

City of Federal Way  
City Council  
**Land Use & Transportation Committee**

July 6, 2020  
5:00 p.m.

City Hall

**Notice:** Pursuant to Governor Inslee's Proclamation 20-28, all in-person meetings are prohibited until further notice. The Mayor and City Council are providing opportunities for public comment by submitting written comment or calling into the meeting to provide oral testimony. To access these options please use the following:



[Click Here to Watch Online Live Streaming Video of the Meeting](#)



Listen to the live meeting: (888) 788-0099 or 253-215-8782 Meeting ID: 809 975 640



Sign-Up\* [here](#) to give citizen comment during the meeting (via calling-in)



[Click Here](#) to submit written comments to the City Council



Watch from the Zoom mobile app with meeting: 809 975 640 and password: 595617

**MEETING AGENDA**

**\*AMENDED\***

1. CALL TO ORDER
2. PUBLIC COMMENT
3. COMMITTEE BUSINESS

Topic	Title/Description	Presenter	Page	Action or Info	Council Date
A.	<a href="#">Approval of Minutes June 1, 2020</a>		3		N/A
B.	<a href="#">SW 356<sup>th</sup> Street Preservation Project – 85% Design Status and Authorization to Bid</a>	Mulkey	7	Action	July 21, 2020 Consent
C.	<a href="#">SW 320<sup>th</sup> Street Preservation Project – 85% Design Status and Authorization to Bid</a>	Mulkey	11	Action	July 21, 2020 Consent
D.	<a href="#">2020 Pavement Markings (Greenway) Project – Bid Results</a>	Chandra	15	Action	July 21, 2020 Consent
E.	<a href="#">ORDINANCE: South 320<sup>th</sup> Street Annexation</a>	Hansen	19	Action	<b>July 7, 2020</b> First Reading
F.	<a href="#">ORDINANCE: Amending Title 19.142 FWRC, Flood Damage Prevention</a>	Hansen	45	Action	July 21, 2020 First Reading
G.	<a href="#">ORDINANCE: Extension of Interim Zoning Regulations</a>	Winkler	97	Action	July 21, 2020 First Reading
H.	<a href="#">Transportation Grant Funding Applications</a>	Winkler	103	Action	July 21, 2020 Consent
I.	<a href="#">ORDINANCE: Relating to Vacation of Right of Ways</a>	Walsh	105	Action	July 21, 2020 First Reading
J.	<a href="#">Update on Sound Transit Activities</a>	Medlen	147	Info Only	N/A
K.	<a href="#">Update on Airport Issues</a>	Vadino	149	Info Only	N/A

4. OTHER

**Committee Members**

Mark Koppang, Chair  
Martin Moore, Member  
Hoang V. Tran, Member

**City Staff**

EJ Walsh, P.E., Public Works Director  
Rebecca Kovar, Administrative Assistant II  
(253) 835-2701

5. FUTURE MEETINGS/AGENDA ITEMS:  
The next LUTC meeting will be August 3, 2020 at 5:00 p.m. in City Hall Council Chambers.
6. ADJOURNMENT

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**Committee Members**

*Mark Koppang, Chair*  
*Martin Moore, Member*  
*Hoang V. Tran, Member*

**City Staff**

*EJ Walsh, P.E., Public Works Director*  
*Rebecca Kovar, Administrative Assistant II*  
*(253) 835-2701*

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City Council  
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I.	<a href="#">Update on Sound Transit Activities</a>	Medlen	145	Info Only	N/A
J.	<a href="#">Update on Airport Issues</a>	Vadino	147	Info Only	N/A

4. OTHER
5. FUTURE MEETINGS/AGENDA ITEMS:  
The next LUTC meeting will be July 6, 2020 at 5:00 p.m. in City Hall Council Chambers.
6. ADJOURNMENT

### Committee Members

Mark Koppang, Chair  
Martin Moore, Member  
Hoang V. Tran, Member

### City Staff

EJ Walsh, P.E., Public Works Director  
Rebecca Kovar, Administrative Assistant II  
(253) 835-2701

City of Federal Way  
City Council  
**Land Use & Transportation Committee**

June 1, 2020  
5:00 p.m.

