com or on YouTube at ECTV Ellensburg. Members of the public may attend City Council meetings either in person in the City Council Chambers, 501 N Anderson Street, Ellensburg, WA 98926 or by registering to attend remotely via video conference.

The Study Session will take place in the City Council Chambers, 501 N Anderson Street, Ellensburg, WA 98926. No public comment will be accepted. The meeting is available to livestream on YouTube at ECTV Ellensburg.

To attend the city council meeting virtually register here:
https://us02web.zoom.us/webinar/register/WN_wuys7VR2Q2KHMEAAJx3PpQ

AMERICANS WITH DISABILITIES ACT

The City of Ellensburg strives to make our services, programs, and activities readily accessible and usable by individuals with disabilities. Reasonable accommodations will be made upon request. Please furnish the ADA Coordinator with your request in sufficient time for the City to provide a reasonable accommodation by calling the City of Ellensburg ADA Coordinator at (509) 962-7222 or email ADAAccordinator@ci.ellensburg.wa.us.

COUNCIL MEETING GUIDELINES FOR PUBLIC PARTICIPATION

All City Council meetings are broadcast on Charter/Spectrum Channel 191 and available to livestream on Ellensburg Community Television at www.ectv2.com or on YouTube at [ECTV Ellensburg](https://www.youtube.com/channel/UC1v1v1v1v1v1v1v1v1v1v1v1). You may also attend by phone, only, and listen to the meeting by following the registration instructions under “Remote testimony during the meeting,” below. Once you register, you will be sent a meeting invitation with a phone number for the meeting.

City Council accepts testimony or comments in person or via remote testimony under Citizen Comment on Non-Agenda Items (Item No. 7) as well as for all other topics under the Regular Agenda. Testimony or comments will be accepted in the following manner:

SUBMISSION OF WRITTEN COMMENTS

- **Written comments submitted in advance of meeting**
Submit written comments by mail to Beth Leader, City Clerk, Ellensburg City Hall, 501 N. Anderson St., Ellensburg, WA 98926, or via email to: cityclerk@ci.ellensburg.wa.us. Comments received by 5 p.m. on the meeting date will be compiled, sent to the City Council and entered into the record.
- **Comments for public hearings**
Written comments must be received by the City Clerk by 5 p.m. on the meeting date. Comments can either be mailed to Beth Leader, City Clerk, Ellensburg City Hall, 501 N. Anderson St., Ellensburg, WA 98926, or sent via email to: cityclerk@ci.ellensburg.wa.us. Comments received by 5 p.m. on the meeting date will be compiled, sent to the City Council and entered into the record.

PROCEDURE FOR REMOTE PARTICIPATION DURING MEETING

1. ***Advance registration is required to provide public comment or hearing testimony via remote meeting attendance.*** Anyone wishing to speak on items under the Agenda must register prior to 7 p.m. the day of the meeting. Register for the meeting at: https://us02web.zoom.us/webinar/register/WN_wuys7VR2Q2KHMEAAJx3PpQ - Once registered, you will receive an email with the meeting link and phone number (for those who wish to call into the meeting).
2. **Join the meeting early**, as you may need to download the app in advance to participate. Once you've joined the meeting, your camera and microphone will be muted until you are recognized by the Mayor to speak.
3. Please note that there may be several items on the City Council Agenda that will precede the agenda item you wish to address.
4. **The Mayor will identify the agenda item** and ask if anyone wishes to speak on the matter.
5. Any interested person may provide comments: 1) under Item 7 on non-agenda items, or 2) on any listed agenda items. If you wish to speak, you must:
 - a) **Raise your “virtual hand”** in the corner of Zoom application on the computer screen or press *9 on your phone. Raising your hand signals the moderator that you wish to speak.
 - b) **Wait to be called upon by the Mayor** using your name, e-mail, or phone number used to log in to the teleconference.
6. **Please state your name, address, and whether you are representing only yourself or others.**

PROCEDURE FOR IN-PERSON PARTICIPATION (COUNCIL CHAMBERS)

- ◆ When recognized, approach the microphone provided on the right side of the room.
- ◆ Please state your name, address, and whether you are representing only yourself or others.
- ◆ Each speaker's comments are to be limited to 3 MINUTES.
- ◆ Submit written comments to the City Clerk.
- ◆ Speakers are cautioned not to make comments of a personal, impertinent or derogatory nature.
- ◆ Speakers may not identify themselves as candidates for elective public office or make any statements which assist or discuss the campaign of a candidate for elective office or discuss or campaign for or against a ballot proposition (unless the ballot proposition is being considered as part of the City Council agenda item).

PUBLIC COMMENT RULES FOR ALL MEETING PARTICIPANTS

1. Each speaker's comments are to be limited to 3 MINUTES.
2. Speakers are cautioned not to engage in conduct that disrupts, disturbs or otherwise impedes the orderly conduct of the Council meeting.
3. Speakers may not identify themselves as candidates for elective public office or make any statements which assist or discuss the campaign of a candidate for elective office or discuss or campaign for or against a ballot proposition (unless the ballot proposition is being considered as part of the City Council agenda item).

Please note: City Council Rules provide that no action will be taken by the Council at the meeting at which a subject is first introduced during the citizen comment period (Item 7 on the Agenda). Council may consider an item at a future meeting, thus you may wish to concisely state your concern and request placement of your matter on a future agenda. Staff will follow up with speakers as necessary.

CONSENT AGENDA

Members of the audience may request items be removed from the consent agenda by asking for recognition and making the request during Agenda Approval. Items will not be removed from the consent agenda unless your request is confirmed by a councilmember.

AGENDA ITEMS

If you wish to have an item placed on a Council agenda, a written request should be delivered to the City Manager's Office prior to noon on the Monday preceding the Council meeting. Assistance will be provided in preparing a request if you wish to contact the City Clerk at (509) 925-8614.

PUBLIC HEARINGS

City Council accepts testimony or comments in person or via remote testimony on a particular subject schedule for Public Hearing. Council will consider all testimony, respond to any questions, and take action after the public hearing is closed. Testimony or comments will be accepted in the following manner:

1. When recognized,
 - If attending in the Council Chambers, approach the microphone provided on the right side of the room.
 - If attending remotely, raise your "virtual hand" in the corner of Zoom application on the computer screen or press *9 on your phone.
2. Please state your name, address, and whether you are representing only yourself or others.
3. Please limit your comments to 5 MINUTES.
4. Submit written comments to the City Clerk.

**CITY OF ELLENSBURG
COUNCIL AGENDA
Council Chambers
501 North Anderson Street
Ellensburg, WA 98926
And remotely via Zoom
Tuesday, January 3, 2023
6:00 PM – Study Session
7:00 PM - Regular Meeting**

Study Session

[Legal Issues regarding Banners and Flags in City Right-of -Way](#) 7
[Banner-Flags in City ROW - January 3, 2023 City Council Meeting](#)
[Presentation Yakima Street and Building Decorations Ordinance](#)
[Everett Banners in ROW Ordinance](#)
[Sequim Banner Policy](#)
[Bellingham Resolution 2022-13](#)

Pledge of Allegiance

- 1. Call to Order and Roll Call**
- 2. Proclamations**
- 3. Awards and Recognitions**
- 4. Approval of Agenda** [No Public Comment]
- 5. Consent Agenda** [No Public Comment]

Items listed below have been distributed to Councilmembers in advance for study and will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the Regular Agenda at the request of a Councilmember or at the request of a member of the public with concurrence of a Councilmember. Requests to remove items should be made under Item 4 Approval of Agenda.

- | | |
|--|----|
| 5.A Approve Minutes of the December 19, 2022 Regular Meeting
12-19-22 Regular meeting | 47 |
| 5.B Acknowledge Minutes of Boards and Commissions
EBDA/CenterFuse 11-3-22
EBDA/CenterFuse 11-9-22
Parks & Recreation Commission 11-9-22 | 51 |

5.C	Approve University Way Banner Request for League of Women Voters Oct 24 – Nov 6, 2023 League of Women Voters Banner Request	56
5.D	Resolution 2023-01 Approving Kittitas Valley Healthcare’s (KVH) Street Tree Removal Request at 603 S Chestnut Street KVH - Additional Tree Removal Request 603 S Chestnut St KVH Tree Removal - Graphics Resolution 2023-01 - 603 S Chestnut St - KVH Tree Removal	57
5.E	Project Acceptance - Bid Call 2021-07 for Walnut Street Rectifier and Deep Well Anode Replacement and Relocation.	62
5.F	Professional Services Agreement with Kittitas County Chamber of Commerce for 2023 Tourism Marketing and Visitor Information Center Operations 2023 Tourism Marketing Agreement - KC Chamber of Commerce	63
5.G	Interlocal Agreement for Professional Services with Ellensburg Business Development Authority (dba CenterFuse) 2023 City-EBDA Interlocal Agreement for Professional Services	80
5.H	2023 Interlocal Agreement with Kittitas County Emergency Medical Services (EMS) and Trauma Care Council Kittitas County EMS Trauma Care Council 2023 Payment Agreement	89
5.I	Approve January 3, 2023 Voucher Listing 1-3-2023 Voucher Listing	93

6. Petitions, Protests, and Communications

7. Citizen Comment on Non-agenda Issues

8. Business Requiring Public Hearings

8.A	Public Hearing (Legislative) to Consider Annexation Request from the International Order of Odd Fellows (IOOF) Lodge 20 for Parcels 744134, 474134, 513634, 503634 Located at 1900 Brick Road and First Reading of an Ordinance Approving Petition for Annexation P22-085 [Public Comment Opportunity] Ordinance 4909 (First Reading) - Annexation Exhibit 1 Map of Annexation Area Exhibit 2 Zoning Map Exhibit 3 Future Land Use Map Exhibit 4 Petition for Annexation Exhibit 5 Kittitas County Assessor Determination of Sufficiency Exhibit 6 Affidavit of Publication CC Public Hearing Exhibit 7 Certificate of Mailing Exhibit 8 Affidavit of Posting Exhibit 9 Supplemental Agenda Report with Exhibits for PC Meeting	94
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Exhibit 10 Planning Commission Minutes

- 8.B Public Hearing (Legislative) to Adopt Resolution 2023-02 Amending the City's Six-Year Transportation Improvement Plan (TIP) for 2023-2028; Revising Grant Funded Projects [Public Comment Opportunity] 133
Resolution 2023-02 Six-Year TIP Amendment Resolution
2023-2028 Six Year TIP Exhibit A - Amendment #1
ELLENSBURG Pfenning Road Sidewalk 240ft AGENCY OFFICAL LETTER.
ELLENSBURG Main Street Overlay 3rd Ave t AGENCY OFFICAL LETTER

9. Introduction and Adoption of Ordinances and Resolutions

- 9.A Ordinance 4906 (Second Reading) - Exclusion and Trespass from City Property Ordinance 4906 Exclusion and Trespass from City Property Ordinance (second reading - 01-03-23) [Public Comment Opportunity] 140
Library/Hal Holmes Center Rules of Conduct
Code of Conduct - Parks
ECC 2.34.160 (Park Rules)
- 9.B Ordinance 4907 (Second Reading) - Update of the Ellensburg City Code (ECC Ch. 3.12 Sign Code) [Public Comment Opportunity] 152
Ordinance 4907 (second reading) ECC 3.12 Sign Code Update
- 9.C Ordinance 4908 (Second Reading) Approving Rezone Request P22-075 Submitted by Jason Smith, Property Owner [Public Comment Opportunity] 173
Ordinance 4908 - Rezone (second reading)
Exhibit A P22-075 Smith HE Recommendation

10. Unfinished Business

11. New Business

12. Miscellaneous

- 12.A Manager's Report [No Public Comment] 185
Manager's Report 1-3-23

- 12.B Councilmembers' Reports [No Public Comment]

13. Executive Session

14. Adjournment

Next Ord. 4909
Next Res. 2023-03



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: January 3, 2023

Item Title/Agenda Subject: Legal Issues regarding Banners and Flags in City Right-of-Way

Submitted by: Terry Weiner City Attorney Department

Recommended Action or Motion: This item is for discussion purposes only.

Background/Summary: The City does not have a policy on flags to be flown at City Hall and elsewhere in the City. Likewise, there are few regulations regarding banners hung in the City rights-of-way. A recent United States Supreme Court case provides guidance regarding how to implement such regulations.

Previous Council Action: Commercial banners on buildings and community banners hung across University Avenue are regulated as part of the City's Sign Code, Chapter 3.12 ECC.

Analysis: The study session will include review of the First Amendment and "government speech" issues related to flags and banners hung in the City right-of-way.

Financial Impact: N/A

Attachments:

[Banner-Flags in City ROW - January 3, 2023 City Council Meeting Presentation](#)
[Yakima Street and Building Decorations Ordinance](#)
[Everett Banners in ROW Ordinance](#)
[Sequim Banner Policy](#)
[Bellingham Resolution 2022-13](#)

Banners and Flags in City Right-of-Way

City Council Study Session
January 3, 2023

Agenda

- Why are we discussing this?
 - First Amendment and public forum overview
 - “Government speech” – what is it?
 - The *Shurtleff* flag case
- The City’s current regulations of banners/flags in the right-of-way
- Examples from other jurisdictions
- Recommendations

First Amendment Overview

- **The First Amendment to the United States Constitution:**
 - Provides broad protection for freedom of speech
 - Places limits on ability of government to regulate private expression, especially when the regulation is content-based
- **The limits of government regulation allowed depends on where the speech occurs – the “forum”**
- **Different analysis applies to “government speech”**

Public Forums

- There are 3 types of *public* forums that the government may regulate to varying degrees:
 1. *Traditional public forums*
 2. *Limited (“designated”) public forums*
 3. *Nonpublic forums*

Traditional Public Forum

- Examples include public parks and sidewalks
- Time, place and manner restrictions okay but . . .
- Regulations must be content-neutral



Limited Public Forum

- Places generally designated by government
- Government may limit to certain subjects/topics or classes of speakers, but may not discriminate based on viewpoint expressed
- Example: City Council meeting public comment
 - May limit public discussion during agenda items
 - May only limit non-agenda topics very broadly



Nonpublic Forum

Usually includes government-owned properties not traditionally used for expression of public speech

Examples include jails, military bases and certain areas of airline terminals

Includes most areas in *interior* of public buildings except when specifically designated (e.g., council chambers)

“Government Speech”



- It's when the government “speaks” instead of regulates others’ speech
- Can occur in areas otherwise considered a “public forum” – in a park or in front of City Hall
- *Walker v. Sons of Confederate Soldiers (USSC 2015)*



City of

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Shurtleff v. City of Boston

- **May 2022 US Supreme Court decision**
- **Boston’s practice: allow outside groups to raise flag on day of holding events in city hall plaza**
- **City rejected a “Christian flag” out of concerns it would violate the Establishment Clause of the First Amendment, and won its case in lower courts**
- **The Supreme Court unanimously reversed and held denial of flag raising was violation of the sponsor’s free speech rights and regulation of the flags did not meet test for “government speech”**



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Why did the court rule against Boston

- **Boston did not have a written policy that addressed flag raising:**
 - So no guidance about what types of flags could be raised or appropriate messages
 - No evidence that the city pre-authorized or had ever seen the flags to be raised
 - Boston could not show it had ever denied a previous flag-raising event, so it could not deny a flag based solely on its religious symbolism



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Shurtleff case takeaways

- **If the City controls the message for flags or banners flown on City-owned property:**
 - It will be considered government speech; and
 - The City can choose what messages will be allowed
- **If the City does not control the message (e.g., allows a third party to decide content):**
 - It is not government speech – the property becomes a public forum
 - City cannot discriminate based on content, and would have to allow KKK or ISIS banners

City's current banner and flag regulations



- **Banner regulations:**

1. **The Ellensburg City Code (ECC) regulates “temporary banners” for display on buildings as commercial speech; or**
2. **Or for the banners hung across University Avenue or on 4th Avenue between Main and Pearl for specific nonprofit community events (festivals, programs, fairs, etc.); or**
3. **Community banners, pennants, signs or other displays from the City to visitors**

- **Flag regulations – virtually none**

- **No specific regulations for flags/banners on light or utility poles**



Examples of regulations by other cities

- Yakima: Ordinance - “Street and Building Decorations”
- Everett: Ordinance – “Banners in Public Rights-of-way”
- Sequim: Resolution – “Policy Defining Allowed Types of Banners at City Banner Facility”
- Bellingham: Resolution – “Display of Flags on City Property is Government Speech”

 Except for Bellingham, the rest were adopted before the *Shurtleff* decision

Recommendations

- Adopt ordinance that applies to any “decorations” (banners, flags, snowflakes, etc.) in City ROW or on City property
- Adopt flag policy resolution or ordinance requiring proclamations or resolutions to fly any flag or banner in City ROW
- Ensure that regulations meet the *Shurtleff* test for government speech



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Chapter 8.30
STREET AND BUILDING DECORATIONS

Sections:

[8.30.010 Definitions.](#)

[8.30.015 Purpose.](#)

[8.30.020 Compliance with chapter.](#)

[8.30.030 Street pole light standards reserved for exclusive city use—Location.](#)

[8.30.040 Qualified applicants.](#)

[8.30.050 Street banners—Community events—Exceptions.](#)

[8.30.060 Permit.](#)

[8.30.070 Application for permit—Fee.](#)

[8.30.080 Conditions of permit.](#)

[8.30.090 Licensed installer—Proof of insurance—Hold harmless.](#)

[8.30.100 Applicability of chapter.](#)

[8.30.110 Severability.](#)

8.30.010 Definitions.

- (a) “Street banner” means a sign consisting of fabric and containing a public service message or event announcement which is hung above or across a public right-of-way.
- (b) “Vertical banner” means a street banner, consisting of fabric and containing a public service message, an event announcement or approved decorative images, which is hung vertically in public right-of-way.
- (c) “Manager” means the economic development manager of the city of Yakima.
- (d) “City manager” means the city manager of the city of Yakima.
- (e) “Installer” means a person or entity who physically hangs the street banner over the public right-of-way and who has the required skill and equipment to properly and safely hang the street banner, and who is licensed to perform such installation pursuant to Chapter 11.08 YMC.

- (f) “Grommet” means a protective eyelet in a street banner that prevents damage to the material.
- (g) “Decorative material” means any material that is ornamental and not required for the functionality of the item upon which the material is placed. Decorative material includes, but is not limited to, fabric, streamers, vines, branches or other greenery used for a decorative purpose, streamers, or material used to embellish a sign that does not lie flush with the sign itself, or exceeds the sign’s dimensions.
- (h) “Decorative purposes” means for the purpose of decoration, rather than advertising or promoting an activity or event or a public service message. Examples of decorative purposes are lights and decorations for various holidays, or the installation of vines, plants or other items to commemorate the changing of the seasons. (Ord. 2017-014 § 1 (part), 2017: Ord. 2012-60 § 1 (Exh. A) (part), 2012).

8.30.015 Purpose.

The purpose of this chapter is to ensure the aesthetic character, and to promote the public health, safety and general welfare. This chapter is also intended to avoid visual clutter that may adversely impact traffic and pedestrian safety, or be adverse to property values, business opportunities and the city’s appearance, to prevent and abate public nuisance, and promote community-wide opportunities and activities within the city.

Further, except as otherwise provided in YMC [8.30.040](#), the purpose of street banners is to allow for the display of public service messages provided to the public by the city and event announcements promoting events taking place within the city of Yakima city limits, put on by nonprofit or other charitable organizations. Banner space above the streets in downtown Yakima, the locations of which are listed herein, has been opened up by the city of Yakima as a limited public forum and the use of that banner space is regulated in this chapter.

Nothing in this chapter precludes the city from utilizing the banner space for its own promotion or decorative purposes or for governmental speech. (Ord. 2017-014 § 1 (part), 2017: Ord. 2012-60 § 1 (Exh. A) (part), 2012).

8.30.020 Compliance with chapter.

A. General. It is unlawful for any person, firm or corporation to erect, construct, place, attach to, or in any way suspend from any building, light standard, support wires or trolley or telephone wires in a city right-of-way any signs, banners, vertical banners, or other decorative material, for advertising or decorative purposes, in any location other than where city-approved poles/wires exist as described in subsection B of this section, and without first complying with the terms of this chapter.

B. Street Banner Locations. The following locations have approved poles and supporting wires for street banners, and are the only locations within the city authorized for display of street banners:

East Yakima Avenue and Naches Avenue;

East Yakima Avenue and North 1st Street;

East Yakima Avenue and North Front Street;

North 1st Street and East A Street;

West Yakima Avenue and 7th Avenue.

(Ord. 2017-014 § 1 (part), 2017: Ord. 2012-60 § 1 (Exh. A) (part), 2012).

8.30.030 Street pole light standards reserved for exclusive city use—Location.

Street pole light standards with individual flag brackets for vertical banners within and along Yakima Avenue and Front Street are reserved for the exclusive use of the city for the promotion of civic events and decorative material, or other purposes as deemed appropriate by the city. No permits shall be issued to any third party for placement of signs, vertical banners or decorative material upon such standards. (Ord. 2017-014 § 1 (part), 2017: Ord. 2012-60 § 1 (Exh. A) (part), 2012).

8.30.040 Qualified applicants.

Applications will only be accepted from organizations meeting one of the following category criteria:

A. Nonprofit Organization. A qualified nonprofit organization must meet the following criteria:

- (1) A city of Yakima-based organization; and
- (2) A nonprofit organization, having obtained IRS certification as tax exempt; and
- (3) The event must be a community event as defined in YMC [8.30.050](#).

B. Community Event Sponsor. A qualified community event sponsor must meet the following category criteria:

- (1) A city of Yakima-based organization; and
- (2) The event is a recreational, educational, entertainment or charitable event in which the entire community is invited and may participate; and
- (3) The event must be a community event as defined in YMC [8.30.050](#).

C. City-Sponsored Event. For the purposes of this chapter, “city-sponsored” means an organization which meets one or more of the following criteria:

- (1) The organization is the city of Yakima, or one of its departments or divisions;
- (2) The organization has an intergovernmental relationship with the city of Yakima;

- (3) The organization is funded in whole or part by the city of Yakima; or
- (4) The city of Yakima is a member of the applying organization.
- (5) The event must be a community event as defined in YMC [8.30.050](#). (Ord. 2017-014 § 1 (part), 2017: Ord. 2012-60 § 1 (Exh. A) (part), 2012).

8.30.050 Street banners—Community events—Exceptions.

A. Community Events. Except as otherwise set forth below, banners shall be used only to advertise community events within the city of Yakima, and not for the advertising of the organization or its products. No requests shall be approved for banners advertising the following types of events:

1. Commercial product sales or events;
2. Political events;
3. Religious events.

“Community events” include recreational, entertainment, educational, charitable or like events intended and held for the benefit of the entire community, and which are open to participation by the entire community. Churches may be nonprofit organizations eligible for community event banners so long as the community event is not a religious event or service promoting or promulgating any religious belief, creed, tenet or denomination. Banners for fundraising events sponsored by churches and other nonprofit organizations may be permitted so long as they are for the advertisement of community events and not advertising of the organization or its products, nor for religious or political events, nor for commercial product sales or events.

B. Commercial Sponsorship. A banner may include a portion acknowledging a commercial sponsor of the banner or the community event. Such acknowledgement may contain a representation of the sponsor’s logo, but such acknowledgement or logo shall not comprise the primary message of the banner. The city reserves the right to approve, modify or reject the content of each banner, including but not limited to placement and size of sponsorship acknowledgements and logos. (Ord. 2017-014 § 1 (part), 2017: Ord. 2012-60 § 1 (Exh. A) (part), 2012).

8.30.060 Permit.

Permits for the installation of street banners, vertical banners and/or decorative material shall be issued only when permission therefor has been granted as hereinafter set forth. (Ord. 2017-014 § 1 (part), 2017: Ord. 2012-60 § 1 (Exh. A) (part), 2012).

8.30.070 Application for permit—Fee.

A. Application to Be Submitted by Licensed Installer. Applications to hang a street banner or vertical banner

shall be accepted only from licensed installers on behalf of qualified applicants.

B. Time for Submission of Application. Permit applications shall not be accepted more than six months prior to the proposed installation of the street banner. Permit applications, along with applicable fees, must be submitted at least thirty days in advance of installation.

C. Application. The permit application shall be in writing and shall contain the following information:

- (1) Date(s) of event;
- (2) Name and purpose of event;
- (3) Date of installation of banner, and date of removal;
- (4) Proposed location for banner;
- (5) All applications must include draft artwork, sample specification and message to be printed on the street banner or vertical banner, together with any acknowledgement of sponsors and/or sponsors' logos;
- (6) Copy of IRS tax-exempt certificate, if applicable;
- (7) Contact person, name and phone number to be used in the event of a problem;
- (8) Name, address and contact information of licensed installer; and
- (9) Any other information deemed necessary and appropriate by the economic development manager.

D. Review of Application. Upon the receipt of said application, the economic development manager shall review such application for compliance with the provisions of this chapter, and whether the installation of said banner will be likely to constitute a hazard to the safety of the inhabitants of the city of Yakima or to property rights.

If, in the exercise of his judgment and discretion, the economic development manager determines, in consultation with the code administration manager, that the proposed banner is compliant with the provisions of this chapter and that installation thereof, as contemplated, could be made and thereafter maintained with reasonable safety, the economic development manager may order a permit to be issued therefor upon payment to the city of the applicable license fee.

The economic development manager may approve, deny or require modification of the proposed banner to meet the requirements of this chapter.

E. Fees. A weekly permit fee of one hundred dollars each for banners located on Yakima Avenue and fifty

dollars each for banners located on North Front Street and/or East A Street must accompany the application for permit. A two-week permit fee of two hundred dollars each for banners located on Yakima Avenue, and one hundred dollars each for banners located on North Front Street and/or East A Street, must accompany the application for permit. (Ord. 2017-014 § 1 (part), 2017: Ord. 2012-60 § 1 (Exh. A) (part), 2012).

8.30.080 Conditions of permit.

No banner permit application shall be approved, nor a permit issued, to other than a contractor who has been issued a certificate of registration by the Washington State Department of Licenses pursuant to Chapter 18.27 of the Revised Code of Washington.

The size of the banner(s) shall be four feet in height and a maximum of forty feet in width with a minimum of twenty percent of the banner area having air passage vents provided.

The banner(s) shall be made from durable lightweight material meeting banner manufacturer's standards and designed to withstand wind speeds of eighty miles per hour. They shall not contain any decorative materials.

Connections to city support cables shall be made with sufficient number and size of fasteners to safely support the weight of the banner, including wind loading. Grommets shall be provided in the banner material at each attachment point.

Lines shall be provided at corners of banners to position and maintain banner deployment. Lines shall be securely fastened to strain pole cable brackets with mechanical fasteners such as steel carabiners or similar devices.

Banner permits shall be valid for a maximum period of two weeks. Requests for permit extensions will be considered by the economic development manager, or his or her designee, based on other requests for banner placement that are pending/approved.

Banners must be removed no later than three days after the permit expiration date. Banners not removed will be removed by the city and any costs associated therewith shall be paid by the permit holder. Banners removed by the city will be retained for ten business days, after which they will be discarded. (Ord. 2017-014 § 1 (part), 2017: Ord. 2012-60 § 1 (Exh. A) (part), 2012).

8.30.090 Licensed installer—Proof of insurance—Hold harmless.

A. Before any permit shall be issued to a licensed sign installer for the installation of outdoor banners, and as a prerequisite thereto, the licensed sign installer shall provide the city with proof of licensing under Chapter 11.08 YMC and a certificate of insurance as proof of commercial general liability insurance as required by YMC 11.08.140.

B. No permit shall be issued pursuant to this chapter until the applicant has executed an agreement whereby the applicant agrees to defend, indemnify and hold harmless the city of Yakima and any of its officers, agents

and employees from any and all liability resulting from the granting of said permit. This agreement shall be in substantially the following form:

HOLD HARMLESS AGREEMENT

State of)
Washington	
) ss.
County of)
Yakima	

_____ (Name of Applicant), first being duly sworn on oath deposes and says:

I am the applicant or lawful agent of an applicant for a banner permit authorized pursuant to Chapter [8.30](#) of the City of Yakima Municipal Code. I know and understand the risks inherent in installing banners that include, but are not limited to: obstruction to traffic, collision with obstructions and contact with high voltage lines. I understand that in granting to me the aforementioned permit, the City may become liable to others because of the risks in the installation of banner including but not limited to, those risks mentioned herein. In consideration for granting the aforementioned permit, I agree to defend, indemnify and hold harmless the City of Yakima, its officers, agents and employees against any and all claims or liability based on or arising from the granting of the aforementioned permit.

_____ (authorized representative of licensed sign company/installer)

State of)
Washington	
)
County of)
Yakima	

On this ____ day of _____, 20__, before me personally appeared _____, whose identity was proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he/she executed the same.

Notary Public in and for the State of Washington,

Residing at _____

My commission expires _____.

(Ord. 2017-014 § 1 (part), 2017: Ord. 2012-60 § 1 (Exh. A) (part), 2012).

8.30.100 Applicability of chapter.

The provisions of this chapter shall not be construed as modifying or amending, in any way, the provisions of Chapter 11.16. (Ord. 2017-014 § 1 (part), 2017: Ord. 2012-60 § 1 (Exh. A) (part), 2012).

8.30.110 Severability.

If any provision of this chapter or its application to any person or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances is not affected. (Ord. 2017-014 § 1 (part), 2017: Ord. 2012-60 § 1 (Exh. A) (part), 2012).

Chapter 13.40

BANNERS IN PUBLIC RIGHTS-OF-WAY

Sections:

- 13.40.010 Purpose.**
- 13.40.020 Definitions.**
- 13.40.030 Authority and administration.**
- 13.40.040 Permit required—Street lights and telephone/utility poles.**
- 13.40.050 Permit required—Private bridges and skywalks.**
- 13.40.060 Banner content.**
- 13.40.070 Permit application.**
- 13.40.080 Insurance required.**
- 13.40.090 Permit duration.**
- 13.40.100 Permit issuance.**
- 13.40.110 Removal bond required prior to installation.**
- 13.40.120 Installation location and method.**
- 13.40.130 Maintenance.**
- 13.40.140 Permit revocation.**
- 13.40.150 Banner removal.**
- 13.40.160 Request for modification and appeals.**
- 13.40.170 Violation—Penalty.**
- 13.40.180 City rights not affected.**

13.40.010 Purpose.

The purpose of this chapter is to permit the limited hanging of banners on private bridges and skywalks and certain street light and telephone/utility poles within the city's public rights-of-way. The city's intent is not to provide a general public forum for the posting of messages, by banner, in the city's public rights-of-way. Rather, this chapter creates a limited forum allowing banners that alert the public to events of general interest and civic organizations within the city. Such banners specifically benefit the city by drawing attention to events and locations of interest within the city and by contributing to making the city an attractive and enjoyable place to reside and visit. (Ord. 3258-12 § 1, 2012.)

13.40.020 Definitions.

For the purposes of this chapter, the following terms shall have the specified meanings:

- A. "Banner" means a nonilluminated sign made of vinyl, fabric, cloth, or other approved pliable material and includes both event banners and identification banners.
- B. "Block" means two opposing "block faces."
- C. "Block face" means the street frontage of one block from intersection to intersection on one side of the street.
- D. "Eligible event" means an event which promotes community happenings such as: arts and cultural events (including theatrical and musical performances), sporting events, parades, festivals, conventions, and educational activities.
- E. "Eligible organization" means, and is limited to, educational institutions, hospitals, and city-recognized neighborhood associations, business districts and historic districts.
- F. "Event banner" means a banner promoting an eligible event for a specific time period within the city.
- G. "Identification banner" means a banner that promotes an eligible organization.
- H. "Public rights-of-way" means land owned by the city and held open for public travel or land dedicated to the city or the public for public travel.
- I. "Public works director" means the public works director or designee. (Ord. 3258-12 § 2, 2012.)

13.40.030 Authority and administration.

The public works director is authorized to issue permits and to promulgate rules to implement the provisions of this chapter and shall solicit input on rules and standards from the planning and community development director and the parks and recreation director. (Ord. 3258-12 § 3, 2012.)

13.40.040 Permit required—Street lights and telephone/utility poles.

- A. It is unlawful for any person to hang or suspend any banner from a street light or telephone/utility pole within the public rights-of-way, except as authorized by a city-issued permit.
- B. Permits may only authorize installation of banners along designated roadways as established by the public works director and may only allow installation of banners on four contiguous city blocks, unless expanded as provided in Section [13.40.100\(B\)](#). Generally, such roadways should be arterial streets in areas zoned for commercial use, arterial streets in areas zoned for a mix of commercial and multifamily uses, or abutting institutional uses located in residential zones.
- C. Permits may not authorize banners spanning across the public rights-of-way, except as provided in Section [13.40.050](#).
- D. Permits may not authorize any portion of a banner to be less than twelve feet above any sidewalk or less than sixteen feet above any street surface.

E. Banners allowed under a permit are otherwise exempt from the requirements of EMC Title [19](#). (Ord. 3258-12 § 4, 2012.)

13.40.050 Permit required—Private bridges and skywalks.

A. It is unlawful for any person to hang or suspend any banner from a private bridge or skywalk spanning a public right-of-way, except as authorized by a city-issued permit.

B. Permits may only be issued for event banners and, notwithstanding Section [13.40.090](#), may only authorize installation and display for a maximum of seven days.

C. Banners authorized by permit on private bridges or skywalks must be installed by private contractor only. City crews are not available to install banners on private bridges or skywalks.

D. Banners allowed under a permit are otherwise exempt from the requirements of EMC Title [19](#). (Ord. 3258-12 § 5, 2012.)

13.40.060 Banner content.

Banners shall comply with the following requirements:

A. Content shall be limited to:

1. Event banners—the name of the event and related graphics; the name of the applicant and related graphics; the date of the event; the time of the event; the location of the event; and a location to find more information.
2. Identification banners—identification of the eligible organization and related graphics and a short message or slogan related to the organization.

B. Banners may not: be personal, political, controversial, or solely commercial in nature; promote hate speech or criminal behavior; or create confusion with traffic signals or signs (including the use of colors identified for sign background or legends in the Manual on Uniform Traffic Control Devices, except white and black).

C. *Sponsorships.* Applicants may at times have relationships with commercial entities which they may display on banners in the form of sponsorship content. This content must be incidental to the overall banner design and shall not cover more than ten percent of the total square footage of the banner, absent extraordinary circumstances. The square footage of the sponsorship is calculated by measuring the text font, logo, and/or color block of the content. The sponsorship name or icon font shall not be larger than the font of the event or identification name on the banner. (Ord. 3258-12 § 6, 2012.)

13.40.070 Permit application.

Before a permit may be issued, the applicant shall file a complete permit application with public works permit services. A complete application shall include:

- A. Indication of compliance with the design and construction standards and specifications for development relating to banners;
- B. The proposed location and number of banners;
- C. The proposed duration the banners will be displayed;
- D. The proposed banner content (including a mock or visual representation);
- E. Evidence of insurance;
- F. Acknowledgement of the required removal bond or cash deposit; and
- G. Written permission to install banners from the owner of the street light, telephone/utility pole, private bridge, or skywalk, if applicable.

Upon submission of a complete application, the applicant shall meet with the city's cultural arts manager or designee to collaborate on a final design of the applicant's banners. (Ord. 3258-12 § 7, 2012.)

13.40.080 Insurance required.

Any applicant desiring to hang or suspend any banner on a street light, telephone/utility pole, private bridge, or skywalk within or spanning the public rights-of-way shall execute an agreement, in a form satisfactory to the city attorney, saving the city, its officers, employees, and agents harmless and agreeing to indemnify the city from any and all claims arising out of the applicant's actions in connection with any approval granted by the city authorizing the hanging or suspension of any banner. The applicant will furnish a certificate of insurance showing that the applicant has liability and property damage insurance coverage in effect during the terms of the permit with an insurance company authorized to do business in the state of Washington with minimum limits for bodily injury or death to any one person in any one accident of one million dollars and a minimum limit of two million dollars for bodily injury or death to two or more persons in any one occurrence and a minimum limit of five hundred thousand dollars for property damage for each occurrence; provided further, that such insurance shall name the city, its officers, employees, and agents as an additional named insured. Such insurance shall be cancelable only after thirty days' written notice to the city. Cancellation or voiding of applicant's insurance policy by any means shall automatically cancel said applicant's authority granted herein. (Ord. 3258-12 § 8, 2012.)