City Hall  
Council Chambers

**MEETING SUMMARY**

**Committee Members in Attendance:** Committee Chair Mark Koppang, Committee member Hoang Tran, and Committee member Martin Moore.

**Other Councilmembers in Attendance:** City Council President Susan Honda, Councilmember Lydia Assefa-Dawson, Councilmember Greg Baruso. Council Member Linda Kochmar

**Staff in Attendance:** Public Works Director EJ Walsh, Assistant City Attorney Eric Rhodes, Capital Engineer John Cole, Capital Engineer Jeff Huynh, Senior Capital Engineer Naveen Chandra, Deputy Public Works Director Desiree Winkler, and Administrative Assistant II Rebecca Kovar.

1. CALL TO ORDER: Committee Chair Koppang called the meeting to order at 5:00 p.m.
2. PUBLIC COMMENT:
3. COMMITTEE BUSINESS:

**Topic Title/Description**

**A. Approval of Minutes: May 4, 2020**

**Committee approved the May 4, 2020 LUTC minutes as presented.**

- **Moved: Tran**
- **Seconded: Moore**
- **Passed: 3-0 unanimously**

**B. 2021 Asphalt Overlay Program Preliminary Project List and Authorization to Bid**

Capital Engineer John Cole presented information about the budget, funding, estimated program costs. Questions and discussion followed.

**Committee forwarded Option #1 (Approve the list of streets for the 2021 Asphalt Overlay Project and authorize staff to bid the 2021 Asphalt Overlay Project, returning for authorization to award the project within the available 2021 Asphalt Overlay Budget to the lowest responsible, responsive bidder.) to the June 16, 2020 Council Consent Agenda for approval.**

- **Moved: Tran**
- **Seconded: Moore**
- **Passed: 3-0 unanimously**

C. **Lakota Middle School at SW Dash Point Road – 30% Design Report**

Capital Engineer Jeff Huynh presented information about the budget, funding sources, and projected costs. The project provides sidewalk, bicycle lane, and street lights. Questions and discussion followed.

**Committee forwarded Option #1 (Authorize staff to proceed with design of the Lakota Middle School at SW Dash Point road and return to the LUTC and Council at 85% design completion for further reports and authorization) to the June 16, 2020 Consent Agenda for approval.**

- **Moved: Moore**
- **Seconded: Tran**
- **Passed: 3-0 unanimously**

D. **Resolution: Adoption of 2021-2026 Transportation Improvement Plan**

City Traffic Engineer Rick Perez provided information on the plan for transportation-related capital projects, prioritization criteria, proposed projects, and history of projects under the previous Transportation Improvement Plan. A Public Hearing on the Resolution is scheduled for the Council meeting on June 16, 2020. Discussion followed.

**Committee forwarded Option #1 (Adopt the proposed resolution.) to the June 16, 2020 Consent Agenda for approval.**

- **Moved: Moore**
- **Seconded: Tran**
- **Passed: 3-0 unanimously**

E. **Resolution: Authorization to Accept Grant Funding for SW 320<sup>th</sup> Preservation Project**

Deputy Director of Public Works Desiree Winkler presented information on the background, scope, and estimated project cost.

**Committee forwarded Option #1 (Approve the proposed Resolution) to the June 16, 2020 Consent Agenda for approval.**

- **Moved: Tran**
- **Seconded: Moore**
- **Passed: 3-0 unanimously**

F. **Authorization to submit proposed Grant Applications for Transportation Improvement Projects**

Deputy Director of Public Works Desiree Winkler provided information on proposed projects for which grant funding might be available, including improvements for non-motorized travel, and projected costs. Discussion followed.