13.40.090 Permit duration.

- A. Permits for event banners may allow installation a maximum of thirty days prior to an event and must expire within five business days of the end date of the event. Events may last in duration up to six months.
- B. Permits for identification banners may allow installation for a period of up to one year and may be renewed annually at the applicant's request. (Ord. 3258-12 § 9, 2012.)

13.40.100 Permit issuance.

- A. All permits will be issued at the discretion of the public works director. A permit shall not issued if the public works director determines that the banners will damage city property, unreasonably interfere with the proper use of the public rights-of-way, or endanger public health, welfare, or safety.
- B. The public works director may increase the number of blocks the permit includes, from the maximum of four, if the specific city block or blocks covered by the application do not include a representative number of eligible street lights or telephone/utility poles in comparison to a typical city block.
- C. The public works director may require alternate size and placement of banners, if, in the public works director's sole discretion, the proposed locations cannot accommodate the requested size or mounting heights.
- D. Issuance of a city permit does not absolve the applicant of the need to gain authorization from the owners of any non-city-owned street lights, telephone/utility poles, private bridges, or skywalks. (Ord. 3258-12 § 10, 2012.)

13.40.110 Removal bond required prior to installation.

No banner shall be installed pursuant to a permit until public works has on file a surety bond or cash deposit so conditioned as to assure that the city shall be reimbursed for any expense that may be incurred by the city in repairing or removing any banner or installation device installed pursuant to the applicant's permit, in repairing damage to city-owned equipment resulting from the banner installation, or in otherwise enforcing any order, rule, or policy of public works. Upon the face of each application received, public works shall indicate the minimum amount of bond or cash deposit required for the requested permit, which shall be at the reasonable discretion of public works and shall be acknowledged by the applicant. The amount of the bond or cash deposit shall not be less than the amount so indicated. The applicant must provide public works evidence of the removal bond or provide the cash deposit ten days prior to installation of any banner. The unused portion of any cash or other deposit shall be returned to the applicant within thirty days of permit expiration or revocation. (Ord. 3258-12 § 11, 2012.)

13.40.120 Installation location and method.

- A. Regardless of permit authority, banners shall not be installed on poles with vehicular or pedestrian signal equipment.
- B. The applicant may hire a private contractor to install its banners in locations as approved by the city. The applicant may pay the city, subject to the approval of the public works director, to install its banners. If the city performs the installation, the applicant shall reimburse the city for all costs incurred including overtime pay and employee benefits.
- C. Installation of banners must conform to all city standards established by the public works director. The public works director is authorized to specifically allow deviations from the standards by identifying the deviations in the permit.
- D. Installation of banners on, or removal from, city-owned poles may only be carried out by those installers approved by the public works director. (Ord. 3258-12 § 12, 2012.)

13.40.130 Maintenance.

The applicant has the sole responsibility to maintain any banners or installation devices placed by the applicant in or spanning the public rights-of-way. The applicant must faithfully repair and replace all property damaged by its banners or the installation of its banners. Banners shall remain in a clean and attractive appearance at all times. The applicant is required to maintain its banners and installation devices in a manner that prevents them from becoming worn or unsightly and assures protection of property and protection of public health, welfare, and safety. (Ord. 3258-12 § 13, 2012.)

13.40.140 Permit revocation.

Permits may be revoked by the public works director on one or more of the following grounds:

- A. The applicant has failed to adequately maintain its banners or installation devices as required by this chapter;
- B. The applicant failed or refused to observe any permit requirement, any provision of this chapter, or any rule promulgated by the public works director pursuant to authority granted by this chapter; or
- C. The applicant made a material misrepresentation in the application. (Ord. 3258-12 § 14, 2012.)

13.40.150 Banner removal.

- A. Upon expiration of any permit, banners must be removed by the applicant within seventy-two hours, unless a renewal or written extension is granted by the public works director.

B. Upon revocation of any permit, all banners covered thereby must be removed on the day of revocation unless a written extension is granted by the public works director.

C. Notwithstanding the provisions of Chapter [1.20](#), any banner not removed by the applicant, as required herein, or placed in violation of this chapter, may be removed and disposed of by the city without notice to the applicant. Any banner which the public works director determines presents an immediate threat of harm to the public health, welfare, or safety may be removed immediately without notice to any party. (Ord. 3258-12 § 15, 2012.)

13.40.160 Request for modification and appeals.

A. Requests for modification to the city's standards may be made in writing when applying for an original permit, or upon renewal of an annual permit, to the attention of the public works director.

B. Any applicant who is denied a permit may appeal such denial to the city's land use hearing examiner. The appeal must be in writing and comply with the procedures adopted by the hearing examiner. Such appeal must be filed with the hearing examiner within fourteen calendar days of the date of notification of the denial. The decision of the hearing examiner is final. (Ord. 3258-12 § 16, 2012.)

13.40.170 Violation—Penalty.

Any person hanging or suspending any banner or decoration within or spanning the public rights-of-way of the city without complying with the provisions of this chapter, and any rules adopted pursuant thereto, shall be guilty of a misdemeanor punishable by a fine not to exceed one thousand dollars per day. Each day upon which a violation occurs or continues shall constitute a separate violation. The penalty provided in this section is in addition to the city's rights to remove banners and recoup costs, as provided in this chapter, and the enforcement procedures of Chapter [1.20](#). (Ord. 3258-12 § 17, 2012.)

13.40.180 City rights not affected.

The city is not constrained to follow the requirements of this chapter in displaying banners within the city. (Ord. 3258-12 § 18, 2012.)

The Everett Municipal Code is current through Ordinance 3899-22, and legislation passed through September 14, 2022.

Disclaimer: The City Clerk's Office has the official version of the Everett Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

[City Website: everettwa.gov](http://everettwa.gov)

[Code Publishing Company](#)

CITY OF SEQUIM
RESOLUTION NO. R-2017-14

A RESOLUTION SUPERSEDING RESOLUTION R-2012-08 ESTABLISHING
A POLICY DEFINING ALLOWED TYPES OF BANNERS AT CITY BANNER
FACILITY

WHEREAS, the City of Sequim had an agreement with the Sequim Dungeness Valley Chamber of Commerce from 1996 through 2005 regarding the display of banners in the city; and

WHEREAS, the City's banner structure that exists at the west end of the city was constructed with funds made available through lodging tax collected pursuant to RCW 67.28 and RCW 67.28.1815 (Tourism Promotion), thereby creating opportunities for banners promoting tourism activities as defined in RCW 67.28.080 (5)-(9); and

WHEREAS, maintenance of the banner structure is partially paid from rental revenue and additional sums are paid from the General Fund; and

WHEREAS, after reviewing operation of the 2012 policy it has been determined that applicants for rental of banner space should have more clarity in determining what events and activities may be promoted; and

WHEREAS, the City's banner policy was originally drafted after reviewing city and county banner policies from across Washington and the United States, and has been revised over the years to accommodate public feedback and changes in the law; and

WHEREAS, the City Council has determined that the City's policy regarding the City Banner Facility should continue to provide for a limited public forum and not an open public forum;

NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF SEQUIM, WASHINGTON, FINDS AS FOLLOWS:

1. The City Banner Facility is not an open public forum but is designed and funded as a limited public forum primarily for tourism promotion in the city of Sequim and the Sequim-Dungeness Valley.
2. Banners over streets can be distracting and should be limited.
3. Promotion of a certain limited genre of community events open to and of interest to the general public may be permitted on a limited basis.

AND WE HEREBY DO ORDAIN that:

The attached policy regulating banner use at the west end banner location is hereby adopted.

PASSED BY THE CITY COUNCIL OF THE CITY OF SEQUIM, WASHINGTON, this
_____ day of May 2017.

Dennis Smith, Mayor

Attest:

Karen Kuznek-Reese, MMC, City Clerk

Approved as to Form:

Kristina Nelson-Gross, City Attorney



152 West Cedar Street, Sequim, WA 98382
City Hall (360) 683-4139 FAX (360) 681-3448
Public Works (360) 683-4908 FAX (360) 681-9552

USE OF CITY BANNER FACILITY

Purpose. The purpose of this policy is to define the types of banners allowed to be displayed on the City Banner Facility in a manner consistent with the intent for which the City Banner Facility was established.

Banner Location. The City currently has a single “City Banner Facility” located on Washington Street near the west end of town, consisting of a permanent decorative steel structure spanning the entire street upon which banners are displayed on a week-to-week basis.

Philosophy. Banners occupy public space over Washington Street in Sequim and are thus visible to drivers, passengers, and pedestrians in that area of town. The City Banner Facility, upon which banners are displayed, was constructed with funding primarily from the Lodging Tax Fund and is maintained by the Sequim Public Works Department. The Sequim City Council has determined that the City Banner Facility is not an open public forum and that banners should be permitted only when they provide direct and positive benefits to tourists and the residents of Sequim and the greater Sequim/Dungeness valley area. Banners will be regulated in a consistent and lawful manner to ensure a limited, not open, public forum that promotes tourism and friendly, small-town lifestyle.

Policy. This policy regulates all banners under the City’s jurisdiction and is in addition to other municipal regulations. All banners to be displayed on the City Banner Facility require approval of the City Attorney or his/her designee, or must be a component of a Temporary Activity Permit or contract entered into with the City of Sequim.

Procedures.

- **Application/Reservation of Dates/Priority of Reservations**
 - Before space is reserved and a banner is authorized, applicant must submit a completed Banner Rental Application to the City Attorney’s office, together with payment in the form of a check or money order. Applications submitted without payment will not be considered and will be returned. Application forms are available through the City Attorney’s Office, 360-681-6611.
 1. Reservations are made on a first-come, first-served basis with the following

caveats: (1) City-sponsored tourism events such as the Irrigation Festival and Lavender Weekend have priority regardless of when application is submitted; (2) tourism-related events as defined in RCW 67.28 have priority over non-tourism events and may preempt applications for non-tourism events up to six weeks ahead of desired date.

2. Reservations may be made up to 12 months in advance, so long as application and payment is also made at that time.
3. Applicants are limited to two consecutive weeks per year and no fee reductions or deferrals are available, even for nonprofit or governmental entities.
4. The City Attorney's office will review the banner rental application within 5 business days of receipt. If application is approved, dates will be reserved. If application is denied, applicant will be issued a denial letter and the payment will be returned. Applicant may appeal the denial decision to the City Manager.

- **Allowable Banners**

- The following are examples of banners permitted for display, listed in order of the City's priority ranking:

1. Events sponsored (usually by contract) by the City of Sequim.
2. Promotions for tourism-related ("Heads in Beds"): entertainment, recreational, educational, festival or sporting events located in Sequim and sponsored by local, non-profit IRS 501(c) or (d) or similar community organizations.
3. Athletic and special tourism-related community events that are commercially sponsored, occurring within the city of Sequim, when proceeds are used for specific community service projects.
4. Tourism events sponsored by other local governments reasonably likely to bring tourists into Sequim.
5. Welcome messages, such as those for class reunions, conventions and conferences, athletic tournament participation, fishing event participants, etc. for events occurring within the Sequim/Dungeness Valley and which are tourism related.
6. Locational voting information or reminders to vote.
7. Entertainment, sporting, recreational, educational or fundraising events sponsored or promoted by other nearby government agencies which are reasonably likely to bring tourists into Sequim.
8. Community events or activities which occur within the Sequim/Dungeness Valley area, are open to the public, not for profit, and promote the Council vision of friendly small-town lifestyle. Examples include volunteer recruitment, youth sports sign-ups, etc.

- **Banners Which Are Not Allowed**

- The following are examples of prohibited banners:

1. Personal messages for family members.
2. Promotion of a commercial enterprise "for profit" activity including promotion for sales of goods and/or services.

3. Promotions of religious, political, ideological or “issue” events that are not intended to draw tourists. Restrictions on religious events are pursuant to Amendment 1, United States Constitution and Art. 1, Section 11 Washington State Constitutions.
4. Advertisements of clubs or organizations for events in Sequim but which are primarily for local membership participation.

Appeal Process

- Denials of Banner Rental Applications made by the City Attorney or his/her authorized designee may be appealed in writing to the City Manager for final determination.
- Written appeals must be received by the City Manager within seven (7) working days following denial.
- The City Manager will base all final decisions on the following criteria:
 - Whether the proposed banner meets the criteria for allowable displays;
 - Whether the banner is likely to promote tourism or a local event provided for under “Allowable Banners,” likely of great interest to a majority of city residents;
 - Whether there are other proposed allowable banners seeking the same time slot which, under the intent of the policy, have a higher tourism promotion priority.

RESOLUTION NO. 2022-13

**AFFIRMING THAT THE DISPLAY OF FLAGS ON CITY PROPERTY
IS GOVERNMENT SPEECH**

WHEREAS, the Mayor exercises control over the property and facilities of the City of Bellingham; and

WHEREAS, the City Council has historically approved the raising of commemorative flags identified with a specific event, cause, theme, nation or group of people that the City chooses to honor, recognize, or commemorate; and

WHEREAS, the City has not adopted an administrative process, formal policy, or informal policy to allow private parties to raise their own flags on City property; and

WHEREAS, the City Council declares and affirms that flagpoles on City of Bellingham property are not intended to serve as a forum for free expression by the public, but rather as a non-public forum for the display of flags as required by law, for the expression of the City's official government speech, or both.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BELLINGHAM:

Flags displayed on City-owned property shall be displayed in accordance with Federal and State statutes and regulations, including but not limited to, United States Code (4 U.S.C. Ch. 1) Revised Code of Washington (RCW 35A.21.180, RCW 1.20.017, RCW 1.20.015)

The City Council adopts the following guidelines regarding the display of commemorative flags on City flagpoles:

- As used in these guidelines, a "Commemorative Flag" shall mean a flag that identifies with a specific event, cause, theme, nation, or group of people that the City Council chooses to honor, recognize, or commemorate consistent with the City's official policies, priorities and sentiments.
- The Mayor may order raising of the PRIDE Commemorative Flag in support of the LGBTQ+ community, in celebration of PRIDE events, and as a statement to the public that discrimination, harassment and harm to LGBTQ+ individuals is not acceptable and will not be tolerated.
- The Mayor may order raising of the Juneteenth Commemorative Flag in honor of the City, State and Federal Juneteenth holiday. Juneteenth is the oldest known celebration commemorating the ending of slavery in the United States. By raising the Juneteenth Flag and through other means, the City encourages employees and community members to learn more about this period in our history and commit to working for a society in which all people are truly free.

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270

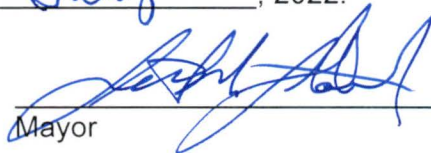
- The Mayor may order display of the official flag of the City of Bellingham to create civic pride, denote a sense of place, and reflect the vibrancy of our residents and our community, provided the City Council has not authorized another Commemorative Flag for the same location and period of time.
- The Mayor may order display of the Commemorative Flag of any recognized Sister City of the City of Bellingham to be flown during official visits of representatives of the Sister City, provided that City Council has not authorized another Commemorative Flag for the same location and period of time.
- Except as provided above, Commemorative Flags may be displayed only as authorized by the City Council as an expression of the City's official government speech.
- City Council shall only consider requests to display a Commemorative Flag made by the Mayor or a member of City Council. Requests to raise a Commemorative Flag made by members of the public or other private groups will not be considered.
- The Council's decision to approve or deny a request from the Mayor or a member of the City Council to display a commemorative flag shall be made at a publicly noticed City Council meeting.
- Commemorative Flags must be the same size or smaller than the United States or Washington State flags being flown.
- If any other flag is being flown at half-staff, the Commemorative Flag will also be flown at half-staff.

PASSED by the Council this 27th day of June, 2022.



 Council President

APPROVED by me this 12th day of July, 2022.



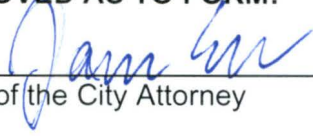
 Mayor

ATTEST: 

 Finance Director

City of Bellingham
 City Attorney
 210 Lottie Street
 Bellingham, Washington 98225
 360-778-8270

APPROVED AS TO FORM:



Office of the City Attorney

City of Bellingham
City Attorney
210 Lottie Street
Bellingham, Washington 98225
360-778-8270



CITY OF ELLENSBURG

Date of Meeting

Time of Meeting

Place of Meeting

Minutes of City Council, Regular Meeting

December 19, 2022

7:00 PM

Council Chambers 501 North Anderson Street

Ellensburg, WA 98926

And remotely via Zoom

Pledge of Allegiance

The Pledge of Allegiance was led by Councilmember Elliott

1. Call to Order and Roll Call

Roll Call Present: Sarah Beauchamp, Rich Elliott, Nancy Goodloe, Nancy Lillquist, Monica Miller, Adam Winn

Absent: David Miller (excused)

Others present in person: City Manager Behrends Cerniwey, City Attorney Weiner, City Clerk Leader, Community Development Director Ayling, Assistant Finance Director Bassett, and approximately three members of the public

2. Proclamations

3. Awards and Recognitions

4. Approval of Agenda

Councilmember Elliott moved to Approve the Agenda as presented. **Motion Approved 6-0.**

5. Consent Agenda

5.A. Approve Minutes of December 5, 2022 Regular Meeting

5.B. Approve Minutes of December 5, 2022 Study Session

5.C. Acknowledge Minutes of Boards and Commissions

5.D. Professional Services Agreement for Central Transit Zero-Emissions Transition Plan

5.E. Amendment #3 to Memorandum of Understanding (MOU) between City of Ellensburg, Bureau of Reclamation and Twin City Foods

5.F. Amendment to Interlocal Agreement between the City of Ellensburg and Kittitas County Regarding Development in its Urban Growth Area (UGA)

5.G. Approve Voucher Listing for December 19, 2022

Councilmember Goodloe moved to Approve the Consent Agenda as presented. **Motion Approved 6-0.**

6. Petitions, Protests, and Communications

7. Citizen Comment on Non-agenda Issues

Pat Kelleher, 6530 Wilson Creek Rd, speaking for himself, commented regarding restrooms in city park facilities

8. Business Requiring Public Hearings

8.A. Rezone Application P22-075, Submitted by Jason Smith, Property Owner – Closed Record Hearing (Quasi-Judicial) and First Reading of Ordinance 4908 Approving the Rezone

The Mayor opened the public hearing. The Mayor asked the standard questions regarding appearance of fairness and conflict of interest. There were no appearance of fairness, ex parte contacts or conflicts of interest disclosed by the Mayor or Councilmembers. Jamey Ayling, Community Development Director, presented information in the staff report.

With no questions or comments from the public or Council, the Mayor closed the public hearing

Councilmember Elliott moved to Approve conducting first reading of Ordinance 4908. **Motion Approved 6-0.**

9. Introduction and Adoption of Ordinances and Resolutions

9.A. Ordinance 4904 (Second Reading) 2021/2022 Supplemental Budget Ordinance
Keith Bassett, Assistant Finance Director, presented information in the staff report.

Councilmember Goodloe moved to Approve conducting second reading and adoption of Ordinance 4904 for the 2021/2022 Supplemental Budget. **Motion Approved 6-0.**

9.B. Ordinance 4905 (Second Reading) for the Revision of City Code section 9.92.100
Electric Utility Fee and Credit Schedule

Paul Meyer, Senior Electrical Engineer, presented information in the staff report.

Councilmember Elliott moved to Approve conducting second reading and adoption of Ordinance 4905. **Motion Approved 6-0.**

9.C. Ordinance 4906 (First Reading) - Exclusion and Trespass from City Property
Terry Weiner, City Attorney, presented information in the staff report.

Pat Kelleher, 6530 Wilson Creek Rd, spoke against the ordinance.

Council asked questions of staff.

Councilmember Elliott moved to Approve conducting first reading of Ordinance 4906.
Motion Approved 6-0.

9.D. Ordinance 4907 (First Reading) - Update of the Ellensburg City Code (ECC Ch. 3.12 Sign Code)
Jamey Ayling, Community Development Director, presented information in the staff report.

Councilmember Elliott moved to Approve conducting first reading of Ordinance 4907.
Motion Approved 6-0.

9.E. Resolution 2022-44 to Extend Streatery Permits
Terry Weiner, City Attorney, presented information in the staff report.

Pat Kelleher, 6530 Wilson Creek Rd, spoke against extension of the streatery permits

Councilmember Elliott moved to Approve adoption of Resolution 2022-44 extending permits for existing streateries.

Councilmember Elliott moved to Amend the motion by changing the expiration date of the extension from February 28 to March 31, 2023. **Motion Approved 4-1 (Winn voted no, Beauchamp abstained).**

Vote on main Motion to Approve adoption of Resolution 2022-44 extending permits for existing streateries until March 31, 2023. **Motion Approved 4-1 (Winn voted no, Beauchamp abstained).**

9.F. Resolution 2022-45 to Adopt Amended City Council Rules of Procedure
Terry Weiner, City Attorney, presented information in the staff report.

Councilmember Elliott moved to Approve adoption of Resolution 2022-45 amending the City Council Rules of Procedure. **Motion Approved 6-0.**

10. Unfinished Business

11. New Business

12. Miscellaneous

12.A. Manager's Report

The City Manager reviewed the report. She acknowledged the insurance partial proof of loss document for the Ellensburg Racquet and Recreation Center for the Mayor's signature.

Councilmember Elliott moved to Approve the Mayor's signature on the partial proof of loss document. **Motion Approved 6-0.**

She reported that Youth Services will not be utilizing the \$2500 community grant and requested Council decide the process for reallocating the funding.

Councilmember Elliott moved to Approve referring the \$2500, not being used by Youth Services, back to the Council sub-committee for allocation. **Motion Approved 6-0.**

12.B. Councilmembers' Reports

- Councilmember Beauchamp attended the Senior Citizen Advisory committee
- Councilmember Elliott met with Friends of Animals group, attended the KITTCOM Advisory Board and briefly discussed the information he distributed to Council concerning the Washington DOT and I-90. He also reported on the EBDA/CenterFuse and the Market Research Project that was distributed
- Councilmember Goodloe attended the DEI Commission
- Councilmember Monica Miller attended Landmarks & Design Commission meeting and subcommittee meeting and the Parks & Recreation Committee meeting
- Mayor Lillquist reminded pedestrians to make themselves visible to drivers in the darkness

13. Executive Session

14. Adjournment

Meeting adjourned at 8:17 pm

Mayor

ATTEST:

City Clerk



Centerfuse

Ellensburg Business Development Authority BOARD OF DIRECTORS SPECIAL MEETING MINUTES

Regular meeting held synchronously in-person and virtually

Thursday, November 3, 2022

12:00-12:15 PM

Members in Attendance: Garrett Poshusta, Chair; Andreas Bohman, Vice Chair; Grant Clark, Treasurer; John Perrie, Board Member; Jennifer Lubanski, Board Member, James Jankowski, Board Member; and Bob Rapp, Board Member

Excused absence: Del Bankston, Secretary and Jared Vallejo, Board Member

Others present: Margaret Reich, Executive Director

1. Meeting Called To Order

The Chair called the meeting to order at 12:01 PM

2. Approval of Agenda

Motion to approve the special meeting agenda for November 3, 2022 by Bob Rapp, second by Grant Clark. Motion approved by unanimous vote.

3. Board Business

Discussion regarding resolution 8 to authorize staff to make application to the Washington State Microenterprise Association's Microenterprise Development Organization Grant Program. Grant funding would support for CenterFuse to deliver a 6-month project to support small businesses with emphasis on marginalized communities focused in two areas: youth entrepreneurship and food trucks.

The board discussed the level of effort for the project, how it supports building the local economy and retaining organizational focus on quality wage jobs.

Motion to approve resolution 8 to authorize staff to make application to the Washington State Microenterprise Association's Microenterprise Development Organization Grant Program in the amount of \$24,500 with cash match of \$8,500 by Bob Rapp, second by Andreas Bohman. Motion approved by a vote of six yes, one no.

4. Adjournment – time 12:13 Motion to adjourn by Bob Rapp.

Drafted: 11/4/2022

Approved: *Garrett Poshusta*

Submitted by: Margaret Reich





Centerfuse

Ellensburg Business Development Authority
BOARD OF DIRECTORS MEETING MINUTES
Regular meeting held synchronously in-person and virtually
Wednesday, November 9, 2022
4:00-5:30 PM

Members in Attendance: Garrett Poshusta, Chair; Andreas Bohman, Vice Chair; Grant Clark, Treasurer; Del Bankston, Secretary; John Perrie, Board Member; Jennifer Lubanski, Board Member, James Jankowski, Board Member; Jared Vallejo, Board Member; and Bob Rapp, Board Member

Others present: Rich Elliott, Ellensburg City Council liaison; and Margaret Reich, Executive Director

1. Meeting Called To Order

The Chair called the meeting to order at 3:59 PM

2. Approval of Agenda

Motion to approve the November 2022 meeting's agenda by James Jankowski, second Grant Clark. Motion approved by unanimous vote.

3. Approval of Minutes

Motion to approve the October 2022 regular meeting minutes by James Jankowski, second Grant Clark. Motion approved by unanimous vote.

4. Public Comment

None.

5. Board Business

a. Organizational Effectiveness

Grant Clark, Treasurer presented the financial reports.

The board reviewed and discussed the updated, final 2023 strategic plan, and the budget request to the City of Ellensburg. The sub-committee reported back to the board their recommendation for implementation of the staffing study.

Motion to accept the sub-committee's recommendation to implement the FIT HR staffing study and retroactive the Executive Director's pay increase and paid holidays (two remaining in 2022 being Thanksgiving and Christmas) starting November 1, 2022 by Bob Rapp, second by Jared Vallejo. Motion approved by unanimous vote.

Board members discussed the Executive Director's annual performance evaluation and a process for Executive Director annual performance evaluation to be in Executive session in the future.



Motion to accept the annual performance evaluation of the Executive Director by John Perrie, second by Grant Clark. Motion approved by unanimous vote.

Three board member's terms end December 31, 2022. These board members have received the board reappointment form.

b. Build Local Capacity

The board received an update on the countywide economic development plan and the work on the Ellensburg Arts and Culture Alliance.

c. Marketing

The board reviewed and discussed the monthly digital report and will focus on increasing organic activity as an indicator of brand awareness. The Executive Director updated the board on the current market research project.

d. Business Recruiting & Expansion

The Executive Director provided a progress report on grant funded projects including the USDA Non-Residential Building and Land data collection, the CERB I-90 West Interchange Private Development study, and the CERB Wood Products study. Updates were also provided on the key industry research project and the prospective large distribution center.

6. **For the good of the order**

Board member Bob Rapp provided an update on electric vehicles.

7. **Adjournment** – time 5:20 Motion to adjourn by Del Bankston

Drafted: 11/10/2022

Approved: *Del Bankston*

Submitted by: Margaret Reich



**Parks & Recreation Advisory Commission
Meeting Minutes – November 9, 2022**

DATE OF MEETING: November 9, 2022
MEMBERS PRESENT: Ali Brown, Laci Harrison, KT Kelleher, Nick Zentner, Jackie Adams
OTHERS PRESENT: Parks & Recreation Director Case, Council Liaison Monica Miller, Five members of the public in person, one member from the public remotely
LOCATION: Meeting was held in the City Council Conference Room and Remotely

CALL TO ORDER – Meeting called to order at 5:30pm

MEETING MINUTES - Minutes from the September 14, 2022 and October 12, 2022 meetings were approved as submitted, all in favor.

NEW BUSINESS –

Reed Park Tree Memorial Request – Mari Gaines – Ms. Gaines, representing a group of Ellensburg women, read a request to plant a tree at Reed Park in honor of Joan Nelson. Ms. Nelson was a long-time resident of the Ellensburg community and was involved with a variety of organizations. The tree they are proposing to plant is a European Mountain Ash. A motion was made approving the planting of a memorial tree at Reed Park in honor of Joan Nelson, all in favor.

Discussion about locating a Community Garden & Pollinator Garden at Wippel Park – Jack Carpenter, Pollinator Garden; Reed Waite, Community Garden – Mr. Carpenter and Mr. Wait, each representing their own interests, spoke about the desire to co-locate their gardens at Wippel Park. Wippel Park was donated to the City in 1940, is approximately .5 acres in size, and is located in the West Ellensburg neighborhood within blocks of West Ellensburg Park, Rotary Park, and the Reecer Creek floodplain property. The community garden was previously located on City owned property just south of the Library/Hal Holmes Center and is needing to be relocated due to an affordable housing project planned for the site. The pollinator garden is being brought forward by the Ellensburg Morning Rotary Club. Staff has reached out to the Wippel family about the potential changes to the park and they voiced their support of what is being proposed. A motion was made by the Commission to support the changes to the park, all in favor.

Trespass Admonishment Overview – Ellensburg Police Department – Captain Dan Hansberry – Captain Hansberry provided the Commission with information about a trespass admonishment ordinance which would provide additional ways for the Ellensburg Police Department to address dangerous, unsafe, reasonably disruptive and illegal behavior on public property. Since the ordinance is still being written, Captain Hansberry could only speak in generalities of how and when it could be used. The ordinance would provide EPD the opportunity to trespass individuals based on witness reports of behavior, meaning law enforcement would not have to witness something first hand.

Letter to Council Pledging City Supporting use of Non-Hostile Architecture in City Public Spaces – Laci Knudson – Commissioner Knudson presented a letter to the Commission that she would like to be forwarded to the City Council for consideration. The letter asks that the City Council take a pledge against the practice of hostile architecture in all public outdoor spaces. Hostile architecture is specific

exclusionary design elements intended to push people along and not be comfortable enough to linger. Sometimes these features are called anti-homeless architecture. Commissioner Kelleher voiced concerns over the letter stating that the definition of hostile architecture is ambiguous and that certain design elements in design are done so for the protection of the greater public good. Commission passed a motion, 4-1, recommending that the attached letter be sent to City Council for their review and consideration.

Old Business

Reed Park Update – staff shared four concept plans that would be shared with the community at the November 16th community meeting. The plans were developed through input received from a Reed Park stakeholder group, neighbors of Reed Park, and the community at large. Commission members made recommendations about the complexity of the plans and recommending changes to the plans that would make it easier for the public to interpret, as well as identifying the plans in a manner which laid the plans out sequentially from the least amount of change from the existing park to the most amount of change.

December 14, 2022 Meeting – Staff shared with the Commission that Reed Park Community Meeting #2 was scheduled on the same night as the December Commission meeting. The Commission elected to move the December Commission meeting time from 5:30pm to 4:30pm to accommodate the 6pm park planning meeting.

Staff Reports

Staff provided the following information; 1. Unity Park construction is scheduled to begin in June 2023 shortly after CWU graduation. 2. The Thanksgiving Community Dinner will take place Wednesday, November 23rd, at the Kittitas Valley Event Center Armory, from 3pm-6pm. This is a free event to open anyone from the community. 4. Park restrooms and the front gate at Irene Rinehart Riverfront Park has been closed for the season. The City does provide portable restrooms throughout the winter at 4 parks, as well as having vault toilets available at two additional parks. 5. The field light project at Rotary Park is going well, the project will be completed in time for the 2023 baseball/softball spring season. 6. Cross country skiing will once again be available at Rotary Park this winter. 7. Registrations are currently being taken for youth basketball and indoor soccer. The ERRC has been extremely busy, impacts from the remodel of Nicholson Pavilion has resulted in the CWU fastpitch softball teams using the facility after hours for winter workouts.

Meeting adjourned at 7:25pm.

Central Washington University University Way Banner Request Form

Please fill out form and return to Schedule@cwu.edu. The Scheduling Center will submit your form to the City.

Name of Event/Program: "Your Vote Counts" banner (League of Women Voters of Kittitas County)

Contact Person: Karen Raymond Phone Number: 509-929-3094

Banner Hang Dates (Monday-Sunday): 10/23/23 through 11/5/23

- CWU Scheduling Center has reserved the banner dates.
Phone: 509-963-1321 or 509-963-1641, Email: schedule@cwu.edu
- Banner should be double-sided and a maximum of 30' x 52" and a minimum of 24' x 48" with 3" turnback at the top and bottom of the banner that will allow steel cable to be strung through it. No grommets.
 - We recommend that wind flaps be cut into the banner to prevent wind damage



* Example of a correctly made banner.



YOUR VOTE COUNTS!

LEAGUE OF WOMEN VOTERS



Important Notes:

Banners affiliated with University business have priority. Therefore, banners from non-University groups requesting dates that conflict with a University banner may be rescheduled

If your banner does not meet manufacturing specifications, we will be unable to process your request and the banner will not be hung

The CWU Scheduling Center will not be held responsible for any weather-related damage that occurs to your banner

For more information please contact CWU Student Union Operations & Scheduling Center at 509-963-1321 or 509-963-1641.

City of Ellensburg approved by: _____ Date: _____

Disapproval/Reasons: _____

Updated July 15, 2022



CITY COUNCIL AGENDA REPORT

City Council Meeting Date:	January 3, 2023
Item Title/Agenda Subject:	Resolution 2023-01 Approving Kittitas Valley Healthcare's (KVH) Street Tree Removal Request at 603 S Chestnut Street
Submitted by:	Jon Morrow Public Works & Utilities
Recommended Action or Motion:	Adopt Resolution 2023-01, authorizing KVH to remove the designated street trees.
Background/Summary:	<p>KVH is requesting approval to remove three street trees at 603 S Chestnut Street. They have been working on a large campus improvement project, which includes the approved removal of 23 trees on the south portion of their campus. The original removal request did not include three red maple trees on the north portion of the project site. The three red maple trees have already been removed. The projects landscaping plan calls for the planting of four new street trees.</p> <p><u>Tree Condition:</u> The three red maple trees were in good health. <u>City Infrastructure damage:</u> None. <u>Tree Maintenance activity by City:</u> None, the trees are maintained by KVH. <u>Species suitability to location:</u> The red maple trees were suitable for their location and are on the approved street tree list. <u>Private damage claims processed by the city:</u> None known.</p>
Previous Council Action:	None
Analysis:	Removal of the trees is appropriate and has already occurred. The new landscaping plan includes four new street trees. City staff will work with KVH on selecting tree species that are suitable for the location and approved for use in the right of way.
Financial Impact:	No financial impact for the City. The cost will be borne by the applicant.
Attachments:	

KVH - Additional Tree Removal Request

603 S Chestnut St KVH Tree Removal - Graphics
Resolution 2023-01 - 603 S Chestnut St - KVH Tree Removal

12/8/22

To whom it may concern,

I am writing to request removal and replacement of 3 additional trees along the Manitoba side of the Kittitas Valley Hospital Campus. Previously, we submitted for and obtained a permit to remove and replace 23 trees around the campus. During design we shifted some project scope from a future project into this project which added a new parking lot along Manitoba that extends into the right of way. We submitted this project for permits with the City of Ellensburg and worked with the City to get approval to use the Right of Way. However, no one on the design team or at KVH recognized that the three trees being removed as a part of the North Parking Lot scope were not included as a part of the original tree replacement permit. Site Development and Public Works Permits were issued by the City of Ellensburg and the North Parking Lot was built. Unfortunately, that means that the 3 trees in question have already been removed.

As a part of landscaping the new parking lot we are proposing to plant 4 new trees in the right of way to replace those that were removed and will work with the City Staff on the Species Selection.

Thank you for your consideration.



Ron Urlacher

Chief of Facilities

603 S Chestnut Tree Removal Graphics



RESOLUTION NO. 2023-01

A RESOLUTION of the Ellensburg City Council authorizing Kittitas Valley Healthcare to remove three street trees located at 603 S Chestnut Street;

WHEREAS, ECC 4.36.380 requires that any person, firm or corporation may apply for the removal of street trees, subject to city council approval, under such conditions and requirements as set forth in the Ellensburg City Code;

WHEREAS, Kittitas Valley Healthcare has requested permission to remove three street trees;

WHEREAS, the City Stormwater and Street Tree Utility Program Manager has reviewed the condition of the trees and the proposed replanting of the trees, and recommends the City Council authorize removal of the trees;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Ellensburg, Washington, as follows:

Section 1. Kittitas Valley Healthcare is authorized to remove three street trees located at 603 S Chestnut Street. Approval is conditioned upon Kittitas Valley Healthcare receiving a Street Tree Permit and Public Works Permit from the City of Ellensburg Public Works & Utilities Department for removal of the trees at Kittitas Valley Healthcare's expense including removal of the stump and replanting three street tree from the City's Street Tree List in the City right of way in an approved location, within one year.

Section 2. A \$800 refundable deposit shall be posted prior to the issuance of the Street Tree Permit to assure replacement of the trees.

Section 3. Removal of the stump shall be done within 30 days of the removal of the tree.

ADOPTED by the City Council of the City of Ellensburg this January 3, 2023.

MAYOR

ATTEST: _____
CITY CLERK



CITY COUNCIL AGENDA REPORT

City Council Meeting Date:	January 3, 2023
Item Title/Agenda Subject:	Project Acceptance - Bid Call 2021-07 for Walnut Street Rectifier and Deep Well Anode Replacement and Relocation.
Submitted by:	Darin Yusi Public Works & Utilities
Recommended Action or Motion:	Staff is recommending Council accept Bid Call 2021-07 as complete.
Background/Summary:	<p>The City's natural gas system has over 40 miles of coated steel main and service lines. These steel pipelines have a cathodic protection system that consists of three deep well anode beds and concurrent rectifiers that cathodically protect those pipelines from corrosion. In early 2021 the Walnut Street system began to fail, which resulted in Bid Call 2021-07 seeking bids to replace and relocate the Walnut Street system.</p> <p>Staff went through the formal bid process for the Walnut Street rectifier and deep well anode replacement. One bid was received: MESA Products Inc. submitted a bid for \$158,285.87.</p>
Previous Council Action:	City Council, at its January 18, 2022 meeting, awarded Bid Call 2021-07 to MESA Products Inc, the lowest responsive and responsible bidder for the Walnut Street rectifier and deep well anode replacement and relocation. Council also authorized the necessary budget adjustments.
Analysis:	The new rectifier and deep well anodes were installed and complete in July of 2022 and the old system was decommissioned and removed. All necessary submittals and required documents have been received. Council is now being requested to accept the project as complete.
Financial Impact:	There were no change orders and the total cost of the work performed was within the contract amount at a final amount of \$147,573.69.



CITY COUNCIL AGENDA REPORT

- City Council Meeting Date:** January 3, 2023
- Item Title/Agenda Subject:** Professional Services Agreement with Kittitas County Chamber of Commerce for 2023 Tourism Marketing and Visitor Information Center Operations
- Submitted by:** Heidi Behrends Cerniwey City Manager Department
- Recommended Action or Motion:** The City's Lodging Tax Advisory Committee (LTAC) recommends that the City Council approve a one-year agreement in the amount of \$270,000.00 with the Kittitas County Chamber of Commerce to perform tourism marketing and operate a visitor information center.
- Background/Summary:** The Kittitas County Chamber of Commerce (Chamber) operates a Visitor Information Center (VIC) and manages tourism marketing for the City through a professional services agreement which expired at the end of 2022. The Lodging Tax Advisory Committee recommends Council's consideration of the attached one-year agreement with the Chamber for the budget year of 2023 in the amount of \$270,000.
- Previous Council Action:** Council approved the previous two-year agreement with the Kittitas County Chamber of Commerce which expired on December 31, 2022. The agreement reimbursed for visitor center and marketing costs up to \$254,751.24 in 2021 and \$267,488.80 in 2022.
- Analysis:** The Kittitas County Chamber of Commerce has operated a visitor information center and managed tourism marketing on behalf of the City for many years. Typically, a two-year professional services agreement would be established with the Chamber on the biennial budget cycle. Because of variables that may impact future tourism services over the next year (Unity Park construction, pending county-wide economic development plan, and other potential lodging tax capital investments), staff recommended a one-year agreement. The agreement includes reporting requirements for ongoing accountability and evaluation of lodging tax investment in tourism facilities and marketing service.

Financial Impact:

Funding for this expenditure is included in the City's Lodging Tax Fund and was approved through the City's 2023-2024 Biennial Budget.

Attachments:

[2023 Tourism Marketing Agreement - KC Chamber of Commerce](#)

**AGREEMENT FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF ELLENSBURG
AND KITTITAS COUNTY CHAMBER OF COMMERCE**

**RELATING TO: TOURISM MARKETING/ADVERTISING AND VISITOR INFORMATION
CENTER (VIC) OPERATIONS**

THIS LUMP SUM AGREEMENT is made and entered into this _____ day of _____ 2023 ("Effective Date"), by and between THE CITY OF ELLENSBURG, a municipal corporation of the State of Washington, (hereinafter called the "CITY"), and Kittitas County Chamber of Commerce, a Washington non-profit organization authorized to do business in the state of Washington (hereinafter called the "CONSULTANT").

1. RECITALS.

1.1. The CITY desires to obtain professional services for work related to the operation of the marketing/advertising for tourism and operation of the Visitor Information Center within the CITY.

1.2. The CITY has solicited for such professional services as required by law, including RCW Chapter 39.80 if applicable.

1.3. CONSULTANT represents that it is available and able to provide qualified personnel and facilities necessary for the work and services contemplated herein, and can accomplish the work and services within the required time period and in accordance with CITY's specifications and professional standards.

1.4. CONSULTANT agrees to perform the work and services specified herein in accordance with the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the above representations and the terms, conditions, covenants, and agreements set forth below, the parties hereto agree as follows:

2. SCOPE OF WORK.

2.1. The scope of professional services to be performed and the results to be achieved by the CONSULTANT shall be as detailed in the attached "Exhibit A" and shall include all services and material necessary to accomplish the work ("Services").

2.2. The CITY may review the CONSULTANT'S work product, and if it is not satisfactory, the CONSULTANT shall make such changes as may be required by the CITY. Such changes shall not constitute "Extra Work" as related in Section 12 of this Agreement.

2.3. The CONSULTANT agrees that all services performed under this Agreement shall be in accordance with the standards of the profession and in compliance with applicable federal, state, and local laws.

2.4. The Scope of Work may be amended upon written approval of both parties.

3. TIME OF PERFORMANCE- DURATION - RENEWAL. The CONSULTANT may begin work upon the Effective Date of this Agreement by both parties, or the CITY's issuance of a Notice to Proceed, whichever is applicable. This Agreement shall extend through December 31, 2023. The work performed and results of marketing efforts will be evaluated by the Lodging Tax Advisory Committee ("LTAC") annually, using metrics for evaluation as listed in the attached "Exhibit B." Either party may terminate this Agreement as set forth in Section 13, below.

4. PAYMENT. The CITY shall pay the CONSULTANT as set forth in this section of the Agreement. Such payment shall be full compensation for work performed, services rendered, and all labor, materials, supplies, equipment, and incidentals necessary to complete the work.

4.1. The CITY shall pay the CONTRACTOR as set forth in this section. In no event shall the amount paid by CITY exceed the Maximum Compensation as set forth in Section 5, unless otherwise agreed to by the CITY in writing. Such payment shall be full compensation for work performed, services rendered, and all labor, materials, supplies, equipment, and incidentals necessary to complete the work.

4.2. The CONSULTANT shall submit invoices to the CITY for work completed in accordance with Exhibit A. Invoices shall detail the work and shall itemize with receipts and invoices the non-salary direct costs.

4.3. The CITY shall review the invoices and make payment for the portion of the project or tasks that have been completed less the amounts previously paid.

4.4. The CONSULTANT invoices are due and payable within 30 days of receipt. In the event of a disputed billing, only the disputed portion will be withheld from payment.

4.5. Payment shall be made from the City's Lodging Tax Fund to the Chamber for the provision of its services based upon the budget included in 'Exhibit C' which is made a part of this agreement. Payments for those budget items shown on 'Exhibit C' for Administration of Marketing and Visitor Information Center Operations shall be made on a monthly basis. Payment for the services and products covered by this agreement shall be on a reimbursable basis to the Chamber for costs incurred. Payments made by the City to the Chamber under this agreement shall in no event exceed the total amount shown on the budget in "Exhibit C" of this agreement.

4.6. Payment for "Extra Work" performed under Section 12 of this Agreement shall be as agreed to by the parties in writing.

5. MAXIMUM COMPENSATION.

5.1. The CONSULTANT's total compensation and reimbursement under this Agreement, including labor, direct non-salary reimbursable costs and outside services, shall not exceed the maximum sum of Two Hundred Seventy Thousand Dollars and no cents (\$270,000.00) in 2023. This amount is the maximum amount to be paid each year under this Agreement and shall not be exceeded without prior written authorization from CITY in the form of a negotiated and executed amendment of this Agreement.

5.2. The budget for each task is as set forth in the attached Exhibit C. Budgets for task(s) may be modified upon mutual agreement between the two parties, but in any event, the total payment to CONSULTANT shall not exceed the maximum amount per Section 5.1 above.

6. RELATIONSHIP OF PARTIES.

6.1. The relationship created by this Agreement is that of owner-independent contractor. Neither the CONSULTANT nor CONSULTANT's employees are employees of the CITY and are not entitled to the benefits provided by the CITY to its employees. The CONSULTANT, as an independent contractor, has the authority to control and direct the performance of the details of the services to be provided. No employee, agent, representative or subconsultant of CONSULTANT shall be or shall be deemed to be the employee, agent representative or subconsultant of the CITY. The CONSULTANT shall assume full responsibility for all wages, along with any Federal, State, and local taxes or contributions imposed or required, including, but not limited to, unemployment insurance, Social Security, and income tax, payable as a result of work performed under this Agreement.

6.2. Employees of the CONSULTANT, while engaged in the performance of any work or services under this Agreement, shall be considered employees of the CONSULTANT only and not of the CITY, and claims that may arise under the Workman's Compensation Act on behalf of said employees while so engaged, and any and all claims made by a third party as a consequence of any negligent act or omission on the part of the CONSULTANT'S employees while so engaged, on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT. On or before the Effective Date, CONSULTANT shall file, maintain and/or open all necessary records with the Internal Revenue Service and the State of Washington, and as may be required by RCW 51.08.195, to establish CONSULTANT's status as an independent contractor.

7. OWNERSHIP OF DOCUMENTS. Upon completion of the work, all documents, exhibits, photographic negatives, or other presentations of the work shall become the

property of the CITY for use without restriction and without representation as to suitability for reuse by any other party unless specifically verified or adapted by the CONSULTANT. However, any alteration of the documents, by the CITY or by others acting through or on behalf of the CITY, will be at the CITY's sole risk.

8. NONDISCRIMINATION. The CONSULTANT shall conduct its business in a manner, which assures fair, equal and non-discriminatory treatment of all persons, in particular:

8.1. The CONSULTANT shall maintain open hiring and employment practices and will welcome applications for employment in all positions, from qualified individuals who are members of minorities protected by federal equal opportunity/affirmative action requirements; and,

8.2. The CONSULTANT shall comply with all requirements of applicable federal, state, and local laws or regulations issued pursuant thereto, relating to the establishment of non-discriminatory requirements in hiring and employment practices and assuring the service of all persons without discrimination as to any person's race, creed, color, religion, national origin, status as a military veteran, marital status, gender, sexual orientation, disability or other legally protected classification.

9. SUBCONTRACTING.

9.1. The CONSULTANT shall not sublet or assign any of the work covered by this Agreement without the written consent of the CITY.

9.2. In all solicitation either by competitive bidding, RFP process, or negotiation made by the CONSULTANT for work to be performed pursuant to a subcontractor, including procurement of materials, equipment, website maintenance or marketing services, each potential subconsultant or supplier shall be notified by the CONSULTANT of CONSULTANT's obligations under this Agreement, including the nondiscrimination requirements. The CONSULTANT shall solicit competitively for services or subcontracts that are in excess of (\$15,000) dollars.

9.3. In performing this Agreement, the CONSULTANT shall not subcontract with or employ any CITY employee without the CITY's written consent.

10. SUPERVISION, INSPECTION AND PERFORMANCE.

10.1. Even though CONSULTANT is an independent contractor with the authority to control and direct the performance and details of the Services, the Services must meet the approval of CITY and shall be subject to CITY's general right of inspection and supervision to secure the satisfactory completion of this Agreement.

10.2. CONSULTANT represents that it has or will obtain all personnel necessary to perform the Services and that such personnel shall be qualified,

experienced, and licensed as may be necessary or required by applicable laws and regulations to perform the Services. All Services shall be performed by CONSULTANT, its employees, or by subconsultants whose selection has been authorized by CITY; provided that CITY's authorization shall not relieve CONSULTANT or its subconsultants from any duties or obligations under this Agreement, or at law, to perform the Services in a satisfactory and competent manner. CONSULTANT shall ensure that all contractual duties, requirements and obligations that CONSULTANT owes to CITY shall also be owed to CITY by CONSULTANT's subconsultants retained to perform the Services.

10.3. CONSULTANT shall be responsible for the professional quality, technical adequacy, accuracy, timely completion, and coordination of the Services and all plans, designs, drawings, specifications, reports, and other work performed pursuant to this Agreement. CONSULTANT shall perform the Services in accordance with the standard of care of its profession in the same or similar localities at the time services are performed. CONSULTANT shall be responsible for the professional standards, performance, and actions of all persons and firms performing the Services under this Agreement. CONSULTANT shall, without additional compensation, correct any specific breach of a contractual obligation in the Services and revise any errors or omissions in any plans, designs, drawings, specifications, reports, and other products prepared under this Agreement.

11. CHANGES IN WORK. Other than changes directed by the CITY as set forth in Section 1 above, either party may request changes in the scope of work. Such changes shall not become part of this Agreement unless and until mutually agreed upon and incorporated herein by written amendments to this Agreement executed by both parties.

12. EXTRA WORK. The CITY may desire to have the CONSULTANT perform work or render services in connection with this project, in addition to the Scope of Work set forth in Exhibit A and minor revisions to satisfactorily completed work. Such work shall be considered as "Extra Work" and shall be addressed in a written supplement to this Agreement. The CITY shall not be responsible for paying for such extra work unless and until the written supplement is executed by both parties.

13. TERMINATION.

13.1. The CITY may terminate this Agreement at any time, for the convenience of the CITY, upon not less than thirty (30) days written notice to the CONSULTANT. Written notice will be by certified mail sent to the consultant's designated representative at the address provided by the CONSULTANT.

13.2. The CITY may terminate this Agreement, in whole or in part and at any time, in writing if CONSULTANT substantially fails to fulfill any or all of its material obligations through no fault of CITY. If CITY terminates all or part of this Agreement for default, CITY shall determine the amount of Services satisfactorily performed to the date of termination and the amount owing to CONSULTANT using the criteria set forth below; provided that (a) no amount shall be allowed for anticipated profit on

unperformed Services or other work, and (b) any payment due to CONSULTANT at the time of termination may be adjusted to the extent of any additional costs CITY incurs or will incur because of CONSULTANT's default. In such event, CITY shall consider the actual costs incurred by CONSULTANT in performing the Services to the date of termination, the amount of Services originally required which was satisfactorily completed to the date of termination, whether the Services or deliverables were in a form or of a type which is usable and suitable to CITY at the date of termination, the cost to CITY of either completing the Services itself or employing another firm to complete the Services in addition to the inconvenience and time which may be required to do so, and other factors which *affect* the value to CITY of the Services performed to the date of termination. Under no circumstances shall payments made under this provision exceed the Schedule of Charges. This provision shall not preclude CITY from filing claims and/or commencing litigation to secure compensation for damages incurred beyond that covered by withheld payments.

13.3. In the event this Agreement is terminated prior to the completion of the work, a final payment shall be made to the CONSULTANT, which, when added to any payments previously made, shall compensate the CONSULTANT for the portion of work completed.

14. INDEMNIFICATION/HOLD HARMLESS.

14.1. The indemnification and defense obligations specified in this Section 14 ("Indemnity Obligations") have been mutually negotiated and shall survive the expiration, abandonment, or termination of this Agreement. The Indemnity Obligations shall extend to claims that are not reduced to a suit and to any claims that may be compromised prior to the culmination of any litigation or the institution of any litigation. Inspection, acceptance or payment by CITY of or for any Services performed by CONSULTANT shall not be grounds for avoidance of any Indemnity Obligations.

14.1.1. Professional errors and omissions. For any losses that arise from any error, omission, negligence or other malpractice in the exercise of CONSULTANT's professional judgment in the performance of architectural, landscape architectural, engineering, or land surveying services such that RCW 4.24.115 would apply, CONSULTANT shall defend, indemnify, and hold the CITY harmless from all such losses to the extent caused, or alleged to be caused, by any violation of law, including state, federal or municipal law or ordinance, or negligent act, omission, breach of contract, or willful or intentional misconduct of CONSULTANT. The obligation of indemnity under this subparagraph does not, however, extend to losses caused by the negligence (whether sole, concurrent or contributory) of the CITY.

14.2. In any and all claims against the CITY by any employee of CONSULTANT, the indemnification obligations set forth above shall not be limited in any way by any limitation on the amount or type of damages or compensation benefits payable by or for CONSULTANT under the applicable worker's or workmen's

compensation, benefit, or disability laws (including but not limited to, the Industrial Insurance laws, Title 51 of the Revised Code of Washington). CONSULTANT expressly waives any immunity CONSULTANT might have under such laws, and, by entering into this Agreement, acknowledges that this waiver has been mutually negotiated.

15. INSURANCE.

15.1. The CONSULTANT shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the CONSULTANT, its agents, representatives, employees or subcontractors.

15.2. CONSULTANT'S maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the CONSULTANT to the coverage provided by such insurance, or otherwise limit the CITY'S recourse to any remedy available at law or in equity.

15.3. Minimum Scope of Insurance. CONSULTANT shall obtain insurance of the types described below:

15.3.1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contract liability coverage; and,

15.3.2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors, and personal injury and advertising injury. The CITY shall be named as an additional insured under the Consultant's Commercial General Liability insurance policy with respect to the work performed for the CITY; and,

15.3.3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington; and

15.3.4. Professional Liability insurance appropriate to the CONSULTANT's profession.

15.4. Minimum Amounts of Insurance. CONSULTANT shall maintain the following insurance limits:

15.4.1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.

15.4.2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

15.4.3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

15.5. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Automobile Liability, Professional Liability and Commercial General Liability insurance:

15.5.1. The CONSULTANT's insurance coverage shall be primary insurance with respect to the CITY. Any insurance, self-insurance, or insurance pool coverage maintained by the CITY shall be excess of the CONSULTANT's insurance and shall not contribute with it.

15.5.2. The CONSULTANT's insurance shall be endorsed to state that coverage shall not be cancelled, suspended or materially changed by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the CITY.

15.5.3. Any payment of deductible or self-insured retention shall be the sole responsibility of the CONSULTANT.

15.5.4. The CONSULTANT'S insurance shall contain a clause stating that coverage shall apply separately to each insured against whom claim is made or suit is brought, except with respects to the limits of the insurer's liability.

15.6. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII.

15.7. Verification of Coverage. CONSULTANT shall furnish the CITY with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the CONSUL TANT before commencement of the work.

15.8. Cancellation. No cancellation of the foregoing coverage shall be effective without thirty (30) days prior notice to the CITY.

16. APPLICABLE LAW VENUE. This Agreement shall be construed and interpreted in accordance with the laws of the State of Washington, and in the event of dispute the venue of any litigation brought hereunder shall be Kittitas County.

17. NOTICE. All communications regarding this Agreement shall be sent to the parties at the addresses listed below, or at such other address as given pursuant to this Section, and shall be effective on the next business day if sent by registered or certified mail or deposited with an overnight delivery service.

City of Ellensburg
City Manager's office
501 N. Anderson
Ellensburg, WA 98926

Kittitas County Chamber of Commerce
609 North Main Street
Ellensburg, WA 98926

18. ENTIRE AGREEMENT. The written terms and provisions of this Agreement, together with all referenced Exhibits, supersede all prior verbal statements of any officer or other representative of CITY, and such statements shall not be effective or be construed as entering into or forming a part of, or altering in any manner whatsoever, this Agreement. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and the referenced Exhibits.

19. PRIORITY OF DOCUMENTS. In the event that the language and provisions of this Agreement are contrary to or conflict with any language or provisions set forth in any exhibit to this Agreement, the language and provisions of this Agreement shall control, and the contrary or conflicting language or provisions of the exhibit(s) shall be disregarded and shall be considered void.

20. MODIFICATION. No waiver, alteration, or modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of CITY and CONSULTANT.

21. ASSIGNMENT. Any assignment of this Agreement by CONSULTANT without the prior written consent of CITY shall be void.

22. WAIVER. A waiver of any breach by either party shall not constitute a waiver of any subsequent breach.

23. THIRD-PARTY BENEFICIARIES. There are no third-party beneficiaries to this Agreement.

24. EXHIBITS AND SIGNATURES. This Agreement, including its exhibits, constitutes the entire Agreement, supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties. The following exhibits are hereby made a part of this Agreement:

- Exhibit A - Scope of Work
- Exhibit B - Metrics for Evaluation of Performance
- Exhibit C - Budget for Each Task

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

CONSULTANT:

THE CITY OF ELLENSBURG:

By: _____

By: _____

Printed: _____

Printed: _____

Date: _____

Date: _____

Approved as to form:

City Attorney

EXHIBIT A - SCOPE OF WORK

2023 Ellensburg Tourism Strategic Elements

Our target audiences continue to be tourists at least an hour away in all directions: Wenatchee, Chelan, Okanogan, South West Canada, Spokane, Coeur d' Alene, Sandpoint, Kellogg, Pullman, Lewiston, Tri Cities, The Dalles, Portland, Pierce and King County, Yelm, Lacey and the upper Peninsula. Our interest groups are outdoor recreation, historic and educational, festival and event specific, business tourism, sports, and small group getaways.

As per the Ellensburg Tourism Strategic Plan, the Chamber proposes to still maintain a focus on:

- Leisure Tourism
- Meeting/Business Tourism
- Sports Tourism

While we will focus on the above areas, they will be in varying degrees. For instance, the Chamber proposes a heavier focus on arts and culture as a component of leisure tourism and less on sports tourism.

Using a wide breath of analytics, from a variety of sources, we will be in a position to determine what areas of our marketing efforts are performing well and identify areas of opportunity.

Likewise, the Chamber will conduct a cost analysis of our direct vendors as well as 3rd party vendors we engage with. This may include but not limited to RFPs, RFQs, and/or direct quotes for services.

The Chamber agrees to provide the following services and engage in the following activities in support of the Ellensburg tourism development effort:

Visitor Information Center

- 1) Establish, operate and maintain a Visitor Information Center for the purpose of:
 - a) greeting visitors,
 - b) displaying promotional brochures,
 - c) offering assistance, and
 - d) answering requests for tourism and visitor information.
- 2) Operate the Visitor Information Center Monday-Friday from 9 a.m. to 5 p.m., to include Saturdays between the hours of 10 a.m. and 2 p.m., and Sundays between the hours of 10 a.m. and 2 p.m. during the months of June, July, August, and September through Saturday of Labor Day Weekend.
- 3) Ensure that Chamber personnel and volunteers receive regular visitor information training.
- 4) Maintain a year-round toll-free number for tourism information.

Website and Social Media Maintenance

- 1) Maintain a public web site that promotes Ellensburg tourism and provides information for visitors.
- 2) Maintain, build, and engage a social media audience that promotes Ellensburg tourism and provides information to tourists.
- 3) Audit existing content for accuracy and efficiency.
- 4) Provide cost analysis of deliverables from digital marketing agency.

Marketing Materials

- 1) Develop and update promotional materials:
 - a) Brochures
 - b) Maps
 - c) Visitors guide
 - d) Video clips
 - e) Photo library
- 2) Distribute Ellensburg tourism information and collateral material in Ellensburg and in other markets.
- 3) Maintain stock and periodically review the effectiveness of Ellensburg racks and rack locations.
- 4) Work with strategic partners in the creation of materials that promote local businesses and events.

Marketing and Advertising

- 1) Administer and oversee Ellensburg tourism promotion efforts including
 - a) Marketing campaigns,
 - b) Advertising,
 - c) Brochures,
 - d) Solicitation of conventions and meetings,
 - e) Participation in trade shows, and
 - f) Other activities agreed to by the parties from time to time.
- 2) Develop and implement an external public relations campaign to promote the City's events, attractions, facilities, and destination downtown.
- 3) Maintain strategic partnerships within Ellensburg and other outside agencies that promotes Ellensburg tourism and provides information to tourists.
- 4) Increase collaboration with Ellensburg Cultural Arts Alliance and execution of their goals; incorporate Ellensburg Cultural Arts promotion into overall tourism marketing strategy.

Administration/Reporting

- 1) Participate in the Ellensburg Lodging Tax Advisory Committee meetings.
- 2) Submit a monthly accounting of expenses incurred.
- 3) Obtain, analyze and apply data related to tourism-related in the form of inputs, outputs, outcomes:

- a) Inputs: marketing investments, visitor center hours, partnerships
 - b) Outputs: visitors, content generation (web and social media posts)
 - c) Outcomes: Star Report (results); Web and social analytics, to include narrative and local versus regional visits; engagement; sales tax
- 4) Partnership activities that aid the efficacy of Ellensburg tourism development.
 - 5) Submit quarterly reports to the city about results and the state and effectiveness of tourism promotion efforts. As requested, present such reports in person to the City Council.
 - 6) Work to meet the all goals listed in Ellensburg Strategic Tourism Plan as appropriate.

Tourism Advocacy

- 1) Create focus groups within the hospitality and tourism businesses that will educate and prepare businesses for both increases and downturns in local economy.
- 2) Coordinate with sport tournament planners and venues to determine need and capacity of future sporting events.
- 3) Coordinate with various meeting/event planners statewide to promote Ellensburg as a preferred meeting/event site year-round.
- 4) Provide professional recommendations to tourism partners, including City of Ellensburg, for implementation of new and emerging trends, technology, and products that will increase Ellensburg viability as a preferred travel destination.

EXHIBIT B
METRICS FOR EVALUATION

- I. **Monthly Reporting.** Performance will be assessed by the Ellensburg Lodging Tax Advisory Committee (LTAC) based upon information provided by the Chamber which will include:
1. The Star Report of hotel/motel occupancy
 2. Organic Search
 3. Form Fills
 4. Engagement Rates
 5. Bed Nights
 6. In addition to the goal for Lodging Tax receipts to increase by five percent (5%) annually overall Ellensburg Lodging Tax revenue will be compared with previous year receipts.
 7. Sales tax summary for tourism-based business categories (to be supplied monthly by the City).

- II. **Quarterly Reporting.** A written report which includes inputs, outputs, and outcomes shall be submitted at least quarterly with invoicing to the City, and will include the following:
1. Inputs – marketing investments, visitor center hours, partnerships, etc.
 2. Outputs – visitors, content generation (web and social media posts)
 3. Outcomes – Star Report (results); web and social media analytics to include narrative description of impact and identify local versus regional visits; engagement; sales tax, etc.

EXHIBIT C – BUDGET FOR EACH TASK

2023		
Marketing	Budget	Increase/ Decrease
Salaries and Administration	\$94,052	+\$4,701
Website	\$9,100	+\$175
Online	\$95,246	+\$4,754
Print & Collateral	\$7,350	\$0
TOTAL Marketing	\$205,748	+\$9,630
VIC	Budget	Increase/ Decrease
Salaries and Administration	\$48,252	+\$14,030
Office Expense	\$16,000	+\$125
Total VIC	\$64,252	+\$14,155
Total Contract	\$270,000	+\$23,785



CITY COUNCIL AGENDA REPORT

- City Council Meeting Date:** January 3, 2023
- Item Title/Agenda Subject:** Interlocal Agreement for Professional Services with Ellensburg Business Development Authority (dba CenterFuse)
- Submitted by:** Heidi Behrends Cerniwey City Manager Department
- Recommended Action or Motion:** Authorize the Mayor to sign the Interlocal Agreement with CenterFuse to collaborate in performance of economic development activities and services.
- Background/Summary:** The Ellensburg Business Development Authority (dba CenterFuse; and formerly the Phoenix Development Authority Board) was established under the City and operates according to ECC Chapter 1.62. Previously, this volunteer board was administered through the Kittitas County Chamber of Commerce until July 2017, then staffed by the City for approximately two and one-half years; in 2020, an Interlocal Agreement between the City and CenterFuse transferred administration to CenterFuse directly.
- Previous Council Action:** CenterFuse and the City are parties to a January 6, 2020 Interlocal Agreement for Professional Services, previously approved by Council. Notice was provided to CenterFuse by the City on September 21, 2022 to terminate the existing agreement, effective December 31, 2022.
- Analysis:** The previous agreement provided the board and staff of CenterFuse with a broad scope of work to conduct economic development services. In 2021, Kittitas County and the City of Ellensburg jointly embarked on creation of an economic development strategic plan to collectively foster a more vibrant and resilient economy and community. The countywide plan is a roadmap for intentional actions and investments to benefit the quality of life and economic vitality of the City and County. Pillars of the plan include collaboration, economic resilience, balanced growth, community investment, and preservation. Collaboration with regional economic development organizations will be essential to its successful implementation.

The City's economic development services require consistent, aligned, and coordinated actions to provide maximum public value.

Working regionally in a coordinated fashion, the City, Kittitas County, Central Washington University, CenterFuse, Kittitas County Chamber of Commerce, downtown associations, workforce development agencies, and other economic development organizations can all engage in efforts to maximize resources and talent to strengthen and ensure the City's economic vitality.

It is important for CenterFuse to work collaboratively with the City and other economic development organizations to take intentional actions that will build upon the City's economic strengths and address its challenges to implement the adopted Plan and deliver long-term results. The proposed Interlocal Agreement includes an enhanced scope of work and reporting requirements to provide alignment and accountability.

Financial Impact:

The proposed agreement includes payment to CenterFuse in the amount of \$60,000 (paid in quarterly installments) annually which is consistent with the previous agreement and is included in the adopted 2023-2024 Biennial Budget. The agreement provides for an additional \$60,000 from the City's economic development fund (one-time revenue from the sale of the business incubator facility) to be made available for cash match to external funding opportunities that align with the City's priorities. Parameters for use of these funds are provided in the proposed agreement. Additional spending authority of \$60,000 from the economic development fund is required for full implementation of this agreement.

Attachments:

[2023 City-EBDA Interlocal Agreement for Professional Services](#)

**Interlocal Agreement for Professional Services
Between Ellensburg Business Development Authority (dba CenterFuse)
and the City of Ellensburg**

This Interlocal Agreement for Professional Services (“Agreement”) is entered into by and between the Ellensburg Business Development Authority dba CenterFuse (“CenterFuse”) and the City of Ellensburg (“City”), a Washington municipal corporation, sometimes individually referred to herein as a “Party” and together may be collectively referred to herein as the “Parties.”

WHEREAS, CenterFuse is a public development authority created by the City under Chapter 35.21 RCW and Ellensburg Ordinance No. 3895, as amended, and operates under its adopted Charter and Bylaws; and

WHEREAS, CenterFuse’s mission is to strategically recruit and support businesses in Ellensburg and connect them to resources so they can start, grow, and prosper to ensure that Ellensburg has a vibrant and prosperous local economy that values history and natural beauty; and

WHEREAS, the geographical boundaries of CenterFuse include the City territorial limits and outside the territorial limits of the City to the extent authorized by a separate interlocal agreement pursuant to RCW 35.21.740; and

WHEREAS, CenterFuse and the City are Parties to a January 6, 2020 Interlocal Agreement for Professional Services (“Existing Agreement”), and notice was provided to CenterFuse by the City on September 21, 2022 to terminate the Existing Agreement, effective December 31, 2022 and replace it with this Agreement; and

WHEREAS, CenterFuse retains administrative and financial services independent of the City; and

WHEREAS, a partnership between Kittitas County and the City of Ellensburg created a countywide Economic Development Strategic Plan with an action plan for implementation. An important finding is the need for greater collaboration, and emphasis on economic resilience, balanced growth, community investment, and preservation within the City and across Kittitas County; and

WHEREAS, a priority of the City of Ellensburg is creating economic vitality by maximizing alignment and partnerships between Central Washington University, Kittitas County, Ellensburg Downtown Association, CenterFuse, Chamber of Commerce, and other municipalities and regional partners to implement actions outlined in the Economic Development Strategic Plan; and

WHEREAS, the City supports the efforts of CenterFuse to advance initiatives aligned with the City of Ellensburg and its adopted Economic Development Strategic Plan and

coordinated efforts involving regional partners, and is willing to commit funding to achieve those outcomes;

NOW THEREFORE, in consideration of the above recitals and the mutual promises and benefits contained herein, the Parties hereby agree as follows:

SECTION 1: SCOPE

- 1.1. Effective Date.** This Agreement is made by and between Ellensburg Business Development Authority dba CenterFuse and the City of Ellensburg, a Washington municipal corporation and replaces and supersedes the Existing Agreement between the Parties dated November 12, 2020, which is terminated in its entirety effective December 31, 2022. The Effective Date of this Agreement shall be the date this Agreement commences which shall be January 1, 2023.
- 1.2. Purpose.** The purpose of this Agreement is to specify certain terms and conditions which allow CenterFuse to obtain financial support for specified economic development services and activities which align and are coordinated with the City of Ellensburg's current and future adopted Economic Development Strategic Plan.
- 1.3. Term.** This Agreement shall commence on the Effective Date of this Agreement and shall continue until terminated as provided herein.
- 1.4. Termination.** This Agreement may be terminated for any reason at any time by either Party upon thirty (30) days' prior written notice by one Party to the other.
- 1.5. Amendments.** Except as provided in Section 3.3 below, this Agreement may be amended upon written agreement of the Parties executed in the same manner as provided by law for the execution of this Agreement.

SECTION 2: DUTIES OF THE PARTIES

- 2.1. City Duties.** The City agrees to provide the following services, as requested by CenterFuse:
 - A. Use of Facilities.** Allow CenterFuse use of City meeting facilities at no charge when such facilities are available.
 - B. County Interlocal Agreement.** The City will continue to work with Kittitas County to formally authorize CenterFuse to attract strategic industry into the Ellensburg Urban Growth Area (UGA) consistent with County Resolution 2013-013.
- 2.2. CenterFuse Duties.** CenterFuse agrees to the following services and responsibilities, as requested by the City:

- A. Compliance:** Continue to comply with the CenterFuse Charter, Bylaws, and all local, state, and federal laws.
- B. Economic Development Services.** Provide economic development services, within the incorporated limits of the City of Ellensburg and urban growth area as authorized, as set forth in this document that are aligned and coordinated with the City’s current and future adopted Economic Development Strategic Plan.
- C. Notice to City Manager.** CenterFuse will provide timely notice to the City Manager or designee of administrative actions that may impact City business, services, planning, infrastructure, liabilities or resources, including public bids/awards, funding or grant applications, formal agreements, bonding, or other business activities.
- D. Quarterly Reporting.** Provide timely written reports to the City Manager on a quarterly basis as outlined in Exhibit “A”.
- E. Updates to City Council.** Provide an annual report and update to the City Council a minimum of one time per year at an open Public Meeting.
- F. Budget Resolution.** Adopt an annual budget by Resolution by the January meeting of each year and provide a copy to the City.

SECTION 3: FUNDING FOR SERVICES

- 3.1.** The City shall pay to CenterFuse the total sum of sixty thousand dollars (\$60,000.00) annually for services rendered in quarterly installments of fifteen thousand dollars (\$15,000.00) each quarter. Invoices and reporting shall be submitted in writing to the City on a quarterly basis for economic development services as outlined in Exhibit “A” Scope of Work, attached hereto and incorporated herein.
- 3.2. Match Funding.**
 - A.** To maximize support for economic development, the City shall allocate a maximum of sixty thousand dollars (\$60,000.00) annually to be used by CenterFuse as cash match for external funding opportunities. CenterFuse shall only use this funding as a cash match for external funding proposals. CenterFuse will provide a copy of the external funding proposal to the City Manager for review and obtain written approval from the City Manager (or their designee) prior to submitting application for external funding. A copy of any award notification shall also be provided to the City. CenterFuse will include any designated City representative to serve on consultant selection and/or advisory panel to ensure the City’s interests are represented.
 - B.** CenterFuse shall invoice external funders in accordance with the external funding award documentation. Invoices will include reimbursement requests for authorized project expenses – those covered by the external funder and cash match required from CenterFuse. CenterFuse shall forward this documentation to the City requesting

reimbursement for the cash match. The City shall reimburse CenterFuse within 30 days of receipt of the request.

- 3.3. Other Funding.** CenterFuse may continue to seek funding from the Distressed County Sales Tax Funding Economic Development Program administered by the Kittitas County Board of County Commissioners or other allowable sources authorized by law.
- 3.4. Extra Work.** The City may desire CenterFuse perform work or render services in connection with this Agreement in addition to the Scope of Work set forth in Exhibit “A”. Such work shall be considered as “Extra Work” and shall be addressed in a written amendment to this Agreement. The City shall not be responsible for paying for such extra work unless and until the written amendment is executed by both Parties. The City Manager is authorized to sign amendments to this Agreement on behalf of the City that are within their signature authority.

SECTION 4: OTHER PROVISIONS

- 4.1. Conflicts of Interest.** No officer, employee or agent of the City or CenterFuse who exercises any functions or responsibilities in connection with planning or carrying out of this Agreement shall have any personal financial interest, direct or indirect, in this Agreement. CenterFuse and the City will take appropriate steps to assure compliance with this provision as well as RCW Chapter 42.23 (Code of Ethics for Municipal Officers).
- 4.2. Independent Authority.** CenterFuse is a separate public development authority established under the laws of the State of Washington. Nothing in this Agreement is intended, or shall be deemed, to constitute a partnership or joint venture between CenterFuse and the City. CenterFuse shall act independently under the guidance and direction of its Board of Directors, pursuant to its Charter and Bylaws.
- 4.3. Hold Harmless.** The Parties to this Agreement shall defend, indemnify and save one another harmless from any and all claims arising out of the performance of this Agreement, except to the extent that the harm complained of results from the sole negligence of one of the Parties.
- 4.4. Severability.** In the event any provisions of this Agreement shall be determined to be unenforceable or otherwise invalid for any reason, such provisions shall be enforced and valid to the extent permitted by law. All provisions of this Agreement are severable and the unenforceability or invalidity of a single provision herein shall not affect the validity of the remaining provisions.
- 4.5. Filing of Agreement.** This Agreement shall be filed with the Kittitas County Auditor’s Office or, alternatively, listed by subject on each or either Party’s website or other electronically retrievable public source pursuant to RCW 39.34.040.

4.6. Photocopies. A fully executed copy of this Agreement shall be treated the same as an original of this Agreement for all purposes.

The City of Ellensburg:

The Ellensburg Business Development Authority dba CenterFuse:

By: _____
Nancy Lillquist, Mayor

By: _____
Garrett Poshusta,
CenterFuse Board Chairperson

Attest:

City Clerk

Approved as to form:

City Attorney

Exhibit A

Scope of Work

Background

The City and CenterFuse have an important opportunity to coalesce behind the coordinated Kittitas County and City of Ellensburg Economic Development Strategic Plan (the “Plan”), to collectively foster a more vibrant and resilient economy for the community. The countywide plan was developed in partnership and is a roadmap for intentional actions and investments to benefit the quality of life and economic vitality of the City and County. Pillars of the plan include collaboration, economic resilience, balanced growth, community investment, and preservation. Collaboration with regional economic development organizations will be essential to its successful implementation.

The City’s economic development services require consistent, aligned, and coordinated actions to provide maximum public value.

Working regionally in a coordinated fashion, the City, Kittitas County, Central Washington University, CenterFuse, Chamber of Commerce, downtown associations, workforce development agencies, and other economic development organizations can all engage in efforts to maximize resources and talent to strengthen and ensure the City’s economic vitality.

Thus, it is important for CenterFuse to work collaboratively with other economic development organizations to take intentional actions that will build upon the City’s economic strengths and address its challenges to implement the adopted Plan and deliver long-term results.

Economic development services under this Agreement must focus investments that are aligned with the City of Ellensburg’s current and future adopted Economic Development Strategic Plan and coordinated with the City and regional economic development organizations.

The Regional Economic Development Organizations (EDOs) include, but are not limited to:

- City of Ellensburg
- Kittitas County
- Central Washington University
- Kittitas County Chamber of Commerce
- Ellensburg Downtown Association
- Workforce development
- Associate Development Organization (ADO)
- Others

Scope of Work

Center Fuse’s Scope of Work under the Interlocal Agreement with the City shall include:

- I. In alignment with the City’s adopted Plan, City Council Vision, and in collaboration with City administration, CenterFuse will provide economic development services for the City, including the following, listed in order of priority:**
 - A. Business Expansion – CenterFuse will use a shared information model with regional EDOs to track business status, coordinate services, eliminate duplication, prioritize work, and take actions that connect businesses with talent and resources.
 - B. Strategic Recruitment – CenterFuse will prioritize recruitment activities which are aligned and coordinated with regional team of economic development organizations. Targeted industries will be identified within the Plan and adopted separately by the City.
 - C. Start-up Assistance and Entrepreneurism – CenterFuse will focus secondarily on growing entrepreneurship across sectors and expanding access to capital.

- II. CenterFuse will work collaboratively with regional economic development organizations (EDOs) to:**
 - A. Participate in a coalition with regional EDOs and meet regularly, share data and information, clarify roles and responsibilities, ensure warm hand-off to appropriate organization(s), report jointly to agencies, and maximize resources.
 - B. Expand the City of Ellensburg’s creative sector.
 - C. Improve branding across region to demonstrate a cooperative business climate so prospective businesses have access to information and resources to make informed and timely decisions.
 - D. Develop collective regional reporting metrics and process with economic development organization coalition.

- III. Quarterly Reporting:** A written quarterly report which includes inputs, outputs, and outcomes shall be submitted with invoicing to the City, and will include:
 - A. **Inputs** – incoming financial or other in-kind resources, contacts/referrals, grants, new partnerships, data, etc.
 - B. **Outputs** – public bids/awards, agreements, budget and financials, support for other organizations, consultant studies completed (including final reports produced), and grant or other funding applications. Highlight participation in regional coalition of economic development partners.
 - C. **Outcomes** – results of collaborative work, advancement of projects or programs, success stories, access to capital, etc.

- IV. Metrics.** Work with the City Manager or designee to develop metrics that are aligned and coordinated with the City’s adopted Economic Development Strategic Plan and approved by the City Council which become incorporated by amendment to this Agreement.



CITY COUNCIL AGENDA REPORT

- City Council Meeting Date:** January 3, 2023
- Item Title/Agenda Subject:** 2023 Interlocal Agreement with Kittitas County Emergency Medical Services (EMS) and Trauma Care Council
- Submitted by:** Heidi Behrends Cerniwey City Manager Department
- Recommended Action or Motion:** Authorize the City Manager to execute the 2023 Interlocal Agreement with Kittitas County EMS and Trauma Care Council.
- Background/Summary:** In accordance with the Interlocal Agreement for the operation of the Kittitas County EMS Division originally signed in 1995, the attached 2023 Payment Agreement has been submitted to the City of Ellensburg for approval.
- Previous Council Action:** Each year the City Council approves the proposed payment agreement.
- Analysis:** Individual jurisdictions within Kittitas County are charged a percentage of the EMS Division budget based on a population distribution which is derived from the Office of Financial Management. Attached to this agenda report is a Memo from Cheryl Burrows, EMS Coordinator, the Payment Agreement for 2023 and the Proposed 2023 Kittitas County EMS Division Budget Plan. The amount allocated to Ellensburg for 2023 is \$100,118, to be paid in quarterly installments.
- Financial Impact:** The City Council approved \$100,295 in funding for this agreement for 2023 through the recent 2023-2024 Biennial Budget process. The proposed Payment Agreement is in the amount of \$100,118, based on the revised Proposed 2023 Kittitas County EMS Division Office Budget Plan.
- Attachments:**
[Kittitas County EMS Trauma Care Council 2023 Payment Agreement](#)



**KITTITAS COUNTY
EMERGENCY MEDICAL SERVICES DIVISION**

MEDICAL PROGRAM DIRECTOR **Office of the:**
EMS COORDINATOR **EMS & TRAUMA CARE COUNCIL**

December 19, 2022

TO: Heidi Behrends Cerniwey, City Manager
City of Ellensburg

FR: Cheryl L. Burrows
EMS Coordinator

RE: 2023 Payment Agreement

Please find enclosed two original 2023 Kittitas County Emergency Medical Services (EMS) & Trauma Care Council Payment Agreements (attachment "C" to the Interlocal Cooperation Agreement with the Kittitas County EMS & Trauma Care Council). The Payment Agreement reflects the *Proposed 2023 Budget Plan* recommended by the Kittitas County EMS & Trauma Care Council on June 9, 2022, for the operation of the Kittitas County EMS Division.

The *Proposed 2023 Budget Plan* was sent out to all Participating Jurisdictions in July and presented at the November 16, 2022, KCCOG meeting. The KCCOG members in attendance reviewed and approved to recommend the *Proposed 2023 Budget Plan* as presented.

Upon approval, please return one signed copy of the agreement to this office.

If you have any questions or would like me to attend a future meeting, please contact me at 509-929-3247.

Thank you for your continued support and Happy Holidays!

Enclosed:


- 2023 Payment Agreement (2 signed copies – please return 1)
- Recommended 2023 Budget Plan for Kittitas County EMS Division (rev. 11-28-22 – minor correction, no impact to overall budget)

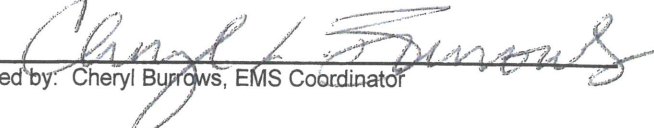
Kittitas County Emergency Medical Services Division Proposed 2023 - Office Budget Plan

Description Projected Expenditures	Actual 2021	Budgeted 2022	DRAFT 2023	Notes
Salary - Coordinator (1 FTE):	79,037.51	83,724.00	86,236.00	Estimate-3.0% COLA/MERIT
EMS Assistant (Program Support)	45,623.86	50,246.00	51,754.00	Estimate-3.0% COLA/MERIT
Benefits/Emp. Taxes Coord/Asst	41,865.05	54,000.00	48,300.00	Estimate-35% of salaries
Professional Support (Acct. / Legal / Ban	1,012.95	2,000.00	2,400.00	As needed
County Administrative Fee	600.00	600.00	600.00	\$50 per month
Rent & Utilities (new lease 9/21)	12,788.85	15,500.00	16,800.00	\$1,000 & Utilities = \$1400
Phone/Fax/Internet/Hotspot/Cells:	3,110.42	2,800.00	2,400.00	phone, cells, internet,
Postage:	349.16	200.00	200.00	
Office Supplies:	1,031.37	500.00	500.00	
Photocopies/Printing:	4,198.33	4,300.00	4,300.00	copier lease & other printing
Computer Serv./Software/Website:	4,400.69	3,800.00	3,900.00	ERS/Accting/Website maint.
Travel/Gas/License/Other	2,435.62	2,000.00	2,400.00	Vehicle: Gas/Travel/Maint/Lic.
Training/Conferences (Best Practices)	431.91	400.00	400.00	
Insurance	3,932.00	4,200.00	4,400.00	-vehicle insurance from User Fee
Office Equipment (replacement)	600.00	600.00	600.00	
Miscellaneous	472.17	300.00	300.00	
Vehicle/Insurance (user fee)	2,006.67	800.00	800.00	insurance/maintenance
TOTAL EXPENDITURES:	\$203,896.56	\$225,970.00	\$225,490.00	
Salary Credit Carryover:	\$30,000.00	\$17,000.00	0.00	
Jurisdiction Projected Contribution	\$171,889.89	\$208,970.00	\$225,490.00	OFM Pop. Distrib. 47,200
Kittitas County - (44.6%):	85,786.00	90,831.00	100,568.00	21,045 (44.6%)
City of Ellensburg - (44.4%):	78,485.00	86,430.00	100,118.00	20,940 (44.4%)
City of Cle Elum - (4.8%):	7,301.00	9,803.00	10,823.00	2,250 (4.8%)
City of Kittitas - (3.0%):	5,476.00	6,402.00	6,765.00	1,440 (3.0%)
City of Roslyn - (2.0%):	3,651.00	4,201.00	4,510.00	960 (2.0%)
Town of S. Cle Elum - (1.2%):	1,825.00	2,401.00	2,706.00	565 (1.2%)
TOTAL PJ REVENUE:	\$182,524.00	\$200,068.00	\$225,490.00	
Annual PJ Budget Increase:	1.0%	8.0%	7.3%	
User Fee=Vehicle Replace (10 yr.)	\$6,500.00	\$6,500.00	\$6,500.00	Fee based on #/type providers
Reserve/Accrual Fund				
Wage Survey Adjust or Credit to PJ	43,475.11	25,113.44		2022 estimate for 2023
ASHI Training Site	4,732.07	12,020.21		
Public Education (ASHI courses)	2,021.99	2,263.47		
Benefit Accrual Fund	9,000.00	9,000.00		
Office Equip Accrual Fund	2,008.80	2,608.80		
Professional Support (Acct. / Legal)	1,463.50	987.05		
User Fee (Capt Equip/ Special Proj.)	17,742.50	22,235.83		
Total Annual Budget:	\$269,467.97	\$280,796.80	\$231,990.00	
Participating Jurisdiction Credit:	0.00	0.00		

Population percentages derived from the Office of Financial Management, Forecasting Division for April 1, 2022

The 2023 (1/1-12/31/2023) Office Budget Plan Resolution #6-9-22-A was approved for recommendation to the KCCOG by the Kittitas County EMS & Trauma Care Council on 6/9/22. OFM Pop. updates approved 7/5/2022 + minor correction 11/28/22


Lee Hadden, Chairman


Prepared by: Cheryl Burrows, EMS Coordinator

“C”
Kittitas County
Emergency Medical Services and Trauma Care Council
and
Interlocal Cooperation Agreement Participating Jurisdictions

PAYMENT AGREEMENT

1. Term. The term of this agreement will be from January 1, 2023, until December 31, 2023.

2. Compensation. The named Participating Jurisdiction, City of Ellensburg, shall pay the Kittitas County EMS & Trauma Care Council (Council) a total of \$100,118.00 or less, depending on actual expenses; to be paid in quarterly payments to the Council of \$25,029.50, for their 44.4% of the daily operations of the Kittitas County EMS Division office in accordance with the Interlocal Cooperation Agreement. Actual expenses shall be documented by the Council to the Participating Jurisdiction in the form of a quarterly report to include a quarterly billing statement. Quarterly payments will be made at the beginning of each quarter. Revenue not expended will be credited to the Participating Jurisdiction for the following year or reimbursed at the close of the operating year.

Agreed to and dated this _____ day of _____, 20__.

Kittitas County EMS & Trauma Care Council:



Lee Hadden, Chair
George Long, Vice Chair

City of Ellensburg

Heidi Behrends Cerniwey, City Manager

Approved as to form:

Attorney (optional)

VOUCHER APPROVAL

I, THE UNDERSIGNED, DO HEREBY CERTIFY UNDER PENALTY OF PERJURY THAT THE MATERIALS HAVE BEEN FURNISHED, THE SERVICES RENDERED OR THE LABOR PERFORMED AS DESCRIBED, OR THAT ANY ADVANCE PAYMENT IS DUE AND PAYABLE PURSUANT TO A CONTRACT OR IS AVAILABLE AS AN OPTION FOR FULL OR PARTIAL FULFILLMENT OF A CONTRACTUAL OBLIGATION, AND THAT THE CLAIM IS A JUST, DUE AND UNPAID OBLIGATION AGAINST THE CITY OF ELLENSBURG, AND THAT I AM AUTHORIZED TO AUTHENTICATE AND CERTIFY TO SAID CLAIM.


AUDITING OFFICER

12/27/22
DATE

CLAIMS VOUCHERS AUDITED AND CERTIFIED BY THE AUDITING OFFICER HAVE BEEN RECORDED ON THE ATTACHED LISTING, WHICH HAS BEEN MADE AVAILABLE TO THE COUNCIL AS OF THIS **3RD DAY OF JANUARY 2023**. THE COUNCIL, BY A VOTE, HAS APPROVED FOR PAYMENT THE VOUCHERS INCLUDED IN THE ABOVE LIST AND FURTHER DESCRIBED AS FOLLOWS:

Claims Fund			Total Amounts		
Check #'s	160106	TO	160315	\$	2,664,225.32
EFT #'s	5944	TO	5974	\$	1,463,923.76

Payroll Fund			Total Amounts		
Check #'s	95885	TO	95888	\$	6,024.02
Direct Deposits	71003	TO	71229	\$	424,074.22

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

COUNCIL MEMBER

ATTEST: _____
CITY CLERK



CITY COUNCIL AGENDA REPORT

City Council Meeting Date: January 3, 2023

Item Title/Agenda Subject: Public Hearing (Legislative) to Consider Annexation Request from the International Order of Odd Fellows (IOOF) Lodge 20 for Parcels 744134, 474134, 513634, 503634 Located at 1900 Brick Road and First Reading of an Ordinance Approving Petition for Annexation P22-085

Submitted by: Jamey Ayling Community Development

Recommended Action or Motion: The City's Planning Commission recommends following the open record legislative public hearing:

1. Approve annexation request P22-085 for parcels 744134, 474134, 513634, 503634 located at 1900 Brick Road; and simultaneous adoption of Residential-Medium zoning; and
2. Conduct first reading of Ordinance 4909

Background/Summary: A notice of intent to commence annexation (EXHIBIT 4) was received by the Community Development Department to consider annexation of parcels 744134, 474134, 513634, 503634 located at 1900 Brick Road. The notice of intent consisted of signatures from authorized agent David Sturgill, for IOOF Lodge 20, the owner of the property.

The parcels proposed for annexation are located on the east side of Brick Road and west of Pfenning Road, 1900 Brick Road. A map of the parcels proposed to be annexed is attached to this report (Exhibit 1). Per Ellensburg City Code, annexation requests are a Type V process and therefore require a legislative public hearing before the Planning Commission, with their recommendation forwarded to City Council as the final decision maker.

During the Planning Commission public hearing, there were multiple public comments made. Twenty-six (26) members of the public signed in on the Planning Commission sign-in sheet and many others attended the hearing, and twelve (12) additional exhibits were added to the record in the form of written comments provided after the packet had been sent to

the planning commission for consideration. The Applicant had originally requested Residential-Low (R-L) zoning upon annexation which is consistent with the Residential Neighborhood Comprehensive Plan designation. Prior to the City Council meeting for the Notice of Intention on September 6, 2022 the applicant amended the application and requested R-M zoning. Staff prepared a report for the Planning Commission based on the original request for R-L zoning. The applicant's representative, David Sturgill, stated at the Planning Commission hearing that there was a mistake made when completing the petition and the Oddfellows were actually requesting Residential-Medium (R-M) zoning designation, which is also consistent with the area's Residential Neighborhood Comprehensive Plan designation. Mr. Sturgill stated there are no development plans for the property at this time, but they do need to develop the property to continue funding the cemetery. Upon completion of the public hearing, the Planning Commission with a 4-1 vote recommended Council approve the annexation request with simultaneous adoption of Residential-Medium zoning, as requested at the hearing instead of Residential-Low per the staff recommendation.

Consistent with Ellensburg City Code, notice of the City Council public hearing was noticed in the Ellensburg Daily Record on December 14, 2022 (Exhibit 6); property owners within 300 feet of the proposed annexation area and those parties of record were mailed a notice of public hearing (Exhibit 7); and land use action signs were posted on the property (Exhibit 8).

Previous Council Action:

The initial meeting with Council was held on September 6, 2022, the City Council unanimously determined the following:

- Accept the proposed annexation as geographically proposed in the notice of intent;
- Require the simultaneous adoption of Residential Medium (R-M) zoning; and
- Require the annexation area to assume a proportional share of existing City indebtedness.

Analysis:

After Council's determination to accept the annexation proposal, a petition for annexation was filed with the Kittitas County Assessor. On October 10, 2022 the Assessor

determined the petition for annexation sufficient with regard to legal description and corresponding owner of record (Exhibit 5).

The Planning Commission held a public hearing on November 10, 2022 to consider the petition for annexation. The Planning Commission considered testimony from the applicant and the audience, heard a staff recommendation, and then voted 4-1 recommending Council approve the request for annexation with a change of zoning to R-M, which was different than the staff recommendation. Staff had Recommended Residential Low density (R-L) based on the compatibility issues of the surrounding uses. The permitted use table in ECC15.310.040 outlines the difference between R-L and R-M, which are nearly identical in the types of residential uses they each allow. The major difference between the two zoning districts is found in ECC 15.320.030. R-L supports a maximum of 8 dwelling units per acre compared to the R-M which has no density limit. This factor is the reason staff supports a recommendation of R-L vs R-M as suggested by the Planning Commission. Considering the development patterns and adjoining uses, staff determined the R-L designation is more compatible with the existing developments and zoning of surrounding parcels.

The parcels are bordered by City limits on the south and west. The incorporated parcels on the south and west sides of the proposed annexation area are zoned both Residential-Suburban (R-S) and Residential-Low (R-L). The proposed annexation area is bordered by unincorporated land zoned by Kittitas County as Urban Residential to the east. See Exhibit 2 Zoning Map. Annexation of these parcels would be a logical extension of the City.

The proposed parcels to be annexed are not currently served by City utilities, nor do the properties have Utility Extension Agreements. Once the parcels are annexed, further development will necessitate connection to City utilities. City utilities are in close proximity to the proposed annexation area and would be available to service the parcels should the annexation request be approved. Upon annexation, further development may trigger improvements consistent with Public Works Development Standards, in addition to a requirement to

meet Ellensburg City Land Development Code standards and fire code requirements.

Although recommended action for this item is based on the Planning Commission's decision, staff recommends Residential-Low (R-L) zoning for the parcels proposed to be annexed. R-L zoning of this parcel is supported by the Residential designation in the Comprehensive Plan Future Land Use Map (Exhibit 3).

If the annexation request is approved by Council following the public hearing, staff also requests Council proceed with first reading of an ordinance to implement the annexation request.

Financial Impact: No fiscal impact at this time.

Attachments:

- [Ordinance 4909 \(First Reading\) - Annexation](#)
- [Exhibit 1 Map of Annexation Area](#)
- [Exhibit 2 Zoning Map](#)
- [Exhibit 3 Future Land Use Map](#)
- [Exhibit 4 Petition for Annexation](#)
- [Exhibit 5 Kittitas County Assessor Determination of Sufficiency](#)
- [Exhibit 6 Affidavit of Publication CC Public Hearing](#)
- [Exhibit 7 Certificate of Mailing](#)
- [Exhibit 8 Affidavit of Posting](#)
- [Exhibit 9 Supplemental Agenda Report with Exhibits for PC Meeting](#)
- [Exhibit 10 Planning Commission Minutes](#)

ORDINANCE NO. 4909

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON ANNEXING PARCELS 744134, 474134, 513634, 503634 TO THE CITY OF ELLENSBURG, WASHINGTON, ASSIGNING RESIDENTIAL-MEDIUM ZONING CLASSIFICATION, PROVIDING FOR THE ASSUMPTION OF EXISTING CITY INDEBTEDNESS AND FIXING A TIME WHEN THE SAME SHALL BE EFFECTIVE.

WHEREAS, on July 26, 2022, the City of Ellensburg, Washington received a notice of intention to commence annexation proceedings pursuant to the “direct petition” method of RCW 35A.14.120 for parcels 744134, 474134, 513634, and 503634, as more fully described in Section 1 of this Ordinance and depicted in Exhibit A, attached hereto; and

WHEREAS, on September 6, 2022, the City Council of the City of Ellensburg, Washington held a public meeting with the annexation initiators pursuant to RCW 35A.14.120 and determined that the initiators could proceed to acquire a 60% petition for annexation pursuant to RCW 35A.14.120; and

WHEREAS, at its September 6, 2022 public meeting the City Council set the annexation area and further determined that the property subject to annexation should be zoned Residential-Medium, and assume the annexation area’s share of City indebtedness; and

WHEREAS, the owners of not less than 60% in value, according to the assessed valuation for general taxation of the property hereinafter described, signed the petition pursuant to RCW 35A.14.120 for the annexation of said area to the City of Ellensburg, Washington; and

WHEREAS, the petition for annexation was certified as sufficient by the Kittitas County Assessor, on October 10, 2022, having determined that the petition signatures have a combined total assessed value for general taxation of not less than 60% of the total assessed value for general taxation of all property in the proposed annexation area, in compliance with RCW 35A.01.040; and

WHEREAS, on November 10, 2022, pursuant to proper notice given in accordance with RCW 35A.14.130, the Planning Commission conducted a public hearing on the proposed annexation, and following such hearing recommended City Council approve the annexation request; and

WHEREAS, on January 3, 2023 and February 6, 2023, pursuant to proper notice given in accordance with RCW 35A.14.130, the City Council received and reviewed all of the documentation associated with this annexation proposal, conducted public hearings on

the proposed annexation in accordance with RCW 35A.14.140 and RCW 35A.14.330-.340, and following such hearings determined to effect the annexation of the territory described in Section 1 of this ordinance, finding that the petition for annexation met the applicable requirements, and that the best interests of the City of Ellensburg, Washington, will be served by the annexation and that it is appropriate to good government of the City of Ellensburg, Washington, and therefore accepted the petition for annexation pursuant to RCW 35A.14.120 and Chapter 15.360 of the Ellensburg City Code; and

WHEREAS, the territory described in Section 1 of this ordinance is contiguous to the City of Ellensburg, Washington and entirely within the City of Ellensburg Urban Growth Area established pursuant to RCW 36.70A.110;

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

Section 1. Annexation. The following described parcels and rights-of-ways are hereby annexed to and made a part of the City of Ellensburg, Washington, to wit:

Tract 1:

Lots 1,2,3 and 4 of that certain survey as recorded May 15, 2018, in Book 41 of Surveys, page 134, under Auditors File No. 201805150007, records of Kittitas County, Washington; being a portion of the State Addition and part of the Northeast Quarter of Section 36, Township 18 North, Range 18 East, W.M., in the County of Kittitas, State of Washington.

Tract 2:

That portion of Tracts 76 and 77, State Addition to the City of Ellensburg No. 1, as per plat thereof recorded in Book 2, page 48, records of Kittitas County, and more particularly being described as that portion of Southeast Quarter of the Northeast Quarter of Section 36, Township 18 North, Range 18 East, W.M., County of Kittitas, State of Washington, as shown and described in the Record of Survey drawing prepared for Western Pacific Engineering, Inc., dated December 1983, described as follows:

Commencing at a found railroad spike monument marking the Southeast corner of the Northeast Quarter of said Section; thence North 00°25'17" West on the easterly boundary line of the Northeast Quarter of said Section a distance of 331.98 feet to the Southeast corner of the north half of the Southeast Quarter of the Southeast Quarter of the Northeast Quarter said Section, Said point bears South 00°25'17" East on the easterly boundary line of the Northeast Quarter of said Section a distance of 23°23.85 feet from a found brass cap monument marking the Northeast corner of the Northeast Quarter of said Section; thence South 89°23'39" West on the Southerly boundary line of the North half of the South half of the Southeast Quarter of the Northeast Quarter of said Section and the Southerly

boundary line of Tracts 96 and 77 of said Addition a distance of 847.63 feet to the true point of beginning, said point bears 89°23'39" East on the Southerly boundary line of the North half of the South half of the Southeast Quarter of the Northeast Quarter of said Section a distance of 474.52 feet from the Southeast corner of the North half of the South half of the Southeast Quarter of the Northeast Quarter of said Section and North 89°23'39" East on the Southerly boundary line of Tract 77 of said Addition a distance of 414.52 feet from the Southwest corner of Tract 77 of said Addition; thence continuing South 89°23'39" West on the Southerly boundary line of the North half of the South half of the Southeast Quarter on the Northeast Quarter of said Section and the Southerly boundary line of Tract 77 of said Addition a distance of 30 feet; thence North 00°27'41" West a distance of 623.50 feet; thence North 89°26'27" East a distance of 30.02 feet; thence South 00°27'41" East a distance of 624.52 feet to the Southerly boundary line of the North half of the South half of the Southeast Quarter of the Northeast Quarter of said Section and to the Southerly boundary of Tract 77 of said Addition and to the true point of beginning. Including all rights-of-way adjacent to said parcels.

Section 2. Assessment and Taxation. All property within the territory so annexed shall be assessed and taxed at the same rate and on the same basis as other property of the City of Ellensburg, Washington is assessed and taxed to pay for any outstanding indebtedness of the City of Ellensburg, Washington as presently adopted or as is hereafter amended.

Section 3. Comprehensive Plan Designation. All property within the territory so annexed shall be subject to and a part of the Comprehensive Plan of the City of Ellensburg, Washington as presently adopted or as is hereinafter amended.

Section 4. Land Use Designation and Zoning. All property within the territory so annexed shall be hereby zoned as follows: Kittitas County Assessor Parcel Numbers 744134, 474134, 513634, and 503634 shall be zoned Residential-Medium (R-M).

Section 5. Transmittal and Filing. The Ellensburg City Clerk is directed to file a certified copy of this ordinance with the Kittitas County Board of County Commissioners.

Section 6. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 7. Corrections. Upon the approval of the City Attorney, 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, sections/subsections numbers and any references thereto.

Section 8. Effective Date. This ordinance shall take effect and be in full force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 7th day of February, 2023.

MAYOR

ATTEST:

CITY CLERK

Approved as to form:

CITY ATTORNEY

Publish:

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4909 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4909 was published as required by law.

EXHIBIT 1

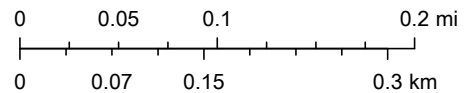
Proposed I O O F Annexation



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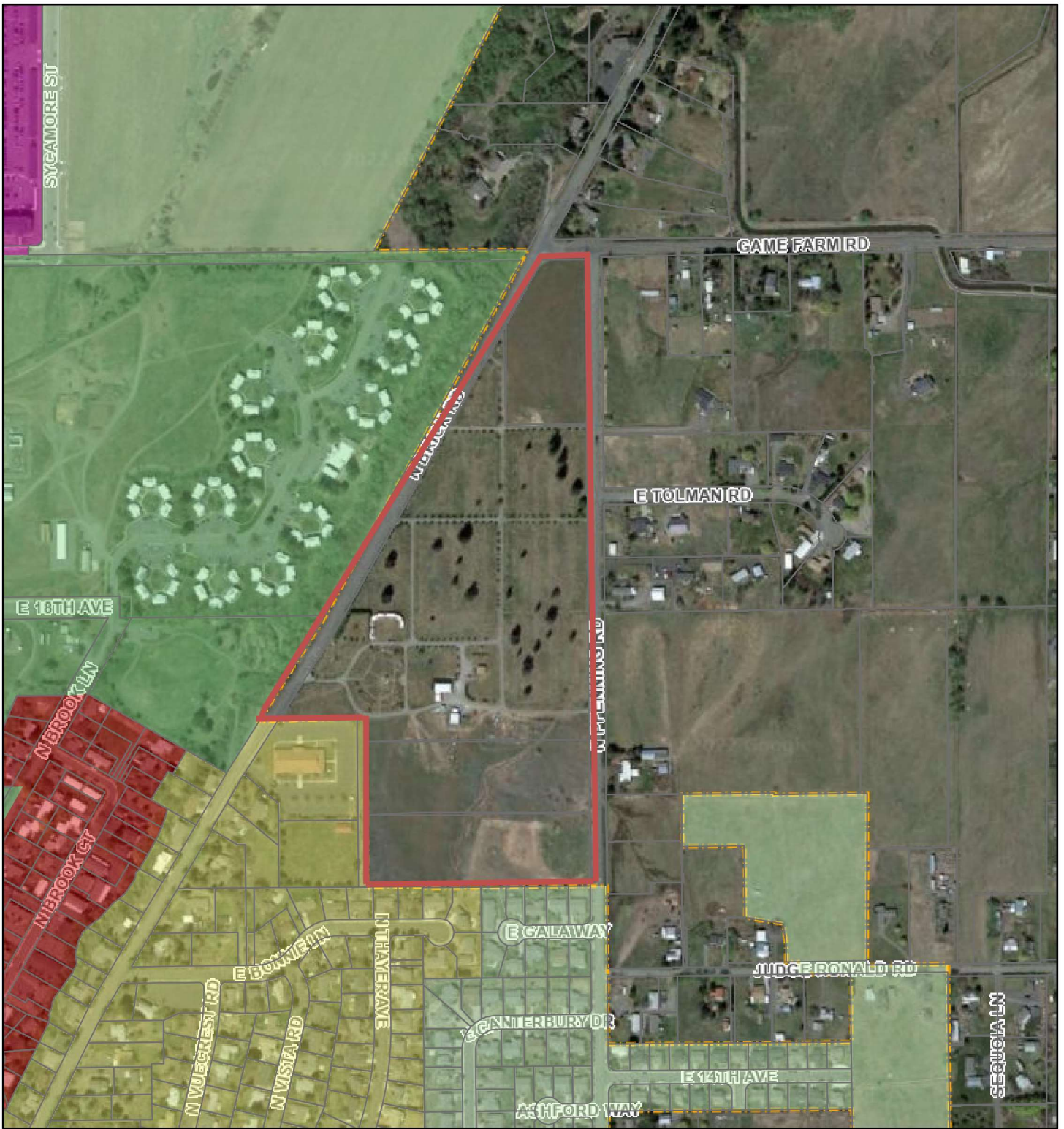
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- Override 1
- City Limits
- County Parcels
- Urban Growth Area
- Road
- Parcels
- Major Arterial



Google Maps

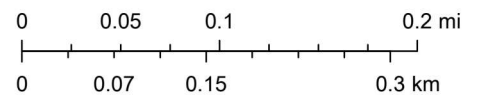
Exhibit 2
Zoning Map
eburg map



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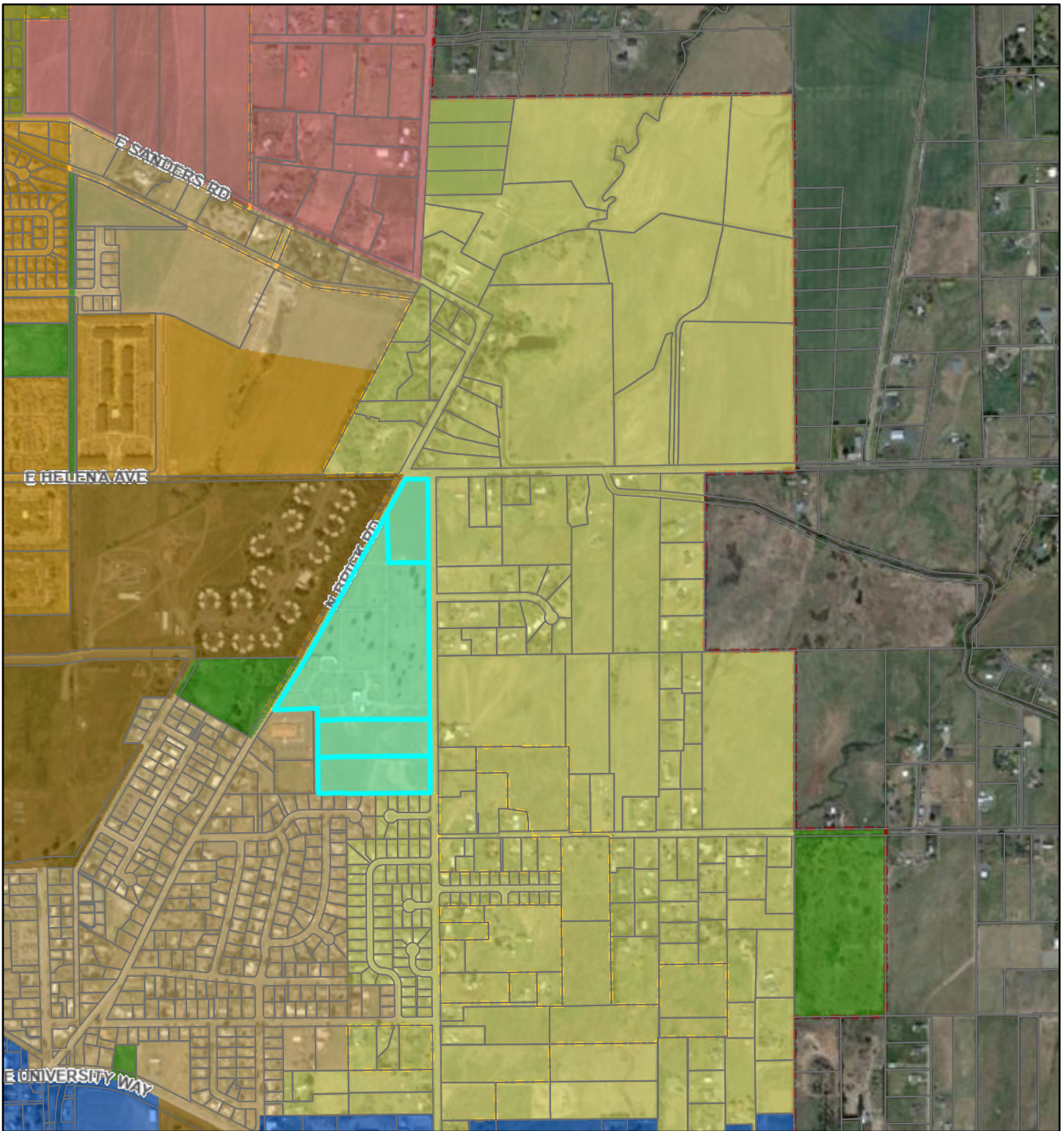
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|---------------|----------------|--|------|--|-------------------|
| | Override 1 | | RM | | Major Arterial |
| | County Parcels | | RH | | City Limits |
| Zoning | | | PR | | Urban Growth Area |
| | RS | | Road | | Parcels |
| | RL | | | | |



Google Maps

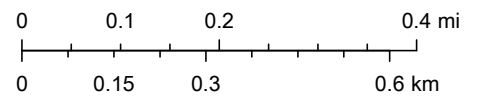
Exhibit 3 Future Land Use



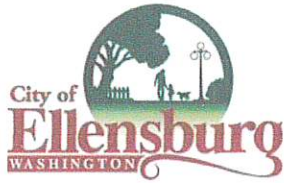
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- | | |
|----------------------------------|---------------------------------|
| County Parcels | Urban center |
| Major Arterial | Community mixed use |
| Land Use Designations | Industrial residential |
| Residential neighborhood | Neighborhood commercial |
| Blended residential neighborhood | Mixed business park |
| Urban neighborhood | General commercial and services |
| Neighborhood mixed use | Light industrial |



Google Maps



Petition For Annexation

RECEIVED

JUL 26 2022

COMMUNITY DEVELOPMENT

PF-02
FORM

Community Development Department

501 N. Anderson, Ellensburg, WA 98926 (509) 962-7239 (Building) (509) 962-7231 (Planning) permits@ci.ellensburg.wa.us

PETITION FOR ANNEXATION TO THE CITY OF ELLENSBURG, WASHINGTON

TO: The City Council
City of Ellensburg
501 North Anderson
Ellensburg, Washington

WE, the undersigned, being the owners of not less than sixty percent in value (according to the assessed valuation for general taxation), of the real property described on Exhibit "A" attached hereto, lying contiguous to the City of Ellensburg, Washington, do hereby petition that such territory be annexed to and made a part of the City of Ellensburg under the provisions of RCW 35A.14.120, et seq., and any amendments thereto, of the State of Washington.

The territory proposed to be annexed is within Kittitas County, Washington, and is described in Exhibit "A", attached hereto.

WHEREFORE, the undersigned respectively petition the Honorable City Council and ask:

(a) That appropriate action be taken to entertain this petition, fixing a date for a public hearing, causing notice to be published and posted, specifying the time and place of such hearing, and inviting all persons interested to appear and voice approval or disapproval of such annexation; and

(b) That following such hearing, the City Council determine by Ordinance that such annexation shall be effective; and that property so annexed shall become a part of the City of Ellensburg, Washington, subject to its laws and ordinances then and thereafter in force.

The Petitioners subscribing hereto agree "...that all property within the territory hereby sought to be annexed shall be assessed and taxed at the same rate and on the same basis as property within the City of Ellensburg for any now outstanding indebtedness of said City, including assessments or taxes in payments of any bonds issued or debts contracted, prior to or existing at the date of annexation, and that simultaneous adoption of proposed zoning regulations be required" in accordance with the requirements of the City Council of said City, and as quoted herein from the minute entry of the records of said City Council meeting of _____.

This petition is accompanied and has attached hereto as Exhibit "B" a diagram, which outlines the boundaries of the property sought to be annexed.

These pages are a group of pages containing an identical text and prayer intended by the signers of this petition to be presented and considered as one petition and may be filed with other pages containing additional signatures which cumulatively may be considered as a single petition.

WARNING: Every person who signs this petition with any other than his true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he is not a legal voter, or signs a petition when he is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

PRAYER OF PETITION: (1) Annexation of area described in Exhibits "A" and "B", and
(2) Assumption of indebtedness of the City of Ellensburg, and (3) Adoption of the City of Ellensburg Comprehensive Zoning Plan.

David A. Sturgell

PO Box 154, ELLENBURG WA 98926
STREET LOCATION: 19000 BRICK ROAD

OWNER'S SIGNATURE

HOUSING COMMITTEE ADDRESS

DAVID A. STURGELL

26 JULY 2022

PRINTED NAME

DATE SIGNED

Richard Gallyn

P.O. box 154 Ellenburg WA 98926

OWNER'S SIGNATURE

ADDRESS

CEMETERY DIRECTOR

26-July-2022

PRINTED NAME

DATE SIGNED

➤

OWNER'S SIGNATURE

ADDRESS

PRINTED NAME

DATE SIGNED

➤

OWNER'S SIGNATURE

ADDRESS

PRINTED NAME

DATE SIGNED

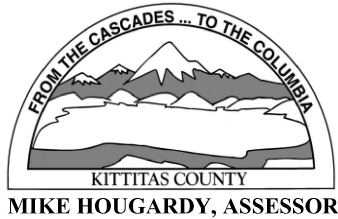
➤

OWNER'S SIGNATURE

ADDRESS

PRINTED NAME

DATE SIGNED



Kittitas County Assessor

205 W 5th Avenue, Suite 101 • Ellensburg, WA 98926-2887

Phone (509) 962-7501

Upper County Toll-Free 674-2584

www.co.kittitas.wa.us/assessor

October 10, 2022

City of Ellensburg
Community Development Department
Attn: Jayme Ayling
501 N Anderson St
Ellensburg WA 989256

RE: Proposed Annexation Petition, P22-085 Oddfellows
Parcels: 744134, 474134, 513634 and 503634

To whom it may concern,

I, Mike Hougardy, as Assessor of Kittitas County, Washington, Hereby Certify that the parcels legally described and mapped in the proposed annexation, P22-085 Oddfellows received by this office October 3, 2022, have been verified regarding legal description and corresponding owner of record.

Please feel free to contact me if I can be of any further assistance.

Sincerely,

A handwritten signature in cursive script that reads "Mike Hougardy".

Mike Hougardy
Kittitas County Assessor

AFFIDAVIT OF PUBLICATION

State of Washington, County of Kittitas, ss: The undersigned being first duly sworn on oath, deposes and says: That he/she is the representative of The Daily Record, a daily newspaper. That said newspaper is a legal newspaper and has been approved as a legal newspaper by order of the superior court in the County in which it is published and it is now and has been for more than six months prior to the date of the publications hereinafter referred to, published in the English language continually as a newspaper in Ellensburg, Kittitas County, Washington, and it is now and during all of said time printed in an true copy of

CITY OF ELLENSBURG-CITY CLERK
N/OPEN PUBLIC HEARING P22-085

is published in regular issues (and not in supplement form) of said newspaper once a week for a period of 1 consecutive week(s), commencing on the following days.

12/14/22

All dates inclusive and that such newspaper were regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is the sum of \$89.24 the rate of \$9.00 per column inch for each insertion.



Subscribed to me this date: 12/14/22





Printed Name
Notary Public in and for
The State of Washington
(SEAL)

Signed Name

Legals

Public Notice
Kittitas County, Ellensburg WA

Notice is hereby given that a joint public hearing will be held by the Board of County Commissioners and the Board of Health on Thursday, December 15, 2022, at 10:00 a.m., in the Commissioners Auditorium located at the Kittitas County Courthouse, 205 W 5th Ave, Ellensburg, Washington, to consider the following:

- Approval for the 2023 Kittitas County Public Health Fee Schedule/Policy

The Board of Health and the Board of County Commissioners may make a final decision upon close of the public hearing or continue the public hearing to a specific date and time where they will review the documents, deliberate and make a final decision on the 2023 Kittitas County Public Health Fee Schedule. Any person with an interest in this matter is encouraged to attend and provide testimony.

The proposed 2023 Kittitas County Public Health Fee Schedule/Policy can be reviewed during normal business hours at the Kittitas County Public Health Department at 507 North Nanum Street, Suite 102, Ellensburg, WA, or the Board of County Commissioners Office at 205 W 5th Street, Suite 106, Ellensburg, WA. You may also request a copy of the 2023 Kittitas County Public Health Fee Schedule by calling the Kittitas County Public Health Office at (509) 962-7515 or the Board of County Commissioners Office at (509) 962-7508.

More information is online at <http://www.co.kittitas.wa.us/notices/>.

Mindy Buchholz
Clerk of the Board - Deputy

PUBLISH: North Kittitas County Tribune: December 8 & 14 2022

PUBLISH: Daily Record: December 8 & 14, 2022 / LEGAL #: 311939

Legals

Our office will be closed on
Monday, December 26th
for Christmas and
Monday, January 2nd
for the New Year.

Please observe the following
deadlines for advertising:

CLASSIFIEDS
For classified submissions, please contact:
classifieds@kvnnews.com

LEGAL NOTICES
For legal notice submissions, please contact:
legals@kvnnews.com

OBITUARIES & DEATH NOTICES

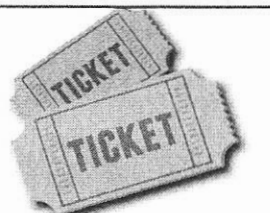
For obit submissions, please visit:
www.dailyrecordnews.com
If you would like further assistance, please contact:
obits@kvnnews.com

Table with columns: AVAILABLE PUBLISH DATES, FINAL APPROVAL DEADLINE, and submission dates for various days in December 2022 and January 2023.

DISPLAY ADVERTISING

For display ad submissions, please contact:
advertising@kvnnews.com

Table with columns: AVAILABLE PUBLISH DATES, FINAL SPACE RESERVATION DEADLINE, and submission dates for various days in December 2022 and January 2023.



Classifieds are your ticket to savings!

Legals

NOTICE OF AN OPEN PUBLIC HEARING
ANNEXATION REQUEST

NOTICE IS HEREBY GIVEN that the City of Ellensburg City Council will hold an open record public hearing on Tuesday, January 3rd, 2023 at 7:00 pm to consider an annexation request (P22-005) submitted by L O Q F Lodge 20, property owner. The applicant seeks to annex parcel numbers 744134, 474134, 513634, & 503634 into the City of Ellensburg, and upon annexation requests the parcels be zoned residential medium. The submitted application and related documents are available for review online at <https://ci.ellensburg.wa.us/623/Public-Notice/Current-Projects> or at the City of Ellensburg Community Development Department, 501 North Anderson Street, Ellensburg, WA. Anyone wishing to receive a copy of the annexation request is invited to call (509) 962-7231. Project Location: The parcel is located at 1900 Brick Road, Ellensburg, Washington 98926. Kittitas County Assessor's Parcel Numbers 744134, 474134, 513634, & 503634.

NOTICE IS FURTHER GIVEN that all persons interested in this matter may participate in this hybrid meeting by contacting staff no later than 5:00 pm on Tuesday January 3rd, 2023. An email link, or phone number will be provided which will allow for electronic participation in the public hearing. Written comments may be filed with the City Clerk, 501 North Anderson Street, or via email at CityClerk@ci.ellensburg.wa.us. To be considered during the public hearing, written comments must be submitted by 5:00 pm on Tuesday January 3rd, 2023.

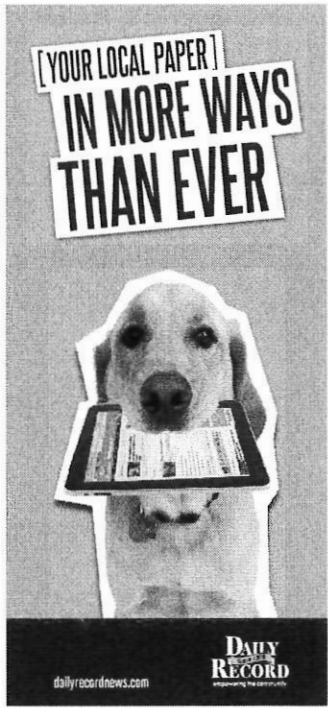
PUBLISH: Daily Record: December 14, 2022 / LEGAL #: 313775

REQUEST FOR QUALIFICATIONS (RFQ)
Professional Services:
LICENSED REAL ESTATE AGENT
Responses due by 3:00 pm on December 27, 2022

The City of Ellensburg is accepting letters of qualifications from real estate agents licensed to do business in the State of Washington who are interested in assisting the City on an "as needed" basis to advertise and sell City-owned property, potentially including but not limited to the listing, marketing, showing, and negotiations for property for sale by the City or locating and negotiating for property for acquisition by the City. This Request for Qualifications (RFQ) does not constitute a contract for services performed or to be performed. Following the selection of the provider, the City will negotiate a contract including a finalized scope of services and fee structure.

To obtain the RFQ information packet, visit the city website at: <https://ellensburg.wa.gov/CityClerk> or contact Beth Leader, City Clerk at 509-925-8614 or leaderb@ci.ellensburg.wa.us with questions or for additional information.

PUBLISH: Daily Record: December 3, 7, & 14, 2022 / LEGAL #: 310443



THURSDAY MORNING DECEMBER 15, 2022. Table with columns for time slots (6 AM, 7 AM, 8 AM, 9 AM, 10 AM, 11 AM) and station/channel information.

THURSDAY AFTERNOON DECEMBER 15, 2022. Table with columns for time slots (12 PM, 1 PM, 2 PM, 3 PM, 4 PM, 5 PM, 5:30 PM) and station/channel information.

THURSDAY PRIME TIME DECEMBER 15, 2022. Large table with columns for time slots (6 PM, 7 PM, 8 PM, 9 PM, 10 PM, 11 PM) and station/channel information.

Exhibit 7



COMMUNITY DEVELOPMENT DEPARTMENT

501 N. Anderson St., Ellensburg WA 98926

Land Use Permitting (509) 962-7231 Construction Permitting (509) 962-7239

Jamey Ayling, Director

Phone: (509) 925-8653 Fax: (509) 925-8655 E-Mail: aylingj@ci.ellensburg.wa.us

December 13, 2022

RE: Notice of Open Record Public Hearing for Annexation request, case # P22-085, submitted by I O O F Lodge 20

NOTICE IS HEREBY GIVEN that the City of Ellensburg City Council will hold an open record public hearing on **Tuesday, January 3rd, 2023 at 7:00 pm** hybrid in-person & via zoom, to consider an annexation request (P22-085) submitted by I O O F Lodge 20, property owner. The applicant seeks to annex parcel numbers 744134, 474134, 513634, and 503634 into the City of Ellensburg. The submitted application and related documents are available for review online at <https://ci.ellensburg.wa.us/623/Public-NoticesCurrent-Projects> or at the City of Ellensburg Community Development Department, 501 North Anderson Street, Ellensburg, Washington. Anyone wishing to receive a copy of the annexation request is invited to call (509) 962-7231 or visit the Community Development Department.

Project Location: The parcels are located at 1900 Brick Road, Ellensburg, Washington 98926. Kittitas County Assessor's Parcel Numbers 744134, 474134, 513634, and 503634.

NOTICE IS FURTHER GIVEN that all persons interested in this matter may participate in this hybrid meeting by contacting staff no later than 5:00 pm on Tuesday January 3rd, 2023. An email link, or phone number will be provided which will allow for electronic participation in the public hearing. Written comments may be filed with the City Clerk, 501 North Anderson Street, or via email at CityClerk@ci.ellensburg.wa.us. **To be considered during the public hearing, written comments must be submitted by 5:00 pm on Tuesday, January 3, 2023.**

474134

SHEERAN, JOSEPH R & LORI K
1707 E GALA WAY
ELLENSBURG WA 98926-5117

I O O F LODGE 20
PO BOX 154
ELLENSBURG WA 98926-1911

KALLAS, GLENDA J
1507 BONNIE LANE
ELLENSBURG WA 98926-9580

PANATTONI, KATLIN R & ERIC J
1703 E GALA WAY
ELLENSBURG WA 98926-5117

RIEXINGER, KEITH D & TAMRA
PO BOX 248
ELLENSBURG WA 98926-1912

CHRISTOPHERSON, DAVID & SUSAN
1709 E GALA WAY
ELLENSBURG WA 98926-1915

BERGMAN, LARRY E & DONNA K
1601 E BONNIE LN
ELLENSBURG WA 98926-9500

DAGGERHART, BRANT W &
6940 ROSEWELL RD UNIT 15F
ATLANTA GA 30328-2231

GRAY, WESLEY D & JO ANNE
1700 N PFENNING RD
ELLENSBURG WA 98926

ISITT, RONALD W & HOPE R
249 MAIN AVE S STE 107 PMB 146
NORTH BEND WA 98045-5016

SHAW, JAMES
1505 E BONNIE LN
ELLENSBURG WA 98926-9580

CHURCH OF LATTER DAY SAINTS
50 E NORTH TEMPLE FL 22
SALT LAKE CITY UT 84150-0022

HOOD, ROBERT B JR & SHIRLEY M
1605 E BONNIE LN
ELLENSBURG WA 98926-9500

MEYERS, BERNARD J & VELMA MARLENE
1701 E GALA WAY
ELLENSBURG WA 98926-5117

P22-085 (474134)
CERTIFICATE OF TRANSMITTAL

On this day, the undersigned sent to
the addressee(s) the original
document(s) by U.S. Mail.

I certify under penalty of perjury
under the laws of the State of WA
that the forgoing is true and correct.

Date 12/14/22

Signed

Hetty Boots

HOLLENBECK, GARY & REBECCA
1700 TOLMAN RD
ELLENSBURG WA 98926-5105

I O O F LODGE 20
PO BOX 154
ELLENSBURG WA 98926-1911

GRAY, WESLEY D & JO ANNE
1700 N PFENNING RD
ELLENSBURG WA 98926

AITKEN, BRENDA L
1810 N PFENNING RD
ELLENSBURG WA 98926-5103

WILLIAMS, MICHAEL L ETUX
PO BOX 1492
ELLENSBURG WA 98926

NEWHARD, NICHOLAS CHRISTOPHER &
HELEN RUTH
1610 N BRICK RD
ELLENSBURG WA 98926-9565

ALLEN, DARREN L & KENDRA B
1812 N PFENNING RD
ELLENSBURG WA 98926-5103

STATE OF WASH (CWU) FAC. MGMT
DEPT
MAIL STOP # 7523
ELLENSBURG WA 98926-7502

CHURCH OF LATTER DAY SAINTS
50 E NORTH TEMPLE FL 22
SALT LAKE CITY UT 84150-0022

WILLARD, MATTHEW M & TRISTEN B
2215 N BRICK RD
ELLENSBURG WA 98926-9374

CITY OF ELLENSBURG
501 N ANDERSON ST
ELLENSBURG WA 98926-3147

GRAY, MICHAEL D & NICHOLE D
2000 PFENNING RD
ELLENSBURG WA 98926

WERNEX, JOSEPH ETUX
1901 TOLMAN RD
ELLENSBURG WA 98926

P22-085 (513634)

CERTIFICATE OF TRANSMITTAL

On this day, the undersigned sent to
the addressee(s) the original
document(s) by U.S. Mail.

I certify under penalty of perjury
under the laws of the State of WA
that the forgoing is true and correct.

Date 12/14/22 Signed

Wally Boots

SHEERAN, JOSEPH R & LORI K
1707 E GALA WAY
ELLENSBURG WA 98926-5117

WANG, FEN
1404 THAYER AVE
ELLENSBURG WA 98926

RINTA, BRANDON & DEANNA
1500 E BONNIE LN
ELLENSBURG WA 98926-9580

RINKER, JAN YVONNE
9520 KOPACHUCK DR NW
GIG HARBOR WA 98335

I O O F LODGE 20
PO BOX 154
ELLENSBURG WA 98926-1911

BRITSCHGI, MATTHEW WILLIAM & REKA
ZSOFIA
1704 E GALA WAY
ELLENSBURG WA 98926-5117

KALLAS, GLENDA J
1507 BONNIE LANE
ELLENSBURG WA 98926-9580

PANATTONI, KATLIN R & ERIC J
1703 E GALA WAY
ELLENSBURG WA 98926-5117

GRAY, WESLEY D & JO ANNE
1700 N PFENNING RD
ELLENSBURG WA 98926

WOLFE, SARA J
1706 GALA WAY
ELLENSBURG WA 98926

DOWNING, ROSEMARIE
1425 E BONNIE LN
ELLENSBURG WA 98926-9579

RIGGIN, LEONARD G
1604 BONNIE LANE
ELLENSBURG WA 98926

HALL, ROBERT V
2691 THOMAS RD
ELLENSBURG WA 98926

RIEXINGER, KEITH D & TAMRA
PO BOX 248
ELLENSBURG WA 98926-1912

CHRISTOPHERSON, DAVID & SUSAN
1709 E GALA WAY
ELLENSBURG WA 98926-1915

RODITELEVA-WIBE, MARIA
1502 E BONNIE LN
ELLENSBURG WA 98926-9580

GRAY, BRENT C
1405 N THAYER AVE
ELLENSBURG WA 98926-9583

GUNN, GERALD P & TATIANA A
1700 E GALA WAY
ELLENSBURG WA 98926-5117

BERGMAN, LARRY E & DONNA K
1601 E BONNIE LN
ELLENSBURG WA 98926-9500

DAGGERHART, BRANT W &
6940 ROSEWELL RD UNIT 15F
ATLANTA GA 30328-2231

JACK WILLIAM CARPENTER & VALERIE
ANN
1406 N THAYER AVE
ELLENSBURG WA 98926-9583

HENDRIX, ROBERT T ETUX
1403 THAYER AVE
ELLENSBURG WA 98926

ISITT, RONALD W & HOPE R
249 MAIN AVE S STE 107 PMB 146
NORTH BEND WA 98045-5016

SHAW, JAMES
1505 E BONNIE LN
ELLENSBURG WA 98926-9580

CHURCH OF LATTER DAY SAINTS
50 E NORTH TEMPLE FL 22
SALT LAKE CITY UT 84150-0022

CLARK, DENNY M & JAYME J
1702 E GALA WAY
ELLENSBURG WA 98926-5117

HOOD, ROBERT B JR & SHIRLEY M
1605 E BONNIE LN
ELLENSBURG WA 98926-9500

DAVIES, SANDRA E & DUANE F
1708 GALA WAY
ELLENSBURG WA 98926-5117

MEYERS, BERNARD J & VELMA MARLENE
1701 E GALA WAY
ELLENSBURG WA 98926-5117

HUSCHKA, FRED R ETUX
1427 BONNIE LN
ELLENSBURG WA 98926

744134

DAVENPORT, PAUL A & YVONNE M
1602 E BONNIE LN
ELLENSBURG WA 98926-9500

P22-085 (744134)

CERTIFICATE OF TRANSMITTAL

On this day, the undersigned sent to
the addressee(s) the original
document(s) by U.S. Mail.

I certify under penalty of perjury
under the laws of the State of WA
that the forgoing is true and correct.

Date 12/14/22 Signed

Kathy Boots

LEE, ABIGAIL MACRAE & JARRED SCOTT
ROOS
2200 N BRICK RD
ELLENSBURG WA 98926-9359

HOLLENBECK, GARY & REBECCA
1700 TOLMAN RD
ELLENSBURG WA 98926-5105

I O O F LODGE 20
PO BOX 154
ELLENSBURG WA 98926-1911

SEDLICKAS, GREG
160 GAMEFARM RD
ELLENSBURG WA 98926

TERRY, DANIEL C III & IMA M
2208 N BRICK RD
ELLENSBURG WA 98926-9359

STATE OF WASH (CWU) FAC. MGMT
DEPT
MAIL STOP # 7523
ELLENSBURG WA 98926-7502

WILLARD, MATTHEW M & TRISTEN B
2215 N BRICK RD
ELLENSBURG WA 98926-9374

GRAY, MICHAEL D & NICHOLE D
2000 PFENNING RD
ELLENSBURG WA 98926

WERNEX, JOSEPH ETUX
1901 TOLMAN RD
ELLENSBURG WA 98926

P22-085 (503634)

CERTIFICATE OF TRANSMITTAL

On this day, the undersigned sent to
the addressee(s) the original
document(s) by U.S. Mail.

I certify under penalty of perjury
under the laws of the State of WA
that the forgoing is true and correct.

Date 12/14/22 Signed

Kathy Boots



COMMUNITY DEVELOPMENT DEPARTMENT

501 N. Anderson St, Ellensburg WA 98926
Land Use Permitting (509) 962-7231 Construction Permitting (509) 962-7239
Jamey Ayling, Director
Phone: (509) 962-8653 Fax: (509) 925-8655 E-Mail: aylingj@ci.ellensburg.wa.us

AFFIDAVIT OF POSTING

As per Revised Code of Washington (RCW) 35A.14.130, Ellensburg City Code requires that all public hearings pertaining to annexation requests shall have a notice posted in **three** publicly accessible places within the territory proposed for annexation. Per ECC 15.220.050, the following shall apply:

1. The posting of a weather-resistant sign posted on the subject property, visible to members of the public who may be passing on nearby public rights-of-way, and free from obstructions.
2. If the project abuts more than one public right-of-way, more than one sign may be required as determined by the responsible official.
3. The responsibility for the posting of the sign shall be upon the project applicant.
4. The sign shall be at least two feet by three feet in size, have a written description of the proposal, include a site drawing which shows the proposed project, have the date listed when comments are due, and where comments are to be mailed.

DATE: December 13, 2022	PLANNER: Kathy Boots, Planning Technician
PROJECT NAME: Annexation of parcels into the City of Ellensburg	FILE NUMBER: P22-085

PLEASE COMPLETE THE FOLLOWING:

I, DAVID STURGELL, IOOF CEMETERY BOARD, certify that I am the landowner and/or authorized agent responsible for the posting of this land use project site and further certify that the site has been posted as required by Ellensburg City Code. I understand that the that the posting period begins immediately and ends after the ending of the appeal period on the final decision by the City Council and the sign(s) will be posted at the site until this time. **Please post the site and return this form to the Community Development Department in a timely manner.**


Signature

16 DECEMBER 20 22
Date

Please return the above affidavit and a photograph of the posted sign(s) to Kathy Boots, Planning Technician, by email: bootsk@ci.ellensburg.wa.us; Fax 509-962-8653; mail; or deliver to: Community Development Dept., City Hall, 501 N. Anderson St., Ellensburg, WA 98926.



DAVID STARKETT, 100% CEMENTUM BOND

DAVID STARKETT, 100% CEMENTUM BOND

DAVID STARKETT, 100% CEMENTUM BOND



COMMUNITY DEVELOPMENT DEPARTMENT
501 North Anderson Street, Ellensburg WA 98926

SUPPLEMENTAL AGENDA REPORT

To: Planning Commission

THRU: Jamey Ayling, Community Development Director

FROM: Kathy Boots, Planning Technician

DATE: November 10, 2022

RE: Public Hearing to Consider Annexation request for Parcels 744134, 474134, 513634 and 503634 located at 1900 Brick Road

EXHIBITS:

11. Written public comment by Hope and Ronald Isitt
12. Written public comment by Paul Rawlings
13. Written public comment by Matt Willard
14. Written public comment by Cori Totten
15. Written public comment by Madison Campbell
16. Written public comment by Paula Williams and John Nixon
17. Written public comment by Corey Rogers
18. Written public comment by Abbie Lee
19. Written public comment by Travis Gibson
20. Written public comment by Dan Terry
21. Written public comment by Paul and Yvonne Davenport
22. Written public comment by Tiffany Potts
23. Written public comment by Shirley Hood

EXHIBIT 11

November 9, 2022

Proposal to stop annexation request #P22-085

This annexation proposal should not move forward. The 4 parcels should remain as they are now.

Reasons against annexation:

1. Small cities like Ellensburg should be concerned about resources, both natural, such as water and power, and infrastructure, such as roads and traffic. The city of Ellensburg is moving far too quickly to develop low density housing. Rather, the city should be pushing for high density housing within current city limits to better utilize current resources and systems.
2. I understand low-income housing is being proposed for this particular development. As someone who is actively involved with disabled adults in the community, the majority of whom are low-income, I am deeply offended by the marginalization of people with disabilities onto the outskirts of the town where they will have difficulty accessing services and goods. Rather, the city should be encouraging development of low-income housing in the city core.
3. The soil in the area is not porous, having high levels of clay and rock, and water pools on the surface. Covering more land with concrete and housing will only exacerbate this problem, leading to potential flooding of both roads and homes, not to mention possible flooding of the existing cemetery.
4. The infrastructure in the Radio Hill area is not designed to support further influx of traffic. Brick Road is already overrun with speeding cars, making it dangerous for pedestrians, particularly given the lack of sidewalks. This proposed development would increase traffic and put children and disabled residents at further risk as they try to move into town to access goods and services.
5. The meadow land in consideration for development is teeming with wildlife and is a beautiful example of high desert meadow. Why not purchase this beautiful meadow for a city park rather than covering it with more unnecessary housing just so an outside developer can make more money at the expense of citizens in Ellensburg?

Hope and Ronald Isitt
hoperusho@gmail.com
(425)516-9015

EXHIBIT 12

Community Development Office
Attn: Kathy Boots
501 North Anderson St
Ellensburg, WA 98926

Re: Re-Zoning of Property
Parcel ID#744134, 474134, 513634 and 503634

Dear Ms. Boots:

I'm writing this in letter concern for the rezoning of county property now owned by IOOF Cemetery. The re-zoning of said parcels is of concern to the community. Once a property is approved for Residential low zone (R-L) it can be sold or go through another re-zoning process to be approved for Residential Medium Zone (R-M) allowing multi-family dwellings and apartments. This would change the original zoning from (R-L) predominant use for single family dwellings which now exists around the adjacent property's N/S/E/W of the IOOF Cemetery property.

Re-zoning (R-L) to (R-M) has occurred in the City of Ellensburg. An area located in the 2400 block of Ridgeview Ave which was predominately of single family dwellings was re-zoned (R-M) to residential building with multi-family living. The impact has caused high volumes of traffic on a very narrow street, which residents have parked cars impeding access to and from the single family resident homes. The (R-L) guidelines state that Ellensburg reinforce a pattern of attractive and walkable residential neighborhoods. This area has been continually littered by furniture and abandoned cars, which takes away from the aesthetic look of the neighborhood and makes for hazardous walking on sidewalks. This is something that the surrounding neighborhood adjacent to the IOOF Cemetery property would like to avoid.

In addition this zoning change would have an impact on traffic to the area. Pfenning Road, Brick Road, J Ronald Road and Game Farm Road currently lack the ability to handle the volume of increased traffic.

Please take this information into consideration when making your decision.

Thank you,

Paul Rawlings
1705 E Canterbury Dr
Ellensburg, WA 98926
(253)303-1001



Re: Petition for Annexation

Dear Ellensburg Mayor & City Council,

Thank you for the opportunity to comment on the proposed P22-085 Annexation Petition. We understand that a lawful petition for annexation has to meet City and State guidelines. In the event the petition meets these criteria, we raise no objections to the annexation. It is widely believed that following annexation, Hopesource or the legal owner will seek a rezone to Residential Medium. It is important to forecast that the adjacent property owners will vigorously oppose such a rezone by every legal means. There is an objection to this kind of spot rezone for the use contemplated. There would be the need for an EIS and there will be appeals to every maneuver in a path for resolve or building permit. The neighbors to the North and South are very upset by this proposal. We are giving constructive notice of our position so that City Council and the landowners know what they will face. In addition to the neighbors, those generational family lying in repose in the cemetery are joined with us in opposition to a future plan for rezone after annexation.

Respectfully,

Matt Willard

Kathy Boots

From: Cori Totten <threetottens@hotmail.com>
Sent: Thursday, November 10, 2022 5:18 AM
To: Kathy Boots
Subject: Re: [Ext] IOOF Annexation

CAUTION - EXTERNAL EMAIL: The email below is from an external source. Please exercise caution before opening attachments, clicking links, fulfilling requests, or following guidance.

Hi Kathy,

We are hoping to attend the hearing tonight but please include my comment below.

We live on Tolman Road and would be directly affected by any new construction that would potentially be built on the proposed IOOF lots that are being considered for annexation. We strongly oppose these lots being annexed as residential medium. We do not feel that this area is suitable for anything more than residential low. We purchased our home in the last year and love the quiet country setting and close location to town. Allowing these lots to be residential medium and the potential to build apartment buildings would be detrimental to us and our neighbors. Again, we are opposed to the annexation of the IOOF lots to residential medium.

Cori and Troy Totten

From: Kathy Boots <bootsk@ci.ellensburg.wa.us>
Sent: Monday, November 7, 2022 9:59:12 AM
To: Cori Totten <threetottens@hotmail.com>
Subject: RE: [Ext] IOOF Annexation

Cori,

I compared your parcel with the 300' buffer maps. It looks like your lot was just past the 300' cut off. I have included the Public Hearing Notice that was sent out. I am adding the written comments for the meeting. Please feel free to email me your comments and I will include them if it received by Thursday November 10th at 5:00pm.

Thank you

Kathy Boots

Planning Technician
(509)962-7231
Bootsk@ci.ellensburg.wa.us
501 N Anderson Street
Ellensburg, WA 98926



EXHIBIT 15

Kathy Boots

From: Madison Campbell <madicam@comcast.net>
Sent: Thursday, November 10, 2022 1:44 PM
To: Kathy Boots
Subject: [Ext] IOOF Cemetery Rezoning

CAUTION - EXTERNAL EMAIL: The email below is from an external source. Please exercise caution before opening attachments, clicking links, fulfilling requests, or following guidance.

Good afternoon

This email is to show opposition to the rezoning of the north side of the IOOF cemetery to “medium density zoning.” My family and I live in the area and this rezoning is going to be met with strong opposition if it happens.

Thanks,

Madison Alviar

Sent from my iPhone

Kathy Boots

From: Paula Williams <ppautzke@me.com>
Sent: Thursday, November 10, 2022 7:56 AM
To: Kathy Boots
Subject: [Ext] To November 10th C. of Ellensburg meeting

CAUTION - EXTERNAL EMAIL: The email below is from an external source. Please exercise caution before opening attachments, clicking links, fulfilling requests, or following guidance.

Dear Mayor and Council,

There is a sound petition request to annex the parcels noted in your information packet to the City of Ellensburg meeting tonite. My husband and I have heard that the new owner wants to rezone his purchase into Residential Medium. We shall vigorously oppose any thought of any rezone for a use such as a Hopesource or any other entity for Residential Medium. We don't want more density. We want City lots or bigger to keep the idyllic surrounding land for rural living.

We live South of this suggested proposal and know this idea will be strongly opposed by most all neighbors. We shall endeavor to fight any future proposal to that rezone at every turn.

Where this would fit I think would be on South Railroad Avenue where you have multiple apartment buildings etc... and closer proximity to City services.

Thank you,
Paula Williams and John Nixon
1209 Thayer Avenue
Ellensburg, WA 98927
509.899.1013



Hay • Straw • Domestic • Export

November 10, 2022

City of Ellensburg Planning Commission
Ellensburg, WA 98926

RE: P22-085 Annexation, IOOF Lodge 20 property

Dear City Council and Ellensburg Mayor,

I would like this letter to be part of the official record for tonight's Public Hearing.

I'm writing this letter as a concerned homeowner who lives in close proximity to the subject property which is on tonight's agenda. I have no issues with the subject property being annexed into the City if all requirements are met. A major problem I do have is with what I'm hearing the plan is for a portion of this property if the annexation is granted.

I'm hearing either Hope Source or the legal owner will seek to rezone some of this property to Residential Medium creating an allowable use for multiple high-density units as well as potential housing for transient people needing shelter. I want it to be known that I will personally oppose and vigorously fight against any such project. I will engage our Company attorneys who will represent me personally and any other homeowner who stands with me to reject this type of project.

I want the message to be clear to the City Council and land owners that any potential spot rezone which may arise will be strongly opposed. I will use all legal means necessary to oppose and fight against it. In addition, I will coordinate these efforts with many other homeowners to the North and South of this property.

Regards,

Corey Rogers – Owner – Ward Rugh, Inc.
1407 N. Canterbury Drive
Ellensburg, WA 98926

Kathy Boots

From: Abbie Lee <abbiemacrae7@gmail.com>
Sent: Thursday, November 10, 2022 10:58 AM
To: Kathy Boots
Subject: Re: [Ext] P22-085 annexation request

CAUTION - EXTERNAL EMAIL: The email below is from an external source. Please exercise caution before opening attachments, clicking links, fulfilling requests, or following guidance.

Dear Planning Commission,

We are writing today to express our strong opposition to the annexation request made by I.O.O.F. cemetery. We own and reside at 2200 N Brick Rd, Ellensburg Wa, which is located directly across Gamefarm Rd from parcel number 503634.

Our concerns begin with the guaranteed increase in traffic, if this annexation goes forth. As a young family raising our son, this additional traffic would add more potential for accidents, adding safety concerns for him to play outside.

The addition of multiple homes or potential multi family homes would surely decrease our property value. We purchased our home for the open spaces around us and because it was out of city limits.

We strongly urge the planning commission to reject this annexation request.

Respectfully,
Jarred and Abbie Lee

On Thu, Nov 10, 2022 at 10:26 AM Kathy Boots <bootsk@ci.ellensburg.wa.us> wrote:

Abbie,

Thank you. I will keep my eye out for your comments. The notice is not incorrect. The Oddfellows have requested RL zoning in their application which is what was put in the notice. They have since looked into it further and may request the Planning Commission recommend RM zoning which they are entitled to do. Planning Commission will consider all testimony and then make a recommendation to the council who will ultimately decide the final zoning for this annexation. Both RM and RL are compatible with the current comp plan designation so either one is an option.

Have a great day.



November 10, 2022

City of Ellensburg Planning Commission
Ellensburg WA 98926

RE: P2-085 Annexation Petition

Dear City of Ellensburg Mayor and City Council,

Thank for the opportunity to comment on the regarding P22-085 and I would like this letter to be added to the official record for the City Council's public hearing on November 10th 2022.

I am writing this letter as a concerned property owner that lives in the close vicinity to the property being discussed. I understand the hearing today is in regard to the listed properties or parcels plan on being annexed into the City limits. I have no issue with this taking place as long as the properties meet the state and local requirements to do so.

In regard to what the future plans or developing strategy has been put forth for the properties listed I want it to be on record and known that if the current or future Owner decide they want to apply for a re-zone and or apply for residential medium density that this will be met with strong legal opposition by myself personally combined with others that live to the north, south and east neighboring property Owners. There will be a strong objection to multi-family use or temporary housing involving Hopesource or similar entities.

Regards,

Travis Gibson – General Manager – Town & Country Homes
Resident – 1710 E Canterbury Drive
Ellensburg WA 98926

EXHIBIT 20

Re: Petition for
Annexation
Dear Ellensburg
Mayor & City
Council

Thank you for the opportunity to comment on the proposed P22-085 Annexation Petition. We understand that a lawful petition for annexation has to meet City and State guidelines. In the event the petition meets these criteria, we raise no objections to the annexation. It is widely believed that following annexation, Hopesource or the legal owner will seek a rezone to Residential Medium. It is important to forecast that the adjacent property owners will vigorously oppose such a rezone by every legal means. There is an objection to this kind of spot rezone for the use contemplated. There would be the need for an EIS and there will be appeals to every maneuver in a path for resolve or building permit. The neighbors to the North and South are very upset by this proposal. We are giving constructive notice of our position so that City Council and the landowners know what they will face. In addition to the neighbors, those generational family lying in repose in the cemetery are joined with us in opposition to a future plan for rezone after annexation.

1. The proposed R-M designation is inappropriate for this location.

I would like to point out that annexation with an R-L designation is out of character with the current zoning in the surrounding area which is R-S.

The nearest HIGHER Density zone, R-M, is Geographically separated from the proposed annexation by a dramatic elevation change and is associated with CWU. Adequate roads have been developed for that area but not for the proposed annexation area.

2. ADDITIONALLY....POSSIBLY IMPACTS.

Lower Single Family Home Values , Water (Fire Flow), Sewer, Higher Traffic , and Higher Crime

Given these factors I'd like to state for the record that if the proposed parcels are annexed that they be annexed with the same R-S designation consistent with the current adjacent zoning and rural nature of the other surrounding area to the north and east.

I have read Mr. Willards LETTER SUBMISSION to the PLANNING COMMISSION and Want to State that I FULLY ENDORSE the same Position.

-

Respectfully,
Dan Terry

EXHIBIT 21

11-10-2023

Paul A. and Yvonne M. Davenport
1602 E. Bonnie LN
Ellensburg, WA 98926

City of Ellensburg Community Development Dept.
501 N. Anderson St.
Ellensburg, WA 98926

To whom it may concern;

This letter is in response to the proposed Annexation request Case #P22-085 IOOF Lodge 20.

We are concerned about this project and how it will affect the property values of the surrounding area.

Also, our property (parcel #690036) receives Cascade Irrigation water via an open ditch that enters parcel #513634 in the south east corner of the cemetery. This section is in underground pipe.

After leaving parcel #513634, it crosses onto parcel #474134 and exits the pipe and into an open ditch. This ditch continues all the way across the parcel and then enters parcel # 744134 also as an open ditch. The open ditch continues all the way across this parcel and exits it on the southern boundary and enters parcel # 670936 owned by Bob and Shirley Hood.

Upon entering the Hood's property, it enters a 15-inch PVC pipe that continues due south to E Radio Rd. and below.

The pipeline supplies water to approximately 20 to 25 Cascade water right holders.

If this proposed annexation turns into a development in the future, consideration would have to be given to the down stream water right holders.

This ditch has been in use since the installation of the Main Cascade Canal above Game Farm Rd.

The best way to address this would be for the developer (at the developer's expense) to install a 15-inch PVC pipe to connect the north end and the south end, making one continuous pipeline.

Also, consideration should be given for a "Maintenance of Way".

Sincerely

Paul A. Davenport

EXHIBIT 22

Kathy Boots

From: Tiffany Potts <tshaff21@hotmail.com>
Sent: Thursday, November 10, 2022 3:38 PM
To: Kathy Boots
Subject: [Ext] IOOF Property

CAUTION - EXTERNAL EMAIL: The email below is from an external source. Please exercise caution before opening attachments, clicking links, fulfilling requests, or following guidance.

To who it may concern,

I own a home at 1913 Tolman Road. There are so many reasons why selling the property to make a halfway house is not only totally wrong and unfair but also disrespectful to all the families whose loved ones are laid to rest there as well. I have a daughter and I would have change all her freedom and privileges she had earned because it would now be unsafe for her to walk to her friends up the road. My home I worked extremely hard to not only purchase, but also maintain as a single mom will go down in value so significantly because of this. All of the things we have done right to have what we have and one major development like this would take it all away. This is not only not ok it is down right wrong.

Tiffany Potts

Kathy Boots

From: Shirley Hood <shirleyhood@live.com>
Sent: Thursday, November 10, 2022 3:56 PM
To: Kathy Boots
Subject: [Ext] IOOF annexation

CAUTION - EXTERNAL EMAIL: The email below is from an external source. Please exercise caution before opening attachments, clicking links, fulfilling requests, or following guidance.

We are writing to express concern regarding the proposed IOOF annexation.

The number of houses projected for this area is a concern; however it appears what is really planned is multi resident two story large duplex buildings which increases the number of residents by at least 100 percent mostly likely more. The majority of homes in this area are one story- having two story duplexes will not be compatible with the surrounding neighborhoods.

Phenning Rd is not equipped to handle that much traffic. This would most likely result in traffic cutting through the quiet neighborhood of Radio Hill where streets are also not equipped to handle an increase of traffic putting walkers and children on bikes at risk.

If these areas are used for low income housing there are no services within walking distance and walking isn't ideal to bet with as sidewalks are for the most part unavailable.

We are opposed to this and also resent the sneaky manner in which this is being handled.

Shirley Hood

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CITY COUNCIL AGENDA REPORT

City Council Meeting Date: January 3, 2023

Item Title/Agenda Subject: Public Hearing (Legislative) to Adopt Resolution 2023-02 Amending the City's Six-Year Transportation Improvement Plan (TIP) for 2023-2028; Revising Grant Funded Projects

Submitted by: Josh Mattson Public Works & Utilities

Recommended Action or Motion: Adopt Resolution 2023-02 amending the 2023-2028 Six-Year TIP and authorize the Mayor and staff to execute any and all necessary TIB grant paperwork associated with the 'Main St. Overlay – 3rd Ave to University Way' project and the 'Pfenning Rd Sidewalks – 240' North of Vantage Hwy to Radio Rd' project.

Background/Summary: Staff recently received confirmation of secured grant funding for the 'Main Street Overlay – 3rd Ave to University Way' and the 'Pfenning Rd Sidewalk – 240 Feet North of Vantage Highway to Radio Rd' projects from the Washington State Transportation Improvement Board (TIB).

Staff requests Council amend the resolution which previously approved the City of Ellensburg's current 2023-2028 Six-Year Transportation Improvement Plan (TIP), to show that funding has been secured for these projects and create the 'Canyon Rd Overlay – Umptanum to Mountain View Ave' and 'Pfenning Rd Sidewalk - Radio Rd to 14th Ave' projects.

In addition, staff requests Council authorize the Mayor and staff to execute the necessary grant paperwork associated with these projects.

Previous Council Action: On June 21, 2022 Council conducted a public hearing and adopted the current 2023-2028 Six-Year TIP through Resolution 2022-24.

Analysis: The Main Street Overlay project will grind the existing street surface and install an overlay of new asphalt for 0.35 miles from 3rd Avenue to University Way including striping, ADA sidewalk curb ramp upgrades as needed. A grind and overlay

of Canyon Rd from Umptanum Rd to Mountain View Avenue will be separated into a new project with this Six-Year TIP amendment.

The Pfenning Rd Sidewalk project will create a multi-modal pathway for pedestrians and bicycles on Pfenning Rd from 240 feet north of Vantage Highway to Radio Rd, serving the Radio Hill neighborhood. The project will install curb, gutter, sidewalks, buffer strips with street trees, bike lanes, and street lighting. Similar frontage improvements on the east side of Pfenning Rd extending from Radio Rd north to 14th Ave will be separated into a new project with this Six-Year TIP amendment.

Prior to having funds obligated and available for reimbursement, TIB require agencies' TIPs to accurately reflect each project and its funding. TIP project #29, 'Canyon Rd./Main St. Overlay – Umptanum to Mtn View, 3rd Ave to University Way' will be revised to 'Main St. Overlay – 3rd Ave to University Way' and shown with secured funding. The TIP funding allocation will be revised to show \$400,000 for the TIB grant award and \$208,200 in local match. The project is planned for engineering design and construction in 2023. The 'Canyon Rd Overlay - Umptanum to Mountain View Ave' will be placed into a new project #64 planned for 2025.

TIP project #34, 'Pfenning Rd Sidewalks – Vantage Hwy to 14th Ave' will be revised to 'Pfenning Rd Sidewalks – 240' North of Vantage Hwy to Radio Rd' and shown with secured funding. The TIP funding allocation will be revised to show \$1,390,000 for the TIB grant award and \$748,500 in local match. The project is planned for engineering design in 2023 followed by construction in 2024. The 'Pfenning Rd Sidewalks - Radio Rd to 14th Ave' will be placed into a new project #65 planned for completion after 2028.

Financial Impact: No fiscal impact at this time.

Attachments:

[Resolution 2023-02 Six-Year TIP Amendment Resolution](#)
[2023-2028 Six Year TIP Exhibit A - Amendment #1](#)
[ELLENSBURG Pfenning Road Sidewalk 240ft AGENCY OFFICIAL LETTER.](#)
[ELLENSBURG Main Street Overlay 3rd Ave t AGENCY OFFICIAL LETTER](#)

RESOLUTION NO. 2023-_____

A RESOLUTION amending Resolution 2022-24 regarding the City of Ellensburg's Six-Year Transportation Improvement Plan (TIP) for the years 2023 to 2028, inclusive, as recommended to the City Council by the Public Works and Utilities Department.

WHEREAS, the Ellensburg City Council passed Resolution 2022-24, which approved and adopted the City's Six-Year TIP for the years 2023-2028;

WHEREAS, City staff recently received confirmation of secured grant funding for the 'Main St. Overlay – 3rd Ave to University Way' project and the 'Pfenning Rd Sidewalks – 240' North of Vantage Hwy to Radio Rd' project;

WHEREAS, City staff recommends adding the 'Canyon Rd Overlay - Umptanum to Mountain View Ave' project to the third year of the TIP and the 'Pfenning Rd Sidewalks - Radio Rd to 14th Ave' project to the 'Future' section of the TIP;

WHEREAS, the Ellensburg City Council held a public hearing on said Plan at its regularly scheduled January 3, 2023 meeting, in the manner required by law;

NOW THEREFORE, BE IT RESOLVED, by the City Council for the City of Ellensburg, Washington as follows:

Section 1. The 2023-2028 Six-Year TIP as adopted in Resolution 2022-24 is amended, as attached hereto, to rename the 'Canyon Rd./Main St. Overlay – Umptanum to Mtn View, 3rd Ave to University Way' project as the 'Main St. Overlay – 3rd Ave to University Way' project with secured funding and update the budget for this revised project.

Section 2. The 2023-2028 Six-Year TIP as adopted in Resolution 2022-24 is amended, as attached hereto, to rename the 'Pfenning Rd Sidewalks – Vantage Hwy to 14th Ave' project as the 'Pfenning Rd Sidewalks – 240' North of Vantage Hwy to Radio Rd' project with secured funding and update the budget for this revised project.

Section 3. The 2023-2028 Six-Year TIP as adopted in Resolution 2022-24 is amended, as attached hereto, to add the 'Canyon Rd Overlay - Umptanum to Mountain View Ave' project to the TIP with a planned 2025 funding budget and to add the 'Pfenning Rd Sidewalks - Radio Rd to 14th Ave' project to the TIP with a planned funding budget after 2028.

ADOPTED by the City Council of the City of Ellensburg this 3rd day of January, 2023.

Mayor

ATTEST:

City Clerk

EXHIBIT A

CITY OF ELLENSBURG 6-YEAR TRANSPORTATION IMPROVEMENT PLAN 2023 TO 2028 (INCLUDES CURRENT WORK REMAINING IN 2022)		PUBLIC HEARING DATE: <u>1/3/2022</u> ADOPTION DATE: <u>1/3/2022</u> RESOLUTION NO. <u>TBD</u>								
		REVENUE BY YEAR (thousands)								
SOURCE		2022*	2023	2024	2025	2026	2027	2028	TOTALS	
ARTERIAL STREET		512	100	95	105	45	105	45	1,007	
REGIONAL STBG		685	1,154	0	0	0	710	750	3,299	
SALES TAX RESERVE		1,168	1,386	777	657	1,425	550	450	6,413	
FEDERAL SAFE ROUTES TO SCHOOL & PEDESTRIAN/BICYCLE GRANTS		0	43	1,045	2,364	750	0	250	4,452	
WSDOT SAFETY PROGRAM		1,145	0	0	4,350	0	0	0	5,495	
TRANSPORTATION IMPROVEMENT BOARD (TIB) - Grant Programs		1,599	1,463	1,213	200	1,700	3,475	3,500	13,150	
DISTRESSED COUNTY SALES/USE TAX		205	0	134	0	0	475	0	814	
1/4 CENT REAL ESTATE EXCISE TAX		1,023	582	1,214	221	190	30	215	3,475	
MAP-21 TRANSPORTATION ALTERNATIVES PROGRAMS		43	360	0	0	0	0	0	403	
DOE FISCAL YEAR WATER QUALITY GRANT		2,943	371	3,479	0	0	0	0	6,793	
COUNTY LODGING TAX GRANT		0	67	0	0	0	0	0	67	
LOCAL LODGING TAX FUNDS		0	66	0	0	0	0	0	66	
TRANSIT		48	0	0	0	0	25	0	73	
OTHER AGENCY OR CITY DEPARTMENT		809	487	1,173	6,165	0	95	0	8,729	
LOCAL IMPROVEMENT DISTRICT (LID) / DEFERRALS		0	0	0	0	1,145	695	12,900	14,740	
TRAFFIC IMPACT FEES		684	0	55	2,345	0	990	1,674	5,748	
NOT FUNDED		0	0	0	0	0	950	0	950	
TOTAL REVENUE		10,864	6,079	9,185	16,407	5,255	8,100	19,784	75,674	
Funding (S/P)		EXPENDITURES BY YEAR (thousands)								
PROJECT		2022*	2023	2024	2025	2026	2027	2028	Future	TOTALS
1 S/P Bridge Inspections		5	5	5	5	5	5	5	0	35
2 S/P Engineering Transfer		15	15	15	15	15	15	15	0	105
3 S/P Signal Optimization		25	25	25	25	25	25	25	0	175
4 S/P Alley Reconstruction (Semi-Annual)		0	80	0	85	0	90	0	0	255
5 S Helena Ave Complete Streets Sidewalk Improvements - Water St. to Walnut St		418	0	0	0	0	0	0	0	418
6 S Helena Ave Overlay - Water St. to Walnut St.		512	0	0	0	0	0	0	0	512
7 S Main St. Corridor Intersection Enhancements		1,210	0	0	0	0	0	0	0	1,210
8 S University Way and Reecer Creek Road Signalization		665	0	0	0	0	0	0	0	665
9 S 5th Ave. and Railroad Ave. Traffic Signal Installation		482	0	0	0	0	0	0	0	482
10 S University Way Gateway - Nanum Street to Red Horse Diner		4,306	0	0	0	0	0	0	0	4,306
11 S Alder St and 14th Ave Signalization - PTC Reconnect Trail from 14th to KVEC		1,811	0	0	0	0	0	0	0	1,811
12 S Pfenning Road Shared Use Pathway		50	526	0	0	0	0	0	0	576
13 S/P Capitol Ave Sidewalk Replacement - Main St. to Sampson St.		147	0	100	0	110	0	130	0	487
14 S Sixth Ave Paverstone Walk & Angle Parking (N. of City Hall)		148	0	0	0	0	0	0	0	148
15 S/P Helena Ave Imp (Water St to 3,200' west, Cora Connection, portion in KC Juris)		450	0	0	0	0	0	5,450	0	5,900
16 S Brick Rd Improvements		150	1,485	0	0	0	0	0	0	1,635
17 S/P Alder St Sidewalk - One Side - Capitol Ave to 4th Ave		70	0	75	0	80	0	85	0	310
18 P Large Scale Wayfinding Implementation Project		0	133	0	0	0	0	0	0	133
19 S Downtown Slurry Seal		0	540	0	0	0	0	0	0	540
20 P Water St. Overlay - University Way to Manitoba, Manitoba from Water to Main		0	1,416	0	0	0	0	0	0	1,416
21 S/P University Way Gateway II - Vista Rd to east City Limits		400	425	5,125	0	0	0	0	0	5,950
22 P Anderson/Umptanum/Railroad Ave. Road Widening/Overlay (Joint w/ County)		0	500	550	6,260	0	0	0	0	7,310
23 P Recon. Trail and Sidewalk Extension - PTC to Bender and Hannah to Whiskey		0	50	200	2,791	0	0	0	0	3,041
24 P 1st Ave Sidewalk Improvements - Ruby St. to Sampson St. - North Side		0	0	234	0	0	0	0	0	234
25 P Palouse to Cascades Reconnect Trail - Sanders to Airport		0	0	804	0	0	0	0	0	804
26 P 15th Ave Sidewalk Improvements - Cora St to Water St - North Side		0	0	185	0	0	0	0	0	185
27 P Wildcat Way and 18th Intersection Enhancements		0	0	0	756	0	0	0	0	756
28 P University Way and Water Street Intersection Enhancements and Widening		0	0	0	3,270	0	0	0	0	3,270
29 S Main St. Overlay - 3rd Ave to University Way		0	608	0	0	0	0	0	0	608
30 P Mountain View Ave and Ruby St Intersection Enhancements and Widening		0	0	0	2,920	0	0	0	0	2,920
31 P Walnut St and 18th Bike Lane - Dean Nicholson to Alder St		0	0	0	0	150	0	0	0	150
32 P Water St. Overlay - University Way to Helena		0	0	0	0	1,550	0	0	0	1,550
33 P University Way Sidewalks - Brick Rd. to Vista Rd.		0	0	0	0	2,040	0	0	0	2,040
34 S Pfenning Rd Sidewalk - 240' North of Vantage Hwy to Radio Rd.		0	272	1,867	0	0	0	0	0	2,139
35 P Industrial Way Improvements - LID		0	0	0	0	1,280	0	0	0	1,280
36 P Canyon Rd and Umptanum Rd Intersection Enhancements and Widening		0	0	0	0	0	3,390	0	0	3,390
37 P Multimodal Facility Study		0	0	0	0	0	120	0	0	120
38 P Wildcat Way Overlay (University Way to 14th Ave)		0	0	0	0	0	950	0	0	950
39 P 3rd Ave. Paverstone Sidewalks and Historic Lighting - Water St. to Depot		0	0	0	0	0	810	0	0	810
40 P Capitol Ave. Improvements - Willow St. to Oak St.		0	0	0	0	0	1,525	0	0	1,525
41 P Airport Rd Sidewalk Improvements - Dean Nicholson to N. City Limits		0	0	0	0	0	1,170	0	0	1,170
42 P 3rd Ave and Ruby St Intersection Enhancements		0	0	0	0	0	0	890	0	890
43 P 14th Ave and Wildcat Way Bike Lane - B St to University Way		0	0	0	0	0	0	103	0	103
44 P Alder St. Overlay - University Way to Helena		0	0	0	0	0	0	1,100	0	1,100
45 P Helena Ave Extension - PTC Trail to Dry Cr Rd		0	0	0	0	0	0	4,100	0	4,100
46 P Cora Street Ext - PTC Trail to Bender Rd (portion in KC jurisdiction)		0	0	0	0	0	0	7,200	0	7,200
47 P Mountain View Ave and Bull Rd Intersection Enhancements		0	0	0	0	0	0	681	0	681
48 P Chestnut St and Walnut St Bike and Ped Improvements									263	263
49 P Trail Connection - 5th Ave to University Way (near CWU)									47	47
50 P 5th and Ruby Intersection Enhancements and Widening									741	741
51 P Helena Ave and Walnut St Intersection Enhancements and Widening									740	740
52 P Helena Ave and Water St Intersection Enhancements and Widening									936	936
53 P Manitoba Ave and Ruby St Intersection Enhancements and Realignment									1,332	1,332
54 P University Way and Alder St Intersection Enhancements and Widening									1,558	1,558
55 P University Way and Main St Intersection Enhancements and Widening									3,338	3,338
56 P Water St and Bender Rd Intersection Enhancements									966	966
57 P Airport Rd and Bender Rd Intersection Enhancements									1,008	1,008
58 P Capitol Ave and Chestnut St Intersection Enhancements									672	672
59 P Sanders Rd and Alder St Intersection Enhancements									665	665
60 P Capitol Ave and Willow St Intersection Enhancements									524	524
61 P Anderson Rd and Umptanum Rd Intersection Enhancements									1,252	1,252
62 P 15th Ave and Cora St Intersection Enhancements									432	432
63 P 18th Ave and Alder St Intersection Enhancements									720	720
64 P Canyon Rd Overlay - Umptanum to Mountain View Ave		0	0	0	280	0	0	0	0	280
65 P Pfenning Rd Sidewalks - Radio Rd to 14th Ave									1,101	1,101
TOTAL EXPENDITURE		10,864	6,080	9,185	16,407	5,255	8,100	19,784	16,295	91,969
ARTERIAL STREET FUND BEGINNING BALANCE (01/01/2022)		511	119	139	164	179	254	269		
EST. GAS TAX REVENUE & SCHEDULED SALES TAX TRANSFER		120	120	120	120	120	120	120		
ARTERIAL STREET FUND ENDING BALANCE		119	139	164	179	254	269	344		

*Current year projects shown for accounting purposes.

**TIP plans calls for road widening/impr. projects to be funded from Sales Tax Reserve, to replace the Federal STP funding which is now shown for potential asphalt overlay funding. (Average annual need to overlay the arterial street system on a 15 year cycle is in excess of \$800,000 per year.)



Washington State Transportation Improvement Board

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County Road Administration Board

Ashley Probart
Executive Director

P.O. Box 40901
Olympia, WA 98504-0901
Phone: 360-586-1140
Fax: 360-586-1165
www.tib.wa.gov

December 02, 2022

Mr. Ryan Lyyski, P.E.
Public Works Director
City of Ellensburg
501 North Anderson Street
Ellensburg, WA 98926-3112

Dear Mr. Lyyski:

Congratulations! We are pleased to announce the selection of your project, Pfenning Road Sidewalk, 240ft n/o Vantage Hwy to Radio Rd, TIB project number 8-4-175(021)-1.

TIB is awarding 64.9988% of approved eligible project costs with a maximum grant of \$1,390,000.

Before any work is permitted on this project, you must complete the following:

- Verify the information on the attached Project Funding Status Form and, revise if necessary. Print, sign and email a scanned copy;
- Submit the section of your adopted Six Year Transportation Improvement Plan listing this project;
- Sign, scan and email one copy of the Fuel Tax Grant Distribution Agreement; and
- Return the above items to TIB;

You may only incur reimbursable expenses after you receive approval from TIB.

In accordance with RCW 47.26.084, you must certify full funding by December 2, 2023 or the grant may be terminated. Grants may also be rescinded due to unreasonable project delay as described in WAC 479-05-211.

If you have questions, please contact Jonathan Heusman, TIB Project Engineer, at JonathanH@TIB.wa.gov.

Sincerely,

Ashley Probart
Executive Director

Enclosures



Washington State Transportation Improvement Board

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Office of Financial Management

Jennifer Walker
Thurston County

Jane Wall
County Road Administration Board

December 02, 2022

Mr. Ryan Lyyski, P.E.
Public Works Director
City of Ellensburg
501 North Anderson Street
Ellensburg, WA 98926-3112

Dear Mr. Lyyski:

Congratulations! We are pleased to announce the selection of your project, Main Street Overlay, 3rd Ave to University Way, TIB project number 3-E-175(004)-1.

TIB is awarding 65.7678% of approved eligible project costs with a maximum grant of \$400,000.

Before any work is permitted on this project, you must complete the following:

- Verify the information on the attached Project Funding Status Form and, revise if necessary. Print, sign and email a scanned copy;
- Sign, scan and email one copy of the Fuel Tax Grant Distribution Agreement; and
- Return the above items to TIB;

You may only incur reimbursable expenses after you receive approval from TIB.

In accordance with RCW 47.26.084, you must certify full funding by December 2, 2023 or the grant may be terminated. Grants may also be rescinded due to unreasonable project delay as described in WAC 479-05-211.

If you have questions, please contact Jonathan Heusman, TIB Project Engineer, at JonathanH@TIB.wa.gov.

Sincerely,

Ashley Probart
Executive Director

Enclosures

Ashley Probart
Executive Director

P.O. Box 40901
Olympia, WA 98504-0901
Phone: 360-586-1140
Fax: 360-586-1165
www.tib.wa.gov



CITY COUNCIL AGENDA REPORT

City Council Meeting Date:	January 3, 2023
Item Title/Agenda Subject:	Ordinance 4906 (Second Reading) - Exclusion and Trespass from City Property
Submitted by:	Terry Weiner City Attorney Department
Recommended Action or Motion:	Approve second reading and adoption of Ordinance 4906, which will allow for the exclusion and trespass of persons from City property.
Background/Summary:	<p>The City has limited options for dealing with behavior by persons utilizing City property and facilities when it violates codes of conduct or other rules but is non-criminal or involves situations where the conduct is not witnessed by law enforcement. There are also situations where the person may be criminally cited, but there is still a need to exclude them from City property. It is particularly problematic at City parks, the Library, and occasionally at City Hall. Each department handles these matters in a generally consistent manner, but there is no formal City policy or ordinance that provides guidance to employees on when and how long to temporarily exclude a person from City property when they have violated rules of conduct or engaged in conduct that, while not rising to a criminal level is nonetheless concerning for employee safety.</p> <p>Staff have been exploring options for addressing these issues over the past several months, including meeting with residents concerned about such behaviors at various public parks. After reviewing options, there was consensus to move forward with the proposed ordinance allowing for exclusion of individuals from City property and facilities under certain conditions. In developing the ordinance, staff relied on similar ordinances in Sequim, Richland, and Spokane.</p>
Previous Council Action:	Council conducted first reading of Ordinance 4906 at its December 19, 2022 meeting.
Analysis:	Ordinance 4906 would create a new chapter 5.72, Exclusion

and Trespass from City Property, in the Ellensburg City Code. The ordinance allows law enforcement or designated City staff to exclude a person from specified City property if they:

1. Violate any posted rule of conduct for a city park, city property, or city facility; or
2. Violate any provision of this chapter; or
3. Violate any provision of the Ellensburg City Code or Revised Code of Washington.

Copies of the Library/Hal Holmes Center Rules of Conduct, the Parks & Recreation - Recreation Programs Code of Conduct, and ECC 2.34.160, the Parks Rules and Regulations are attached. Portions of the departmental policies may need revision to harmonize them with Ordinance 4906.

The ordinance requires that a written notice of the exclusion be delivered either in person or by a combination of regular and certified mail to their last known address.

The length of the exclusion depends on whether the person has been previously excluded from City property during a one-year period:

1. For the first exclusion notice issued within a period of one year, a period not exceeding thirty (30) days.
2. For the second exclusion notice issued within a period of one year, a period of more than thirty (30) days, but not more than ninety (90) days.
3. For the third exclusion notice issued within a period of one year, and for all subsequent exclusion notices, a period of more than 90 days, but not more than one year.

The exclusion is limited to the specific City property where the conduct occurred unless it involves illegal conduct that is threatening or endangers persons or property. Such conduct may also result in immediate exclusion for up to one year instead of the tiered exclusion periods above.

The ordinance also provides for a process to appeal the exclusion notice to an independent hearing examiner at no cost to the appellant. The City would be required to prove a

violation by a preponderance of evidence.

Although the ordinance provides the mechanism and procedures for exclusion from City property, it also provides that education, de-escalation and voluntary compliance shall be prioritized whenever reasonably possible so the inadvertent minor violations can be corrected without exclusion. However, if a person has been served with an exclusion notice and subsequently violates the notice, they may be arrested for criminal trespass as provided in state law. Staff will develop internal policies to create a list that is maintained of persons who have already received a warning or education regarding violations of the rules to ensure they can be excluded if there is a repeat violation.

Financial Impact:

Minimal financial impact is expected. Costs related to any appeals are anticipated to be paid from existing operating budgets for City facilities and properties.

Attachments:

[Ordinance 4906 Exclusion and Trespass from City Property Ordinance \(second reading - 01-03-23\)](#)

[Library/Hal Holmes Center Rules of Conduct](#)

[Code of Conduct - Parks](#)

[ECC 2.34.160 \(Park Rules\)](#)

ORDINANCE NO. 4906

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO USE OF CITY PROPERTY AND ADDING A NEW CHAPTER “5.72 EXCLUSION AND TRESPASS FROM CITY PROPERTY” TO THE ELLENSBURG CITY CODE.

WHEREAS, the safety of the general public and providing a secure workplace for our employees are both very high priorities for the City of Ellensburg; and

WHEREAS, all individuals have the right to use and enjoy public property and parks, and to engage with City departments and employees, so long as their behavior is not threatening, dangerous, or unreasonably disruptive; and

WHEREAS, as an employer, the City also has a duty to protect its employees from any potential risks of harm from individuals who engage in such behavior; and

WHEREAS, the City seeks to adopt a civil exclusion process that can be used when a person’s behavior involves activity which is in violation of other people’s rights to peaceful enjoyment of public spaces and/or a safe workplace; and

WHEREAS, the proposed new chapter authorizes law enforcement officers and other city employees to issue civil exclusions under purposely narrow guidelines that balance all individuals’ rights to engage in legitimate activities while preserving public safety and a safe workplace; and

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

Section 1. Findings. The City Council hereby finds that the recitals set forth above are hereby adopted as findings for this Ordinance and incorporated herein as such.

Section 2. A new chapter entitled “5.72 Exclusion and Trespass from City Property” is hereby added to the Ellensburg City Code to read as follows:

Chapter 5.72

Exclusion and Trespass from City Property

5.72.010 Purpose, authority, and applicability.

5.72.020 Exclusion from city property.

5.72.030 Duration of exclusion.

5.72.040 Appeal procedure.

5.72.050 Education and de-escalation.

5.72.060 Violation - trespass - penalty.

5.72.010 Purpose, authority, and applicability.

A. The purpose of this chapter is to adopt a legally sound policy and process for excluding from city property individuals whose behavior is dangerous, unsafe, illegal, or unreasonably disruptive to other users while recognizing the rights of individuals to engage in legitimate activities that may occur on city-owned property. This chapter is enacted as an exercise of the city's authority to protect and preserve the public health, safety and welfare, and to further the city of Ellensburg's policy of providing a safe workplace for its employees.

B. The city manager is authorized to adopt rules and procedures consistent with this chapter.

5.72.020 Exclusion from city property.

A. Any city police officer or employee designated by the city manager or city department head may, by delivering an exclusion notice in person to the offender, or by First Class Mail and Certified Mail to the offender at the offender's last known address, exclude from city property, anyone who upon or within city property:

1. Violates any posted rule of conduct for a city park, city property or city facility; or
2. Violates any provision of this chapter; or
3. Violates any provision of the Ellensburg City Code or Revised Code of Washington.

B. The offender need not be charged, tried, or convicted of any crime or infraction in order for an exclusion notice to be issued or be effective. The exclusion may be based upon observation by the police officer, city employee or upon civilian reports that would ordinarily be relied upon by police officers in the determination of probable cause.

C. The exclusion notice shall be in writing and shall contain the date of issuance, the length and place(s) of exclusion, and be signed by the issuing police officer or city employee. Warning of the consequences for failure to comply shall be prominently displayed on the notice.

5.72.030 Duration of exclusion.

A. When the exclusion notice is issued due to illegal conduct that presents a danger to persons or property, or is issued due to dangerous or unsafe conduct, or is issued as a result of a violation of an existing exclusion notice, then the warning may exclude the person for a period of up to one year.

B. When an exclusion notice is issued due to any conduct other than that identified in subsection (A) of this section, then the duration of exclusion shall be as follows:

1. For the first exclusion notice issued within a period of one year, a period not exceeding thirty (30) days.
2. For the second exclusion notice issued within a period of one year, a period of more than thirty (30) days, but not more than ninety (90) days.
3. For the third exclusion notice issued within a period of one year, and for all subsequent exclusion notices, a period of more than 90 days, but not more than one year.

C. An exclusion notice for a certain place or places must not prohibit access to another place or places that are unrelated to or not a part of the place(s) where the conduct that is the subject of the exclusion notice occurred. Notwithstanding the foregoing, conduct included in subsection A above may result in exclusion from more than place.

D. Only the hearing examiner after a hearing may rescind, shorten, or modify an exclusion notice.

5.72.040 Appeal procedure.

A. An offender receiving an exclusion notice may seek a hearing to have the exclusion notice rescinded, the period of exclusion shortened, or the areas of exclusion reduced. The request for a hearing shall be delivered to the city clerk or postmarked no later than ten (10) calendar days after the issuance date of the exclusion notice. The request for hearing shall be in writing and shall be accompanied by a copy of the exclusion notice on which the hearing is sought. It shall include the appellant's name, address and phone number, if any. No fee shall be required to file the appeal. The city clerk shall take reasonable steps to notify the appellant of the date, time, and place of the hearing.

B. Appeals shall be heard by a hearing officer pursuant to Chapter 1.70A of the Ellensburg City Code.

C. The appeal hearing shall be conducted as follows:

1. At the hearing, the violation must be proved by a preponderance of the evidence in order to uphold the exclusion notice.
2. If the exclusion notice was issued because of the alleged violation of any criminal law, the offender need not be charged, tried, or convicted for the exclusion notice to be upheld.
3. The exclusion notice establishes a prima facie case that the offender committed the violation as described. The hearing examiner shall consider a sworn report, or a declaration made under penalty of perjury, written by the individual who issued the exclusion notice, without further evidentiary foundation.

4. The hearing examiner may consider information that would not be admissible under the evidence rules in a court of law but which the hearing examiner considers relevant and trustworthy.

5. The hearing examiner may consider whether the offender was afforded reasonable warnings that their conduct might lead to an exclusion notice, and reasonable opportunities to correct their conduct, and weigh these factors against the egregiousness of the conduct itself.

D. If the violation is proved, the exclusion notice shall be upheld; but upon good cause shown, the hearing examiner may shorten the duration of the exclusion or reduce the areas covered by the exclusion. If the violation is not proved by a preponderance of the evidence, the hearing examiner shall rescind the exclusion. If the hearing examiner rescinds an exclusion, the exclusion shall not be considered a prior exclusion for the purposes of section 5.72.030(B) of this chapter.

E. The decision of the hearing examiner shall be in writing and is final. An offender seeking judicial review of hearing examiner's decision must file an application for a writ of review in the Kittitas County Superior Court within fourteen (14) days of the date the decision is issued.

F. The exclusion shall remain in effect during the pendency of the appeal or any subsequent judicial proceeding.

G. No determination of facts made by a person conducting a hearing under this section shall have any collateral estoppel effect on a subsequent criminal prosecution or civil proceeding and shall not preclude litigation of those same facts in a subsequent criminal prosecution or civil proceeding.

5.72.050 Education and de-escalation.

A. In the application of this chapter's provisions, law enforcement and city staff shall prioritize education, de-escalation, and voluntary compliance whenever reasonably possible so that inadvertent minor violations can be corrected without resort to an exclusion notice. This may include explaining the rules, providing warnings of potential consequences for rule violations, and giving people who violate rules an opportunity to correct their behavior.

B. Whenever reasonably possible, the issuance of an exclusion notice to a person should be used after other techniques and de-escalation attempts have proved ineffective.

C. Nothing in this section is intended to preclude law enforcement or city staff from immediately issuing an exclusion notice to a person when that person's conduct jeopardizes or threatens to jeopardize the safety of others, involves criminal behavior, or is so egregious that there is no reasonable solution short of an exclusion notice.

5.72.060 Violation - trespass - penalty.

Any person who is found on city property or in a city facility in violation of an exclusion notice issued in accordance with this chapter, except as otherwise provided in this chapter, may be arrested for trespassing, pursuant to RCW 9A.52.070, 9A.52.080, and any other applicable statutes. The penalty under this chapter is cumulative of any other penalties that may apply under state or local law.

Section 3. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 4. Corrections. Upon the approval of the City Attorney, 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.

Section 5. Effective Date. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 3rd day of January, 2023.

MAYOR

ATTEST:

CITY CLERK

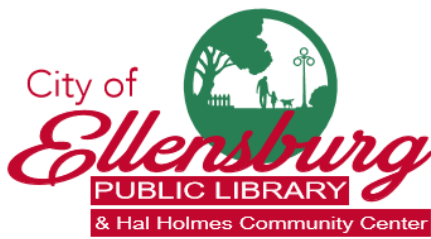
Approved as to form:

CITY ATTORNEY

Publish:

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4906 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4906 was published as required by law.

BETH LEADER



RULES OF CONDUCT

Ellensburg Public Library and Hal Holmes Community Center welcomes you!
The Library/Hal Holmes Community Center has adopted these Rules of Conduct policy to ensure a positive experience for everyone who visits.

All patrons, guest and visitors are expected to respect Library/HH staff, other patrons, guests, visitors, and the entire facility including outdoor areas and parking lots. All persons must comply with requests made by Library/HH staff members to follow all laws and Library/HH policies.

Failure to comply with these standards may result in loss of Library/Hal Holmes Community Center privileges and/or being asked to leave the facility, with potential exclusion from the facility for one day and up to a permanent trespass. (RCW 27.12.290) Enforcement of these rules will be conducted in a fair and reasonable manner. Library staff and/or local law enforcement officers will intervene to stop prohibited activities and behaviors. Individual patrons have the right to request an administrative review of an exclusion order that is for a period greater than seven days (The Ellensburg Public Library Policy Chapter 5, Section A, Part 2-Rules of Conduct Enforcement).

Child Safety:

- All children under the age of 7 years must be accompanied/supervised by a parent of qualified caregiver.
- Make certain that children do not engage in unsafe activities, including, but not limited to: swinging, climbing, or standing on furniture and equipment.

Wheeled Devices:

- The only devices permitted are assistive devices belonging to disabled persons and strollers for children.
- Small-wheeled devices may be carried into the Library/Hal Holmes Center if they do not block aisles and can be stored under tables (e.g., carts, scooters, skateboards, and skates).

Food and Drink:

- Drinks in no-spill containers are permitted.
- Leave all food outside the Library. Food may be consumed in the Lobby & Hal Holmes Center.

Facilities:

- Use the Library/Hal Holmes Center's property, materials, and furnishings as intended. Do not move furniture.
- Theft, malicious damage and/or destruction of Library/Hal Holmes Center property is a violation of state law.
- Stay in public areas of the Library/Hal Holmes Center unless accompanied by a staff person.
- Vacate the Library/Hal Holmes Center at closing time; end of event, and during emergencies.

Animals:

- Animals are not allowed in the Library/Hal Holmes Center, with the exception of service animals on duty or in training.
*Animals that are part of Library/Hal Holmes programming may be permitted at Director's discretion.

Restrooms:

- Use the restrooms ONLY as intended; they should not be used for bathing, shaving, washing/styling hair, changing clothes or laundry.

Noise:

- Keep noise levels down to avoid disturbing others: lower voices, use headphones with all electronic devices, silence ringing or other sounds created by electronic devices in the library, lobby and restrooms.
- Children and their caregivers shall adhere to the noise policy and may be asked to exit the building if a child cannot be soothed in a timely manner and is disturbing others, including in the lobby and restrooms.

Behavior:

- Act in a manner that does not interfere with another person's ability to use and enjoy the Library/Hal Holmes.
- Do not obstruct entryways and path/walkways in and around the Library/HH. No sitting on the floor in the lobby.
- No sleeping in the Hal Holmes lobby.
- Do not use inappropriate or foul language.
- Threatening, harassing, stalking, physical assault, violent or abusive language and behaviors will not be tolerated.
- Using public computers or personal electronic devices in a manner that is disruptive to others.
- Soliciting, begging, or selling.
- Alcohol and drug use or sale is not allowed on the property. No smoking or vaping 25' from any door, window or vent on property.

Personal Items:

- Library/HH staff are not responsible for nor able to watch your personal possessions.
- Keep personal items with you at all times. Library/Hal Holmes Center staff will remove unattended items to lost and found and /or report suspicious bags/packages to Ellensburg Police Dept.
- Do not unpack personal belongings that are not necessary for Library/Hal Holmes Center use.
- Leave aisles, walkways, and entrances open.
- Store large packages or personal effects out of the way of other Library/Hal Holmes Center users.

Attire/Hygiene:

- Shoes and shirts required.
- Maintain good personal hygiene so that body odor and perfume smells are not offensive to others or cause allergic or asthmatic reactions. A patron may be asked to leave until they have remedied the odor.

**Help us keep the Library and Hal Holmes Community Center a safe place.
If you recognize an unsafe situation, please alert Library or Hal Holmes Community Center staff.**

Approved by Ellensburg Public Library/Hal Holmes Center Advisory Board 2/11/2020

S-Drive:\Policies and Procedures\Patrons

Ellensburg Parks & Recreation Department Recreation Programs

Code of Conduct

The following is a **CODE OF CONDUCT** governing the actions of all participants in, and users of, Ellensburg Parks & Recreation Department programs or activity associated with the agency.

- 1) **PURPOSE OF CODE:** The major purpose of this CODE OF CONDUCT is to promote an atmosphere of harmony and understanding in program activities assuring participants and staff alike that the behavior of all in attendance will be guided by a common set of rules for the mutual benefit of all.
- 2) **CODE OF CONDUCT:** To accomplish this purpose, individuals are asked to live by one basic guideline: *“The Rights and Privileges of all persons are to be respected and honored at all times.”*
- 3) **VIOLATIONS OF THE CODE:** The following are violations of the Ellensburg Parks & Recreation Department Program conduct and are prohibited at sponsored events.
 - A) Conduct that disrupts or obstructs any program or activity that is a part of the overall center operation.
 - B) Any action, event, or group of events that constitutes a violation of Federal, State or Local law.
 - C) Failure to comply with lawful direction given by Center Staff acting in the performances of their duties.
 - D) The destruction, damage, or theft of Ellensburg Parks & Recreation Department property or the property of others.
 - E) Any lewd, obscene, or indecent conduct or expression, including profanity.
 - F) Any action, which in the judgment of staff, constitutes an attempt to inflict, or the actual infliction of, or injury to other participants, and / or center staff.
 - G) Any conduct or expression that in the judgment of staff, serves to intimidate or coerce others.
 - H) Any infringement on the rights of other participants or staff granted by federal, State, or Local statute or any other violation of such statutes.
 - I) Failure to maintain a level of personal hygiene that is non-offensive in a social environment.
- 4) **ENFORCEMENT:** The above Code shall be enforced by the Ellensburg Parks & Recreation Department staff whose authority shall prevail in all cases. A program of progressive discipline shall be in effect for repeat or habitual offenders. Disciplinary action will be decided in the first instance by the Center staff responsible for the even or program where the violation occurs. Violators of the Code that are deemed not to constitute an immediate and apparent threat to the safety of others or their property will result in disciplinary action including, but not limited to verbal warning, suspension of the right-to-participate in some of or all of the Center’s activities for a period of time, or permanent expulsion from Ellensburg Parks & Recreation Department programs, depending upon the severity of the offense and whether the offense is repeated or is habitual. Violations of the Code that are deemed to constitute an immediate and apparent threat to the safety of others or their property may result in immediate, temporary expulsion from any department programs and/ or the specific activity.
- 5) **APPEAL OF ANY DECISION:** Appeal of any decision may be made to the Aquatic & Recreation Supervisor (or his or her designee). The decision of the Aquatic & Recreation Supervisor may be appealed to the Director of the Ellensburg Parks and Recreation Department, who will recommend to the Supervisor the final decision concerning the enforcement of the Code of Conduct.

2.34.160 Rules and regulations.

- A. No alcoholic beverages shall be allowed, unless authorized and approved under the provisions of ECC 2.34.300.
- B. It is unlawful to remove, destroy, mutilate, or deface any structure, monument, statue, wall, fence, railing, shrub, tree, plant, flower, lighting system, or irrigation system, or other property lawfully in any park.
- C. Any time a recreational facility is used for any purpose other than a directly sponsored recreation department activity, an employee of the recreation department and/or an employee of another city department (except police/fire) may be required to be present. A fee for supervision based on the current hourly rate of the supervisor of the event shall be paid by the individual or group permittee.
- D. When the event requires a police officer(s), the current hourly rate shall be paid by the individual or group to whom the permit was issued. The chief of police, or his designee, shall determine the number of officers needed, if any.
- E. Golfing is prohibited in city parks.
- F. Motor vehicles shall be restricted to developed roads and designated parking lots.
- G. No livestock shall be permitted in any developed city park; provided, however, that horses shall be allowed on the John Wayne Pioneer Trail Reconnection Route and within Irene Rinehart Riverfront Park except for in the vicinity of the beach, the lake or grass picnic areas.
- H. Pets shall be on a leash and pet owners shall be required to clean up after their pets. With the exception of service animals, pets shall not be allowed in the developed grass areas of Irene Rinehart Riverfront Park or designated city athletic fields.
- I. It is unlawful to throw or deposit any refuse or other material in any park, except at designated receptacles, or to take garbage or refuse generated outside a park to a park for disposal. Whenever litter dumped in violation of this chapter contains three or more items bearing the name of one individual, there shall be rebuttable presumption that the individual whose name appears on such items committed the unlawful act of littering as provided in Chapter 5.48 ECC.
- J. No overnight camping or parking is allowed in any park without prior written permission and subject to such conditions as may be issued by the department director, or his/her designee.
- K. No discharging of firearms or hunting is allowed.
- L. Barbecue fires are permitted in designated areas only.

- M. No person shall use, operate, or play in any park any machine or device producing sound or noise which unreasonably disturbs or interferes with the peace, comfort or repose of others.
- N. No fishing shall be permitted in ponds of Irene Rinehart Riverfront Park from May 15th to September 15th.
- O. The city skateboard park facility shall be closed between dusk and 8:00 a.m. and, during the closed period, persons are prohibited from using either facility.
- P. Inflatable amusement devices such as inflatable slides, inflatable rock climbing walls, inflatable bounce houses, and other inflatable structures are prohibited in park facilities unless the activity is part of a city sponsored event.
- Q. It is unlawful to erect any signboard, sign, advertising, decoration, or similar structure on or in any park property, including city maintained landscape nodes, without the permission of the parks and recreation director or his/her designee.
- R. No person shall operate in any park any model airplane, boat, car, craft, or other similar device that is powered by an internal combustion engine, remote control, or other similar or electrical power source, except in an area and at such times as designated for such use by the director.
- S. All parks shall be closed between the hours of 10:00 p.m. and 5:00 a.m. unless otherwise provided and posted by the city parks and recreation department. It is unlawful for any persons or vehicles to enter or be in any park between the stated hours unless written permission is granted by the department director or his/her designee. [Ord. 4834 § 1, 2019; Ord. 4700 § 1, 2015; Ord. 4566 § 6, 2010; Ord. 4515 § 2, 2008; Ord. 4102, 1997; Ord. 3541 § 1, 1986; Ord. 3496 § 1, 1985; Ord. 3472 § 1, 1985; Ord. 3436 § 2, 1984; Ord. 3391 § 4, 1983.]



CITY COUNCIL AGENDA REPORT

- City Council Meeting Date:** January 3, 2023
- Item Title/Agenda Subject:** Ordinance 4907 (Second Reading) - Update of the Ellensburg City Code (ECC Ch. 3.12 Sign Code)
- Submitted by:** Jamey Ayling Community Development
- Recommended Action or Motion:** Conduct second reading and adoption of Ordinance 4907, updating the City's Sign Code.
- Background/Summary:** In 2015 the U.S. Supreme Court held unanimously that a sign code in the Town of Gilbert, Arizona, violated the First Amendment because it treated signs differently based on their content (*Reed v. Town of Gilbert*). The Supreme Court held that the town's sign code was a content-based regulation of speech. In an effort to establish a content neutral sign code, the City of Ellensburg has utilized many resources such as MRSC and outside legal counsel in addition to city staff to propose amendments to the existing sign code to eliminate content-based restrictions. The Planning Commission conducted a public hearing at their regular meeting on September 22, 2022, to gather public comment and recommended the proposed amendments to City Council for consideration and adoption.
- Previous Council Action:** Council considered the proposed sign code amendments and conducted first reading of Ordinance 4907 at the December 19, 2022 City Council Meeting.
- Analysis:** The amendments presented in the ordinance are fairly minor in nature. The proposed amendments remove definitions that are no longer used or referenced in the code, remove content-based regulations and add a new section on legislative findings to reiterate that the code is not intended nor designed to restrict or control signs for the purpose of promoting or stifling any message that might appear on them. Minor text amendments appear throughout the ordinance eliminating the content-based references and adding gender neutral references in the authority section. Sign heights were revisited and a section that was removed unintentionally with the

adoption of Ordinance 4890 was modified and re-inserted allowing the height of on-premises freeway-oriented signs in the C-H zone to be up to 100 feet tall. Dimensions allowed for electronic signs were also amended because several fuel stations utilize electronic signs displaying the price of fuel that were all non-conforming to the existing sign code. Staff measured all the existing electronic signs at fuel stations and concluded by increasing the size allowance from 3 square feet to 16 square feet most of the existing signs will comply with that requirement. With the recommended changes the code will satisfy the intent of the Supreme Court requirements for the sign code regulations to be content-neutral.

Financial Impact: None

Attachments:

[Ordinance 4907 \(second reading\) ECC 3.12 Sign Code Update](#)

ORDINANCE NO. 4907

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO SIGNS, AMENDING CHAPTER 3.12 “SIGN CODE” AND AMENDING SECTIONS 3.12.020, 3.12.060, 3.12.080, 3.12.090, 3.12.100, 3.12.140, 3.12.160, 3.12.180, 3.12.240, 3.12.290, 3.12.300, 3.12.340, 3.12.360 AND ADDING A NEW SECTION ENTITLED 3.12.030 “LEGISLATIVE FINDINGS” TO THE ELLENSBURG CITY CODE.

WHEREAS, cities have the responsibility to regulate and control certain aspects relating to signs within their jurisdiction and ensure that the public health, safety and welfare are maintained; and

WHEREAS, the recent United States Supreme Court case of *Reed v. Town of Gilbert* has changed the law regarding a local government’s regulation of signs; and

WHEREAS, City staff worked with the Planning Commission at numerous meetings developing amendments for a content neutral sign code; and

WHEREAS, following a duly noticed public hearing held during a regularly scheduled Planning Commission Meeting on September 22, 2022 regarding the proposed amendments, the Planning Commission recommended forwarding the amendments on to City Council for consideration and adoption;

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

Section 1. Chapter 3.12 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:

**Chapter 3.12
SIGN CODE**

Sections:

3.12.020 Purpose.

3.12.030 Legislative findings.

3.12.040 Scope.

3.12.060 Definitions.

3.12.080 Administration.

3.12.090 Rates and fees.

- 3.12.100 Violations and penalties.**
- 3.12.120 Severability.**
- 3.12.140 Permit required.**
- 3.12.160 Powers and duties of the administrator.**
- 3.12.180 Materials and structural requirements.**
- 3.12.200 Landmarks and design review.**
- 3.12.220 Projecting signs.**
- 3.12.240 On-premises signs.**
- 3.12.260 Off-premises signs.**
- 3.12.280 Electrical signs.**
- 3.12.290 Electronic signs.**
- 3.12.300 Other signs.**
- 3.12.320 Preexisting signs.**
- 3.12.340 Temporary and special signs.**
- 3.12.360 Exempt signs.**
- 3.12.380 Maintenance.**
- 3.12.400 Removal of certain signs.**
- 3.12.440 Uniform Sign Code.**

3.12.020 Purpose.

The purpose of this chapter is to promote the health, safety, and welfare of the citizens of Ellensburg by establishing standards to ensure the placement of safe, effective signage in all the land use zones within the city. Specific standards contained within this code are meant to:

- A. Ensure that signs erected under this chapter are constructed of safe, durable materials and secured in a manner adequate to withstand the physical stresses that will be present.
- B. Eliminate possible confusion or conflict between different types of commercial signage and traffic control signals, signs, or devices.

C. Reduce the potential visual obstruction signs may cause to the views of pedestrians, visibility of other signs and building facades when such signs are inappropriately designed or located.

D. Aid the development of a stronger business climate. [Ord. 3402 § 1, 1983.]

3.12.030 Legislative findings.

In conjunction with the adoption of the purposes set forth above and the regulations of this chapter, the city council makes the following findings:

A. Unlike oral speech, signs may cause harm by taking up space, obstructing views, distracting motorists, displacing alternative uses of land, and endangering the safety of persons or property. The city has a substantial and compelling interest in all of the purposes set forth above and has a substantial and compelling interest in regulating signs in such a way that harms caused by signs might be reduced or mitigated.

B. Regulation of the size, height, number and spacing of signs throughout the city is necessary to protect the public safety, to ensure compatibility of signs with surrounding land uses, to enhance the business and economy of the city, to protect public investment in streets and highways, to maintain a tranquil environment in residential areas, to promote industry and commerce, to eliminate visual clutter and blight, to provide an aesthetically appealing environment, to provide ample, meaningful opportunities for persons who desire to display information by means of a sign to have their information seen and understood, and to provide for the orderly and reasonable display of advertising and other messages for the benefit of all persons in the city.

C. These regulations do not apply to every form and instance of visual speech that may be displayed anywhere within the jurisdictional limits of the city. Rather, they are intended to regulate those forms and instances that are most likely to meaningfully affect one of more of the purposes set forth above.

D. These regulations do not entirely eliminate harms that may be created by the installation and display of signs. Rather, they attempt to strike an appropriate balance that preserves ample channels of communication by means of visual display while reducing and mitigating the extent of the harms caused by signs.

E. Some signs have aspects that make identifying such signs by description impossible without referring to other functional characteristics. For instance, an off-premise sign is one that contains a message related to a facility, service, or business located on premises other than the site of the sign itself. Off-premise signs are commonly large freestanding structures that are designed to stand out and apart from their surroundings. If they are allowed to proliferate, they can cause confusion and implicate greater impacts on safety and aesthetics compared to signs located on the site of the referred-to facility, service or business. It is essential to public safety and the

public welfare to regulate off-premises signs. Wherever a sign is described, in part, by referring to the function it serves, the provisions of this title that regulate such signs are designed to be content neutral with respect to the content of the speech appearing on said sign.

F. These regulations are neither intended nor designed to restrict or control signs for the purpose of promoting or stifling any message that might appear on them.

3.12.040 Scope.

The standards contained in this chapter are meant to apply to signs intended to be viewed from the public rights-of-way. This chapter is not intended to regulate traffic control devices and signs not visible from public rights-of-way. [Ord. 3402 § 1, 1983.]

3.12.060 Definitions.

“A-frame/sidewalk sign” means any sign constructed in such a manner as to be highly mobile and which is placed only on the ground but not permanently fixed to the ground. Said signs are constructed often to function as a folding structure with two separate display faces or as a double-faced surface suspended between two separate supports mounted at each end of the sign face. A-frame/sidewalk signs are further designed to support their own weight as they rest directly on the ground without the use of permanent anchors or other exterior supports.

“Awning” means a covering structure constructed of canvas, cloth, or other flexible material projecting horizontally from and attached to a building.

~~“Consumable commodity” means any food or beverage product which is offered for human or animal consumption.~~

“Electrical sign” means a sign whose sign face is illuminated by a separate electrical light source. Each electrical light source, whether mounted externally or internally to the sign face and frame, shall be designed to light the entire sign face or a portion of the sign face. Light sources in electrical signs shall not be used to change or animate individual portions of the text or other features of the sign face.

“Electronic sign” means a sign containing a display that can be changed by an electrical, electronic or computerized process.

“Flashing sign” means an electric sign or a portion thereof which changes light intensity in a transitory burst or which switches on and off in a constant or irregular pattern.

~~“Franchise sign” means a sign whose display surface contains copy advertising of a specific product brand occupies 50 percent or more of the display surface.~~

“Freestanding sign” means a sign supported by poles or braces and not attached to any building.

“Height” means the vertical distance measured from the highest point of the sign to the grade of the adjacent street or ground beneath the sign, whichever point is lower.

“IBC standards” means those standards in the adopted edition of the International Building Code published by the International Conference of Building Officials.

“Marquee” means an immobile covering structure projecting horizontally from and attached to a building and constructed of material other than cloth, canvas or other fabrics.

“Marquee sign” means a single-faced sign attached to the front of a marquee whose sign face is parallel to the wall which supports the marquee.

“Multiple occupancy building” means a single structure housing two or more separate retail, industrial, office, service or other commercial ventures. Occupants in such buildings share common walls and have distinct, individual business entrances either on the exterior wall or leading from a common exterior/common egress door. Ventures occupying open floor space without separate structural walls and separate entrances are not considered to be multiple occupants.

“Off-premises sign” means a sign relating to ~~which advertises~~ a business, activity, use, merchandise, product or service at a place other than the property on which said sign is located. A supplemental directional sign as defined below, that is required as a condition of participation in the Washington State Department of Transportation’s “Motorist Information Sign Program” is not an “off-premises sign.”

“On-premises sign” means a sign relating to ~~which only advertises~~ a lawful use of the property on which the sign is located, ~~including signs indicating the business transacted, services rendered and goods sold or produced or name of the business.~~

~~“Political sign” means a sign advertising a candidate or candidates for public office or elective office or a political party or urging a particular vote or action on a public issue decided by ballot.~~

“Premises” means a specified lot or tract of land under single ownership.

“Project” means to extend out beyond a given line or distance.

“Projecting sign” means a sign, other than a wall sign, which is supported by a wall of a building or structure and projects over any public right-of-way.

“Roof sign” means a sign supported by the roof or wall of a building which projects above the highest part of the roof or parapet wall.

“Sign” means any communication device intended to attract attention to the subject matter thereof and advertise a business, service, activity, product, idea or concept. Such definition includes any letters, figures, symbols, trademarks or other copy ~~meant to aid in such advertisement~~. For the purpose of this chapter, a sign shall not be considered to be a building.

“Sign area” means the entire area of a sign on which copy is to be placed. The structure supporting the sign is not included in determining the area of the sign unless the structure is designed in a way to form an integral background for the display. Sign area shall be calculated by measuring the perimeter enclosing the extreme limits of the module or background containing the advertising message, copy, graphic symbols or nonstructural trim.

~~“Supplemental directional sign” is a sign that is required under the Washington State Department of Transportation “Motorist Information Sign Program” to provide supplemental direction to assist interstate travelers to locate businesses advertised on interstate information signs through the State program. Such signs shall be no more than 24 inches by 12 inches in size, shall be of similar color and design as required under the state program for motorist information signs, and may be located at off premises locations within the city.~~

“Temporary banner and poster” means any nonpermanent banner or poster displayed on the exterior of a building or other structure on a lot of record. Such banner or poster shall be constructed primarily of nondurable material such as paper, vinyl, canvas, nylon or other similar flexible, nonrigid material. Temporary banners and posters shall be distinguished from other types of temporary decorations in their use of square or rectangular shapes and presence of letters and figures that display a message that is intended to be read by those who view the banner or poster.

“Temporary decorations” means pennants, balloons, flags and other such nonpermanent display which is displayed on the exterior surface of a building or lot of record. Such temporary decorations shall be constructed primarily of nondurable material such as paper, vinyl, canvas, nylon or other similar flexible, nonrigid material. Temporary decorations as defined herein shall be distinguished from other types of temporary signs, banners and posters by their wide variety of shapes and forms and their lack of letters or figures that display a message which is intended to be read by those who view the temporary decoration.

“USC standards” means those standards in the adopted edition of the Uniform Sign Code published by the International Conference of Building Officials.

“Wall sign” means any sign painted on or attached to an exterior wall of a building with the exposed face of the sign in a plane parallel to the plane of said wall and not projecting from said

wall a distance of more than 18 inches. [Ord. 4519 § 1, 2008; Ord. 4395, 2004; Ord. 4393, 2004; Ord. 3825 § 1, 1992; Ord. 3402 § 1, 1983.]

3.12.080 Administration.

The administrator of this chapter shall be the city manager or ~~his~~ their designee who is hereby authorized and directed to carry out all provisions of this sign code. Upon presentation of proper credentials, the administrator may enter at reasonable times any building, structure or premises in the city to perform any duty imposed upon ~~him~~ them by this chapter.

The requirements of this chapter shall supersede the requirements and provisions of any other code in cases of conflicts or language contradiction. [Ord. 3402 § 1, 1983.]

3.12.090 Rates and fees.

The schedule of rates and fees for sign permits shall be as follows, ~~effective July 1, 1992:~~

Sign Permit Fees	
	Fee
For each electrical sign	\$50.00
For each nonelectrical sign	\$35.00

[Ord. 3799 § 9, 1992.]

3.12.100 Violations and penalties.

It is unlawful for any person, firm or corporation to erect, construct, enlarge, alter or continue to use any sign in the city of Ellensburg contrary to or in violation of any provision of this chapter. Any person, firm or corporation violating any of the provisions of this chapter shall be required to remove the illegal sign or modify said sign to conform ~~with~~ to the provisions of this chapter. Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor and shall be deemed guilty of a separate offense for each and every day or portion thereof during any violation of any of the provisions of this chapter. Upon conviction of any violation, such a person shall be punished by a fine of \$150.00 for each separate offense. [Ord. 3402 § 1, 1983.]

3.12.120 Severability.

If any section, subsection, sentence, clause, phrase or portion of this chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, that portion shall be termed a separate, distinct and independent provision and the holding shall not affect the validity of the remaining portions thereof. [Ord. 3402 § 1, 1983.]

3.12.140 Permit required.

A. All activity to construct, erect, replace, or otherwise change any sign in the city of Ellensburg after adoption of the ordinance codified in this chapter shall require a valid sign permit issued in accordance to this chapter. A sign permit fee shall be paid in accordance with the schedule established by ordinance adopted by the city council. If the work authorized under a permit has not been completed within one year after the date of issuance, the said permit shall become null and void. Permits shall be nontransferable. Any person installing signs in the city of Ellensburg, unless the owner of the premises to which the sign relates ~~business being advertised~~, shall be a bona fide general or specialty contractor as set forth in Chapter 18.27 RCW.

B. Whenever a sign projects over or rests upon a public right-of-way, the owner of the sign shall file with the administrator a written agreement to save the city harmless of any damage or injuries sustained as a result of the construction, operation or maintenance of the sign. The owner of the sign shall also submit proof that he is protected by liability and property damage insurance in a sum of not less than \$25,000 for damage and \$50,000 for personal injury caused by the construction, operation, or maintenance of said signs. [Ord. 3402 § 1, 1983.]

3.12.160 Powers and duties of the administrator.

A. All signs for which a permit is required shall be subject to inspection by the administrator of this chapter at ~~his~~ their discretion.

B. The administrator shall order the modification or removal of any sign that does not meet the requirements of this chapter. [Ord. 3402 § 1, 1983.]

3.12.180 Materials and structural requirements.

- A. All signs erected or altered under the provisions of this chapter shall meet the requirements of the International Building Code, the National Electrical Code and the ~~1991~~ 1997 Edition of the Uniform Sign Code, or any superseding edition adopted by the city.
- B. No sign or sign structure shall be erected in such a manner that any portion of its surface or supports will interfere in any way with the free use of any fire escape, exit or stand pipe.
- C. No sign shall obstruct any openings to such an extent that light or ventilation is reduced to a point below that required by any other city code.
- D. Signs shall be located to provide clearance from overhead electrical conductors as provided in the Electrical Construction Code of the State of Washington and the National Electrical Code. [Amended during 2007 codification; Ord. 3402 § 1, 1983.]

3.12.200 Landmarks and design review.

All signs erected in the C-C and C-C II zones shall undergo a design review process prior to the issuance of said sign permit according to the following requirements, except for those signs erected on buildings or premises which are identified as landmarks or are situated within a landmarks district which shall be governed by the requirements of the landmarks and design ordinance, Chapter 15.280 ECC.

- A. The applicant for the sign permit shall submit a scaled drawing of the sign along with information regarding the type of material involved, color scheme, type of lettering or symbols used, method of illumination and proposed location of mounting.
- B. The landmarks and design commission review will take into account the appropriateness of the design and appearance of the sign as it relates to the buildings and area surrounding the location.
- C. The landmarks and design commission shall meet and review with the applicant the proposed sign within 15 days from the date a written application for a sign permit is received by the city. The landmarks and design commission shall respond in writing to the applicant no later than five working days after the expiration of the said 15-day review period. The administrator shall not approve any sign permit application undergoing the design review until a written recommendation is received by the applicant or expiration of the above 20-day time limit, whichever comes first. The applicant's compliance with any recommendation made by the landmarks and design commission shall be voluntary. [Ord. 4573 § 3, 2010; Ord. 4245, 2000; Ord. 3402 § 1, 1983.]

3.12.220 Projecting signs.

All projecting signs erected or changed after adoption of the ordinance codified in this chapter shall meet the following requirements:

- A. Sign area of projecting signs in the C-C and C-C II zones shall not exceed 25 square feet on any single sign face. Multifaced signs shall not exceed a maximum of 50 square feet in total sign area.
- B. Projecting signs erected or changed in any zone shall maintain a minimum clearance of 14 feet between the lowest portion of the sign and the ground surface immediately below the sign if said area is a public right-of-way and used for vehicular movement or parking. Signs projecting over any public right-of-way shall maintain a minimum nine-foot clearance between the lowest portion of the sign and the public right-of-way below, unless such signs are hung from marquees or awnings, in which case said clearance shall be a minimum of seven and one-half feet.
- C. Projecting signs shall not project more than six feet into the public right-of-way in the C-C and C-C II zones or 10 feet in any other zoning district in the city.
- D. Businesses shall be allowed no more than one projecting sign for their use. For businesses which have building frontage on two different streets, a maximum of one projecting sign may be located on each separate street frontage. [Ord. 3402 § 1, 1983.]

3.12.240 On-premises signs.

All on-premises signs shall adhere to the following conditions:

- A. The maximum height for all on-premises signs in all zoning districts shall be 35 feet; provided, however, that wall signs shall be permitted to extend to the top of a building wall.
- B. Notwithstanding the forgoing, the maximum height for all on-premises freeway-oriented signs in the C-H zone shall be 100 feet. Such signs shall require a conditional use permit in accordance with the procedures in ECC 15.250.040.
- ~~B~~C. The maximum sign area of any on-premises sign, unless otherwise provided in this chapter, shall be 300 square feet, with multifaced signs not exceeding a maximum of 600 square feet. [Ord. 3402 § 1, 1983.]

3.12.260 Off-premises signs.

No off-premises signs shall be allowed. [Ord. 4890 § 3, 2022.]

3.12.280 Electrical signs.

Electrical signs shall conform to the following requirements:

- A. No electric sign shall revolve or be animated in any way.
- B. No electric sign shall flash on and off or alternate between varying light intensities.
- C. The light emitted from any electrical sign or any light source used to illuminate the face of a sign shall be so shaded, shielded or directed that light intensity shall not adversely affect nearby premises or the safe vision of operators of vehicles.
- D. Electrical equipment used in connection with signs shall be installed in accordance with the requirements of the National Electrical Code. [Ord. 4395, 2004; Ord. 3825 § 2, 1992; Ord. 3402 § 1, 1983.]

3.12.290 Electronic signs.

Electronic signs shall conform to the following requirements:

- A. Electronic signs shall be allowed as display on any building in any C-C II, C-H, I-L or I-H zoned property in the city subject to the following conditions:
 - 1. No electronic sign shall revolve, emit sound, or be physically animated in any way;
 - 2. No electronic sign shall exceed a total sign face area size of sixteen square feet; and
 - 3. Businesses in the C-C II, C-H, I-L, and I-H zones shall be limited to one electronic sign per street frontage of the business. Buildings with multiple business occupancies, allowed through lease or other arrangements, shall be limited to one electronic sign per street frontage for the multiple-occupancy building.
- B. Electronic signs shall be allowed in the public reserve zones and public rights-of-way in the city and on non-public reserve zoned land that is leased for public purposes by a municipal corporation or other agency of the state or federal government subject to the following conditions:
 - 1. Such public reserve land or public rights-of-way must be owned by a municipal corporation or other agency of the state or federal government or such non-public reserve zoned land must be leased for public purposes by a municipal corporation or other agency of the state or federal government;
 - 2. Placement of electronic signage must be pursuant to the specific approval of the city of Ellensburg, state or federal governmental agency;

3. Maximum area of all faces of the electronic display portion of the sign shall not exceed a total of 64 square feet;
4. Maximum number of electronic signs shall be one per street frontage;
5. The display of the sign shall not change more rapidly than once every three seconds. No message shall require more than 10 seconds to be displayed in its entirety;
6. The display shall not appear to flash, undulate, pulse, blink, bounce, contract or expand, or otherwise appear to move toward or away from the viewer;
7. All such electronic signs shall be equipped with ambient light monitors and shall at all times allow such monitors to automatically adjust the brightness level of the electronic sign based on ambient light conditions;
8. Maximum brightness levels for electronic signs shall not exceed the brightness levels recommended by the manufacturer of the sign; and
9. No electronic sign shall revolve, emit sound, or be physically animated in any way.
10. In addition to conditions in subsections (B)(1) through (9) of this section, the placement of electronic signs on non-public reserve zoned land that is leased for public purposes by a municipal corporation or other agency of the state or federal government shall be subject to the following additional conditions:
 - a. The leased land and the proposed sign location must abut University Way or Canyon Road; and
 - b. The electronic sign shall be removed within 30 days from the date the land is no longer leased by the municipal corporation or other agency of the state or federal government for public uses. [Ord. 4563 § 1, 2010; Ord. 4395, 2004; Ord. 4393, 2004.]

3.12.300 Other signs.

- A. Roof signs or other building-mounted signs which project above the roof line of the building on which the sign is mounted shall be prohibited in all zones except the C-H zone, where they shall not exceed 35 feet in height from ground level.
- B. The total maximum area of any sign located on the premises of a lot with advertising or locating a residential apartment use in the ~~PUD~~, R-H, R-L, R-M, or R-O zones shall be eight square feet except as provided for in subsection (C) of this section.

C. The total maximum area of any sign located on the premises of a lot with advertising or ~~located~~ an approved office or professional service use in the R-O ~~or PUD~~ zones shall be 25 square feet; provided, however, the sign area and number of signs located on the premises of advertising a lot with residential apartment, office or professional service use in the R-O zone, when such use is located on a lot of record with frontage on Mountain View Avenue, shall be governed by the same sign requirements that apply to the C-H zone.

D. The total maximum area of any sign located on the premises of a lot with advertising or ~~located~~ a single-family or home occupation use in the ~~PUD~~, R-H, R-S, R-L, R-M, or R-O zones shall be three square feet.

E. Businesses and all multiple-occupancy buildings in all zones shall be allowed no more than one freestanding sign per street frontage with the maximum of two freestanding signs, with the following exceptions: that

1.—~~B~~businesses in the C-H zone shall be allowed one additional freestanding sign if the property has a minimum of 180 feet of frontage on a single street and is a minimum of one acre in area and another freestanding sign if the business successfully obtains a conditional use from the planning commission for the construction of a freeway-oriented sign.

2.—~~Businesses in the T C C T zone shall be allowed two freestanding signs per lot plus one additional sign if the property has a minimum of 180 feet of frontage on a single street and is a minimum of one acre in area for a total maximum of three freestanding signs.~~

~~F.— All signs advertising a consumable commodity in any zone shall be limited to advertising the consumable commodity with a maximum of 25 percent of the total sign area. A minimum of 75 percent of the total sign area shall be used to advertise the business which offers the consumable commodity for sale~~

~~F.G.~~ Individual signs allowed by this chapter shall not be combined in such a way as to create one large sign, which combination sign is larger than the allowable area for any individual sign provided for in this chapter. [Ord. 4395, 2004; Ord. 4307, 2001; Ord. 3402 § 1, 1983.]

3.12.320 Preexisting signs.

Signs which were existing and in lawful use prior to the adoption of the ordinance codified in this chapter, except temporary or special signs which are not subject to preexisting sign status, shall be considered nonconforming signs and may continue in use subject to the following requirements:

- A. Said signs are properly maintained in the manner set forth in ECC 3.12.380, Maintenance.
- B. Businesses with preexisting nonconforming signs shall not be eligible for any additional signs until the preexisting signs be made to conform to the requirements of this chapter.
- C. No alterations are made to said preexisting signs to enlarge or change their original appearance or location in a manner which is held to increase their degree of nonconformity. Such preexisting signs may change the copy and design of the sign face without affecting their nonconforming status if no changes are made to the sign frame or structure.
- D. If any of the above alterations are made or if any said signs are removed by the owner, the resulting alterations or new replacement signs shall conform to the requirements of this chapter. [Ord. 3402 § 1, 1983.]

3.12.340 Temporary and special signs.

Temporary and special signs or displays are nonpermanent in nature and are intended for use only for a limited period of time. The category includes any banner, pennant, flag or ~~advertising~~ display constructed of canvas, fabric, wood, plastic, metal or other material. All such temporary or special signs are allowed provided they meet the following respective requirements:

- A. ~~Signs displayed prior to, during, and after elections~~ ~~Political signs, posters or bills promoting or publicizing candidates for public office or issues that are to be voted upon in a general or special election~~ shall not exceed a maximum sign area of 10 square feet in the R-S, R-L, R-M, R-O, and MHP and MHS zones. In all other zones, said ~~political~~ signs shall conform to the sign area requirements applicable to the type of sign used. Such ~~Political~~ signs shall be displayed only on private property of consenting property owners. Such signs shall be removed within seven days after the election, except that a candidate who wins a primary election and advances to a general election may continue to display such ~~political~~ signs until seven days after the general election. It will be the responsibility of the appropriate campaign manager or candidate for office to remove their ~~political~~ signs within the above time.
- B. Signs for properties with active c~~Construction signs identifying the architects, engineers, contractors, or other individuals or firms involved in the construction~~ of a building must obtain a sign permit and specify the amount of time the sign is to be displayed, which in no event shall extend beyond the time a valid building permit for such activity is in effect. Only one such ~~construction~~ sign is allowed per site not to exceed 48 square feet in size in the R-S, R-L, R-M, and R-O zones. In all other zones, said signs shall conform to the sign area requirements applicable to the type of sign used.
- C. Temporary banners and posters as defined in this chapter shall be allowed for use in any commercial or industrial zone, subject to the following limitations. Each business address shall

be limited to the display of no more than seven banners or posters at any one time. The aggregate area of all banners or posters displayed at any one time shall not exceed 250 square feet. For the purposes of this chapter, a business address shall be considered a single building or complex or related buildings housing a single business or multiple businesses. Multiple businesses in one building or a related complex of buildings shall be treated as a single business address. The display of such banners and posters shall take place entirely on private property, shall not cause any sight distance or other public safety problems for motorists, pedestrians, or bicyclists, and shall conform to the height requirements for the zone in which located.

D. Temporary decorations as defined in this chapter shall be allowed for use in any business or industrial zone, subject to the following limitations. Each business address shall be limited to the display of temporary decorations which total surface area of all such temporary decorations shall not exceed a total of 250 square feet at any one time. For the purposes of this chapter, a business address shall be considered a single building or complex of related buildings housing a single business or multiple businesses. Multiple businesses in one building or a related complex of buildings shall be treated as a single business address. The display of such temporary decorations shall take place entirely on private property, shall not cause any sight distance or other public safety problems for motorists, pedestrians, or bicyclists and shall conform to the height requirements for the zone in which located.

E. Signs for property for sale or rent ~~Real estate signs which advertise for sale, lease, or open house information~~ for any lot or property in the city shall be located on said property for the time such sale or lease is offered. In the R-S, R-L, R-M, R-O, MHP, ~~MHS~~, and C-N zones, such ~~real estate~~ signs shall not exceed eight square feet in total sign area. If said ~~real estate~~ signs overhang public rights-of-way, they shall be subject to the provisions of ECC 3.12.220(B). In the C-C, C-C II, C-H, I-L, and I-H zones, such ~~real estate~~ signs shall not exceed 48 square feet in total sign area.

F. Banners for community events ~~which advertise civic activities such as the Ellensburg Rodeo and Kittitas County Fair and other activities which~~ that may from time to time be approved by the city council may be supported on those steel strain poles in two locations in the public right-of-way which were constructed for that specific purpose. “Community events” are nonprofit, governmental or charitable festivals, contests, programs, fairs, carnivals, or recreational contests conducted within the city. One set of strain poles is authorized on University Way between N. Walnut Street and N. Anderson Street and one set is authorized on 4th Avenue between Main Street and Pearl Street.

G. A-frame signs as defined in this chapter shall be allowed for use in any commercial or industrial zone, subject to the following limitations. For the C-H, C-N, I-L, and I-H zones, each business address shall be allowed for the use of a maximum of one A-frame sign at any one time. For the purposes of this chapter, a business address shall be considered a single building or complex of related buildings housing a single business or multiple businesses. Multiple

businesses in one building or complex of related buildings shall be treated as a single business address. Each A-frame sign displayed in the C-H, C-N, I-L and I-H zones shall not exceed a total sign area of 32 square feet on one side and 64 square feet total sign area on all faces and shall be placed a minimum of two feet behind the inside edge of an existing curb if no sidewalk is present. If no sidewalk or curb is present, the A-frame sign shall be placed a minimum of eight feet behind the edge or road pavement. Further, such A-frame sign shall not cause any sight distance or other public safety problems for motorists, pedestrians, or bicyclists.

For the C-C and C-C II zones, each business shall be allowed the use of a maximum of one sidewalk sign at any one time. For the purposes of this chapter, in the C-C and C-C II zones each business which has been issued a separate city business license shall be entitled to the use of one sidewalk sign at any one time. Each sidewalk sign displayed in the C-C or C-C II zones shall not exceed a height of three feet and a width/length of two feet and shall be adequately anchored against movement or overturning due to wind. Such signs shall not cause a hazard or impediment to pedestrians, vehicles, or bicyclists.

H. All signs placed on vehicles, trailers, or portable supports which are parked or located for the primary purpose of displaying said signs are prohibited. This does not apply to signs or lettering on buses, taxis, or vehicles operating during the normal course of business.

I. ~~Community Welcome~~ banners, pennants, signs, windsocks, flower baskets, or other displays ~~connoting a welcome~~ from the city of Ellensburg to visitors of the city may, upon prior approval of the council of the city of Ellensburg, be displayed over or on publicly owned land or rights-of-way at a minimum clearance of at least 20 feet for a renewable period of one year, said right to display being subject to the annual review and approval of the council. [Ord. 4395, 2004; Ord. 3582 § 1, 1987; Ord. 3402 § 1, 1983.]

3.12.360 Exempt signs.

The following signs or displays are exempted from coverage under this chapter:

~~A. Traffic or pedestrian control signs or signals or signs indicating scenic or historic buildings or points of interest which are erected by the order of a public officer.~~

~~A.B.~~ Signs and public notices required or directed by law including traffic control signs.

~~C. Official public notices, official court notices, or official sheriff's notices.~~

~~D. The flag of a government or public institution.~~

BE. Exterior building signs not visible from streets or other public rights-of-way.

~~CF.~~ Interior building signs. Nothing in this section shall allow any electrical sign which does not meet the requirements of ECC 3.12.280.

~~DG.~~ Historic or memorial pPlaques, tablets, or inscriptions ~~indicating the name of a building, its date of construction or other commemorative information which that are attached flat to a the building, are not illuminated,~~ and do not exceed three square feet in total area.

~~H.~~ ~~Incidental signs conveying warning or other public service information messages which shall not exceed three square feet in total sign area.~~

~~I.~~ ~~Seasonal decorations within the appropriate holiday season.~~

~~J.~~ ~~Sculptures, fountains, mosaics, or other art which do not incorporate advertising or identification.~~

~~KE.~~ Signs which are painted or mounted on delivery vehicles or other operable commercial vehicles which are primarily used for transportation and commerce.

~~L.~~ ~~Structures intended for a separate use such as phone booths, containers for charitable donations, and product dispensing machines.~~

FM. Signs required under the Washington State Department of Transportation “Motorist Information Sign Program” ~~Supplemental directional signs as defined in ECC 3.12.060~~ are subject to the following conditions:

1. The sign must be a requirement for participation in the Washington State Department of Transportation “Motorist Information Sign Program,” and a participating business shall not be allowed to locate within the city any more than the minimum number of such signs required for its participation in the Motorist Information Sign Program;
2. The sign must comply with the requirements of that program, and shall be no larger than 24 inches by 12 inches in size and shall be of similar color and design as required under the state program for motorist information signs;
3. The sign may be located at off-premises locations within the city but shall be located only within the city’s right-of-way and at a location as approved by the public works and utilities director or her/his designee to ensure traffic and pedestrian safety, with the city reserving the right to require relocation of the sign to an alternative location in order to address maintenance and traffic or pedestrian safety issues that may arise in the future. The installation, relocation and removal of the sign will be at the business’s sole expense and shall be performed in a manner approved by the public works and utilities director or her/his designee; and
4. The sign shall be removed within 30 days of termination of the business’s participation in the Motorist Information Sign Program or the city shall remove said sign

at the business's sole expense. [Ord. 4804 § 4, 2018; Ord. 4519 § 2, 2008; Ord. 3402 § 1, 1983.]

3.12.380 Maintenance.

All signs, including preexisting signs, shall be constantly maintained in a state of security, safety and repair. If any sign is found not to be so maintained or is insecurely mounted or otherwise dangerous, it shall be the duty of the owner of the premises to repair or remove it. The premises surrounding a freestanding sign shall be kept clear of rubbish or weeds. [Ord. 3402 § 2, 1983.]

3.12.400 Removal of certain signs.

A. Any sign now or hereafter existing which, for a period of 60 days, no longer advertises a bona fide business conducted or product sold shall be taken down and removed by the owner, agent or person having the beneficial use of the building, lot or structure upon which such sign may be found. This requirement shall not apply to seasonal businesses unless such businesses have not operated for a period of two consecutive years or more.

B. Upon failure to comply with this provision, the building official is hereby authorized to cause removal of the sign. Any expense incident thereto shall be paid by the owner of the premises or filed as a lien against the property. [Ord. 3402 § 1, 1983.]

3.12.440 Uniform Sign Code.

The 1997 Edition of the Uniform Sign Code, published by the International Conference of Building Officials, is hereby adopted by reference and incorporated as a part of the Ellensburg City Code, except Section 402(c), Restrictions on Combustible Materials, and Section 402(d), Nonstructural Trim, thereof, which are hereby specifically adopted only as amended to read as follows:

Section 402(c) Restrictions on Combustible Materials. No combustible materials other than approved plastics shall be used in the construction of electric signs.

Section 402(d) Nonstructural Trim. Section Eliminated.

[Ord. 3799 § 10, 1992; Ord. 3402 § 1, 1983.]

Section 2. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

Section 3. Corrections. Upon the approval of the City Attorney, 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.

Section 4. Effective Date. This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 3rd day of January, 2023.

MAYOR

ATTEST: _____
CITY CLERK

Approved as to form:

CITY ATTORNEY

Publish:

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4907 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4907 was published as required by law.

BETH LEADER



CITY COUNCIL AGENDA REPORT

- City Council Meeting Date:** January 3, 2023
- Item Title/Agenda Subject:** Ordinance 4908 (Second Reading) Approving Rezone Request P22-075 Submitted by Jason Smith, Property Owner
- Submitted by:** Jamey Ayling Community Development
- Recommended Action or Motion:** Conduct second reading and adoption of Ordinance 4908.
- Background/Summary:** The subject parcel is approximately 9,984 square feet and is located north of Helena Avenue and east of Airport Road, in Ellensburg; Kittitas County Assessor's Parcel ID #126233; addressed as 703 E Helena Avenue. After taking evidence at the open record hearing on November 15, 2022 and considering the record, the Hearing Examiner recommended that City Council approve the rezone from Residential-Suburban (R-S) to Residential-Medium (R-M), with conditions. The request is consistent with the City's Comprehensive Plan future land use designation of Urban Neighborhood. At the conclusion of the closed record hearing City Council approved a motion to adopt the Hearing Examiner's Recommended Findings of Fact, Conclusions of Law Decision and Conditions of Approval.
- Previous Council Action:** City Council held a closed record hearing on December 19, 2022 to consider Hearing Examiner Andy Kottkamp's November 16, 2022 Recommended Findings of Fact, Conclusions of Law Decision and Conditions of Approval pertaining to the site-specific rezone request submitted by Jason Smith, property owner. The rezone request was approved at the conclusion of the hearing and was immediately followed by first reading of Ordinance 4908 implementing the rezone.
- Analysis:** City Council has adopted the Hearing Examiner's Recommended Findings of Fact, Conclusions of Law Decision and Conditions of Approval. Therefore, the Ordinance 4908 reflects the applicable conclusions and findings to adopt the zone change as discussed and approved by City Council on

December 19, 2022. The ordinance also directs staff to make appropriate changes to the City's zoning map and to the Geographic Information System (GIS) data.

Financial Impact: None anticipated at this time

Attachments:

[Ordinance 4908 - Rezone \(second reading\)](#)
[Exhibit A P22-075 Smith HE Recommendation](#)

ORDINANCE NO. 4908

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLENSBURG, WASHINGTON, RELATING TO ZONING AND AMENDING TITLE 15 OF THE ELLENSBURG CITY CODE BY CHANGING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY WITHIN THE CITY OF ELLENSBURG FROM RESIDENTIAL SUBURBAN (R-S) TO RESIDENTIAL MEDIUM (R-M).

WHEREAS, on June 28, 2022 the City received an application (P22-075) from Jason Smith, property owner, requesting a rezone of a parcel located at 703 E Helena Avenue, Parcel ID Number 126233 (“application”); and

WHEREAS, the application proposed to rezone the parcels from Residential Suburban (R-S) to Residential Medium (R-M); and

WHEREAS, pursuant to ECC Table 15.210.050(D), a Site-Specific Rezone Application is processed under a Type IV review, which requires a Hearing Examiner recommendation to City Council after an Open Record Hearing, with the final decision to be made by City Council after a Quasi-Judicial Closed Record Hearing; and

WHEREAS, the Hearing Examiner held a duly noticed open record hearing on November 15, 2022, received evidence and heard testimony regarding the proposed rezone; and

WHEREAS, the Hearing Examiner on November 16, 2022, issued Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval for the rezone request from R-S to R-M; and

WHEREAS, the Ellensburg City Council held a duly noticed closed record hearing on December 19, 2022 and at the conclusion of the hearing approved a motion to adopt the Hearing Examiner’s Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval, and to approve the applicant’s request to rezone the subject property from R-S to R-M;

NOW, THEREFORE, the City Council of the city of Ellensburg, Washington, do hereby ordain as follows:

Section 1. The City Council adopts the findings of fact and conclusions based thereon, made and entered by the Hearing Examiner in support of the recommendation to the City Council for approval with regard to the rezone for the hereinafter described property located at 703 E Helena Avenue, with Parcel ID Number 126233 as set forth in the Hearing Examiner’s “Recommended Findings of Fact, Conclusions of Law, Decision and Conditions of Approval,” dated November 16, 2022, attached hereto as Exhibit A.

Section 2. Title 15 of the Ellensburg City Code is hereby amended by changing the city’s zoning map as adopted in ECC 15.300.020 for the following described area from Residential Suburban (R-S) to Residential Medium (R-M):

ACRES .21, CD. 8673; SEC. 25; TWP. 18; RGE. 18; SW1/4 SW1/4 TAX NO. 4 LESS THE S. 10'; .02@ RD.

Section 3. That the official zoning map of the City of Ellensburg, as well as the Geographic Information System (GIS) data shall be amended to incorporate the land use classifications herein provided.

Section 4. Except as modified herein, each and every provision of the City Land Development Code, Title 15, as amended, shall remain in full force and effect.

Section 5. Severability. If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portions of this ordinance.

Section 6. Corrections. Upon the approval of the City Attorney, 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.

Section 7. Effective Date. This ordinance shall take effect and be in full force five (5) days after passage, approval and publication as required by law.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 3rd day of January, 2023.

Mayor

Attest: _____
City Clerk

Approved as to form:

City Attorney

Publish:

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. 4908 is a true and correct copy of said Ordinance of like number as the same was passed by said Council, that Ordinance No. 4908 was published as required by law.

Beth Leader

Exhibit "A"

CITY OF ELLENSBURG
LAND USE HEARING EXAMINER

IN THE MATTER OF)
P 22-075)
Smith)
RECOMMENDED FINDINGS OF
FACT, CONCLUSIONS OF LAW,
DECISION AND CONDITIONS
OF APPROVAL

THIS MATTER having come on for hearing in front of the City of Ellensburg Hearing Examiner on November 15, 2022, the Hearing Examiner having taken evidence hereby submits the following Recommended Findings of Fact, Conclusions of Law, and Decision and Conditions of Approval as follows:

I. RECOMMENDED FINDINGS OF FACT

1. The applicant seeks to rezone the subject property from Residential Suburban (R-S) to Residential Medium (R-M) for the purpose of developing multifamily housing. A State Environmental Policy Action (SEPA) determination is not required for this rezone as per WAC 197-11-800 (6.) (C).
2. The applicant and property owner is Jason Smith.
3. The parcel is located north of Helena Ave, and east of Airport Way, in Ellensburg. Kittitas County Assessor’s Parcel ID is #126233 and it is addressed as 703 E Helena Avenue.
4. The parcel is currently developed with a single-family dwelling and garage that are proposed to be demolished. Currently, this parcel has zoning of Residential Suburban. The applicant is proposing to change the parcel to R-M zoning for compatibility with multifamily development. The proposal would be to develop the site with a 4-unit multifamily building. The property is bordered by Residential-Medium (R-M) density zoning to the east, south, and west and Public-Reserve (P-R) to the north. The parcel is similar in size to the R-M zoned lot directly to the East on the same street and approximately half the size of the various multi-family dwelling lots zoned R-M to the West along Airport Road.
5. In 1992, the parcel was annexed into the City of Ellensburg. At that time, the property was zoned Residential-Suburban (R-S).
6. The site topography is relatively flat and the site has been used as a single family dwelling.
7. The zoning of the surrounding properties is further described below:
 - North:** The property to the north is zoned Public-Reserve (P-R) and consists of a vacant land owned by Central Washington University.
 - South:** The properties to the south are zoned Residential Medium (R-M), and consist of various multi-family dwellings.
 - East:** The property to the east (also owned by the applicant) is zoned Residential Medium (R-M), and consists of a single-family dwelling.
 - West:** The properties to the west are zoned Residential Medium (R-M) and consist of various multi-family family dwellings.

8. Zoning and Development Standards, ECC Title 15: Ellensburg City Code (ECC) Table 15.310.040, Ellensburg City Code (ECC) Table 15.310.040, Residential-based Uses – indicates that while single-family, and cottage type dwellings are allowed in both R-M and R-S zones, duplex, townhouse, and multifamily type dwellings may be permitted in R-S zones subject to density bonuses and townhouses and multifamily dwellings shall not be located adjacent to existing single-family dwellings except where approved on an individual plat. In R-M zones duplex, townhouse, and multifamily type dwellings are permitted outright.
9. Comprehensive Plan Designations: This parcel is designated Urban Neighborhood which supports a wide range of housing types and allows for the development of transitional areas between lower density neighborhoods and higher density residential and commercial areas. The Urban Neighborhood designation accommodates a wide range of building types, from small-lot single dwellings to large-scale multistory, multi-dwelling developments. This designation is similar to the residential neighborhood designation of other properties zoned R-M across the street.
10. Access: Access to the property is from Helena Avenue
11. Subsequent to the rezone review, public notice and distribution of the site specific rezone request was undertaken.
12. Notice of the open record public hearing was published in the legal section of the Daily Record on October 20, 2022, and the site was posted with a land use action signs on October 29, 2022. On October 19, 2022 notice of the rezone was mailed to property owners within 300 feet of the proposed site. As of the date of this decision, no public comments have been received
13. The rezone and proposed future 4-unit multi-family dwelling unit project are exempt from SEPA review as per WAC 197-11-800 (6)(C). Subsequent to SEPA environmental review exemption, public notice and distribution of the full rezone application was undertaken. As a result of that effort, most departments have reserved their comments until the time of the required Pre-Application review. However, two comments were received from the Public Works Department and the Ellensburg Electric Utility (Light) Department.
14. Ellensburg City Code Requirements for Site-Specific Rezone: Per Ellensburg City Code, site-specific rezone applications are subject to the Type IV review process, and the Hearing Examiner provides a recommendation to City Council after holding an open record public hearing. To recommend approval, the Hearing Examiner must find that the application is in compliance with the decision criteria in ECC 15.250.060.
 - 14.1 The criteria for consideration of a site specific rezone are set forth in ECC 15.250.060(C). The applicant has the burden of establishing that all of the following criteria apply to the proposed rezone:
 - 14.1.1. Conditions have changed since the imposition of the zoning classification on the property;
 - 14.1.2. The proposed rezone bears a substantial relationship to the public health, safety, morals, and general welfare;
 - 14.1.3. The proposed rezone is consistent with the comprehensive plan;
 - 14.1.4. The proposed rezone to a particular zoning district shall be consistent with the development standards in the Land Development Code for the zoning district.
15. Analysis of Criteria for a Site-Specific Rezone. The applicant has submitted an application with a narrative addressing the rezone criteria found in ECC 15.250.060(C). The applicant

seeks Residential Medium (R-M) zoning in order to construct a 4-unit multifamily structure. The information submitted by the applicant is followed by the Hearing Examiner's analysis. All are recommended findings of the Hearing Examiner.

- 15.1 Conditions have changed since the imposition of the zoning classification on the property.
 - 15.1.1 The property located at 703 East Helena is currently Zone RS and conditions have changed since the property was originally zoned. This property is currently a spot zone that is surrounded entirely by property, located within the City limits that are zoned RM.
 - 15.1.2 In 1992, this property was annexed into the City of Ellensburg and although the neighboring property was annexed previously in 1989 with Residential-Medium zoning, this property was subsequently zoned as Residential-Suburban (R-S). At the time of annexation, the property was in use as a residence and the comprehensive plan land use designation was Blended Residential. The current comprehensive plan land use designation is Urban Residential. The site-specific rezone request is consistent with the Urban Residential land use designation.
- 15.2 The proposed rezone bears a substantial relationship to the public health, safety, morals, and general welfare.
 - 15.2.1 As a spot zone within the City limits, 703 East Helena with its current RS zoning is an inconsistent land-use that is out of alignment with the City of Ellensburg Comprehensive Plan and the current existing uses of adjacent property. Rezoning the property to RM eliminates this inconsistency and aligns with public health.
 - 15.2.2 The rezone to Residential Medium (R-M) will eliminate the isolated zoning of the existing parcel to provide additional contiguous higher density land for development of a multifamily housing development consisting of 4 units. The City has a responsibility under the Growth Management Act to make adequate provisions for existing and projected needs of all economic segments of the community. Based on both affordability and household size, the Ellensburg Comprehensive Plan identifies a need for more one- and two-bedroom dwellings in Ellensburg. The multifamily residential structure will conform with Ellensburg City Code and will meet the goal encouraging opportunities for infill as supported by the comp plan without increasing an unexpected demand on utilities and services. This will support the public health, safety, and general welfare of the community by reducing pressures on the low housing supply options.
- 15.3 The proposed rezone is consistent with the comprehensive plan.
 - 15.3.1 The proposed rezone of the property at 703 East Helena is consistent with the City of Ellensburg Comprehensive plan and underlying land use, transportation, and eliminates a spot zone in an area of multi-family development.
 - 15.3.2 The current Comprehensive Plan Designation for the parcel is Urban Neighborhood which is consistent with the rezone request to residential medium density (R-M) as depicted in the attached Comprehensive Plan Future Land Use Designation map (Exhibit 3). In the Comprehensive Plan the description of Urban Neighborhood indicates that it supports a wide range of housing types and allows for the development of transitional areas between lower density neighborhoods and higher density residential and

- commercial areas. The Urban Neighborhood designation accommodates a wide range of building types, from small-lot single dwellings to large-scale multistory, multi-dwelling developments.
- 15.3.3 The Comprehensive Plan further indicates that in the Urban Neighborhood land use designation, implementing zoning districts for lower density housing are appropriate adjacent to existing single family residential areas characterized primarily by detached housing units and zero lot line projects. Implementing zoning districts that accommodate higher density housing types are more appropriate adjacent to parks and the University campus, along transit routes and principal and minor arterials, on local streets adjacent to commercial areas and served by transit routes, and near recreational activity centers, shopping centers, and entertainment areas.
- 15.3.4 The parcel for this proposed rezone is addressed along East Helena Avenue which is designated as a minor arterial. East Helena Avenue is served by transit from Water Street to Alder Street, making it appropriate for higher density types of housing.
- 15.3.5 In addition, the Hearing Examiner finds the request for R-M zoning to be in keeping with the following goals, policies and programs of the Comprehensive Plan:
- 15.3.5.1 Goal LU-1, "Encourage development that creates a variety of housing, shopping, entertainment, recreation, gathering spaces, employment, and services that are accessible to neighborhoods."
- 15.3.5.2 Policy B, "Integrate new development with consideration to design and scale that complements existing neighborhoods and provides effective transitions between different uses and intensities."
- 15.3.5.3 Goal LU-2, "Establish land use patterns that promote walking, biking, and using transit to access goods, services, education, employment and recreation."
- 15.3.5.4 Policy A, "Enhance the character, quality, and function of existing neighborhoods while accommodating anticipated growth."
- 15.3.5.5 Program 2, "Encourage compact form for urban development, particularly in newly developed areas and where infill is possible."
- 15.3.5.6 Goal H-1, "Preserve, protect, and strengthen the vitality and stability of existing neighborhoods."
- 15.3.5.7 Policy A, "Encourage development of an appropriate mix of housing choices through innovative land use and well-crafted regulations."
- 15.3.5.8 Program 2, "Encourage infill development on vacant and underused sites."
- 15.3.5.9 Goal H-2, "Allow and encourage a variety of housing types and densities to meet housing needs of all economic segments of the community."
- 15.4 The proposed rezone to a particular zoning district shall be consistent with the development standards in the LDC for the zoning district.
- 15.4.1 The proposed rezone of the property at 703 East Helena from RS to RM is consistent with the development standards in the LDC for the RM Zone and eliminates an existing spot zone that is inconsistent with the surrounding property in the Zoning District.

- 15.4.2 The Hearing Examiner finds the rezone proposal consistent with the purpose and standards of Residential Medium (R-M) zoning as set forth in ECC 15.300.040(C).
- 15.5 The applicant seeks R-H Residential High density zoning to eliminate a split zone of the existing parcel and expand opportunities for multifamily development with a greater maximum building height than what is allowed in the R-M residential medium zone.
- 15.6 The Hearing Examiner finds the rezone proposal consistent with the purpose and standards of R-M zoning as set forth in ECC 15.300.040(C):
- 16. The R-M zone is intended to provide for a mixture of housing types in a walkable neighborhood setting. These purposes are accomplished by:
 - 16.1. Allowing a variety of housing types including detached single-family dwellings, cottage housing, townhouses, and multifamily;
 - 16.2. Providing standards and guidelines to help ensure that new infill development will be compatible in scale and character with existing development;
 - 16.3. Providing standards and guidelines that reinforce and/or enhance the character and walkability of streets within the zone;
 - 16.4. Providing standards and guidelines that promote the integration of usable open space for residential uses;
 - 16.5. Providing a minimum density standard to avoid large scale low density sprawl;
 - 16.6. Providing for an option for a modest floor area ratio bonus (see ECC 15.330.030) in exchange for:
 - 16.6.1 Energy efficient building and site design; or
 - 16.6.2 Purchase of transferable development rights (subject to the city adopting a TDR program) that help to preserve valuable resource lands outside the city; and
 - 16.7. Use of this zone is appropriate for:
 - 16.7.1 Areas designated mixed residential in the comprehensive plan; and
 - 16.7.2 Areas characterized by a mix of single and multifamily buildings;
 - 16.7.3 Areas within one-half mile of Central Washington University;
 - 16.7.4 Areas located along designated arterial streets;
 - 16.7.5 Areas adjacent to commercial zoned property; or
 - 16.7.6 Areas located along corridors served by transit.
- 17. The applicant seeks Residential Medium (R-M) zoning for developing multifamily dwellings. The applicant would be responsible for meeting all development standards under the Land Development Code.
- 18. The Hearing Examiner finds the proposal to be consistent with the criteria outlined in 15.250.050 pertaining to rezones.
- 19. An open record public hearing was held on November 15, 2022.
- 20. The following exhibits were admitted into the record:
 - 20.1 Ex. 1: Vicinity Location Map;
 - 20.2 Ex. 2: Current Zoning Map;
 - 20.3 Ex. 3: Comprehensive Plan Land Use Designation;
 - 20.4 Ex. 4: Area of Notification Map with 300 foot Buffer Notification List
 - 20.5 Ex. 5: Legal Notice of Open Record Public Hearing;
 - 20.6 Ex. 6: Affidavit of Posting and Land Use Action Signs;

- 20.7 Ex. 7: November 2, 2022 memo from City of Ellensburg Utility Electric Department;
 - 20.8 Ex. 8: November 4, 2022 memo from City of Ellensburg Public Works Department
 - 20.9 Ex. 9: WAC 197-11-800 6. (C) SEPA Exemption Code Language
 - 20.10 Ex. 10: Rezone Application;
 - 20.11 Ex. 11: Rezone Application Narrative;
 - 20.12 Ex.12: Rezone Site Plan; and
 - 20.13 Ex. 13: Staff Report
21. Appearing and testifying was Jason Smith, property owner and applicant. Mr. Smith testified that he agreed with all representations in the staff report and that the proposed Condition of Approval was acceptable.
 22. No member of the public testified at the hearing.
 23. The proposal is appropriate in design, character and appearance with the goals and policies for the land use designation in which the proposed use is located.
 24. The proposal will be served by adequate facilities including access, fire protection, water, storm water control, and sewage disposal facilities.
 25. Any Conclusion of Law that is more correctly a Finding of Fact is hereby incorporated as such by this reference.

II. RECOMMENDED CONCLUSIONS OF LAW

1. The Hearing Examiner has been granted authority to render this recommended Decision.
2. As conditioned, the proposed use is consistent with the intent, purposes and regulations of the City of Ellensburg Municipal Code and Comprehensive Plan.
3. As conditioned, the proposal will conform to the standards specified in City of Ellensburg.
4. As conditioned, the use will comply with all required performance standards as specified in City of Ellensburg Municipal Code.
5. As conditioned, the proposed use will not be contrary to the intent or purposes and regulations of either the City of Ellensburg Municipal Code or the Comprehensive Plan.
6. As conditioned, this proposal does comply with Comprehensive Plan, the Shoreline Master Program, the zoning code and other land use regulations, and SEPA.
7. Any Finding of Fact that is more correctly a Conclusion of Law is hereby incorporated as such by this reference.

III. RECOMMENDED DECISION

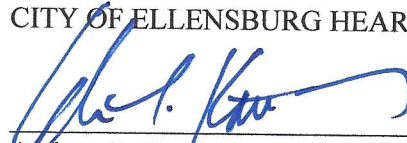
The Hearing Examiner found the proposal to be consistent with the criteria outlined in 15.250.060 pertaining to rezones. The Hearing Examiner recommends approval of the rezone request, from Residential Suburban (R-S) to Residential Medium Density (R-M) zoning to the City Council pursuant to the Recommended Condition of Approval below.

IV. RECOMMENDED CONDITION OF APPROVAL

1. The applicant shall adhere to any requirements related to any future development approvals, including meeting all requirements of utility providers, City departments, and affected districts, as outlined in adopted City Codes and other regulatory documents.

Dated this 16 day of November, 2022.

CITY OF ELLENSBURG HEARING EXAMINER



Andrew L. Kottkamp



MANAGER'S REPORT

DATE: January 3, 2023

To: Ellensburg City Council

FROM: Heidi Behrends Cerniwey, City Manager

1. Notification of Natural Gas Purchase.

As required by ECC Chapter 9.80, a natural gas purchase commitment to Shell Energy North America for 320,000 MMBtu's at an average price of \$4.879/MMBtu was made this month. The contract allows varying monthly volumes from April 2023 through March 2024. The total value of the contract purchase is \$1,624,555.

2. Grant Awards for Solar/Smart Grid Modernization Project.

The City of Ellensburg was notified recently of the award of \$1.5 million solar and grid modernization grant through the Department of Energy. The original \$3 million project proposed to complete build out the renewable energy park (200kW solar, plus inverters), install renewable energy EV charging stations at Rotary Park, and update a portion of the grid with advanced metering infrastructure (AMI) technology. Staff will work to reduce the scope of the project with a revised budget.