**Committee forwarded Option #1 (Authorize staff to submit the proposed grant applications for transportation projects) to the June 16, 2020 Consent Agenda for approval.**

- **Moved: Moore**
- **Seconded: Tran**
- **Passed: 3-0 unanimously**

4. OTHER

5. FUTURE MEETINGS/AGENDA ITEMS:

The next LUTC meeting will be held on July 6, 2020 at 5:00 p.m. in City Hall Council Chambers.

6. ADJOURNMENT: The meeting was adjourned at 5:59 p.m.

Attest:

Approved by Committee:

\_\_\_\_\_  
Rebecca Kovar, Administrative Assistant II

\_\_\_\_\_  
Date

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COUNCIL MEETING DATE: July 21, 2020

ITEM #: \_\_\_\_\_

**CITY OF FEDERAL WAY  
CITY COUNCIL  
AGENDA BILL**

**SUBJECT: SW 356<sup>TH</sup> ST PRESERVATION PROJECT 85% DESIGN STATUS AND AUTHORIZATION TO BID**

**POLICY QUESTION:** Should the City Council authorize staff to complete design and bid the SW 356<sup>th</sup> Street Preservation Project and return to the LUTC and Council for bid award, further reports, and authorization?

**COMMITTEE:** Land Use and Transportation

**MEETING DATE:** July 6, 2020

**CATEGORY:**

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> <b>Consent</b>    | <input type="checkbox"/> <b>Ordinance</b>  | <input type="checkbox"/> <b>Public Hearing</b> |
| <input type="checkbox"/> <b>City Council Business</b> | <input type="checkbox"/> <b>Resolution</b> | <input type="checkbox"/> <b>Other</b>          |

**STAFF REPORT BY:** John Mulkey, P.E., Senior Capital Engineer

**DEPT:** Public Works



**Attachments:** 1. Land Use and Transportation Committee memorandum dated July 6, 2020.

**Options Considered:**

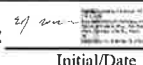
1. Authorize staff to complete the design and bid the SW 356<sup>th</sup> Street Preservation Project and return to the LUTC and Council for bid award, further reports, and authorization.
2. Do not authorize staff to proceed with this project and provide direction to staff.

**MAYOR'S RECOMMENDATION:** The Mayor recommends forwarding Option 1 to the July 21, 2020 City Council Consent Agenda for approval.

**MAYOR APPROVAL:**

   
Committee Initial/Date Council Initial/Date

**DIRECTOR APPROVAL:**

  
Initial/Date

**COMMITTEE RECOMMENDATION:** *I move to forward Option 1 to the July 21, 2020 consent agenda for approval.*

Committee Chair

Committee Member

Committee Member

**PROPOSED COUNCIL MOTION:** *"I move to authorize staff to complete design and bid the SW 356<sup>th</sup> Street Preservation Project and return to the LUTC and Council for bid award, further reports, and authorization."*

**(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)**

**COUNCIL ACTION:**

- ☐ **APPROVED**  
☐ **DENIED**  
☐ **TABLED/DEFERRED/NO ACTION**  
☐ **MOVED TO SECOND READING** (*ordinances only*)

REVISED - 4/2019

**COUNCIL BILL #**

**First reading**

**Enactment reading**

**ORDINANCE #**

**RESOLUTION #**




CITY OF FEDERAL WAY  
MEMORANDUM

**DATE:** July 6, 2020

**TO:** City Council Members

**VIA:** Jim Ferrell, Mayor

**FROM:** EJ Walsh, P.E., Public Works Director *EJ Walsh*  
John Mulkey, P.E., Senior Capital Engineer 

**SUBJECT:** SW 356<sup>th</sup> Street Preservation Project 85% Design Status Report and Authorization to bid

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**Financial Impacts:**

The cost to the City for the SW 356<sup>th</sup> Street Preservation Project was included within the approved budget under the Public Works Capital Project #215. In accordance with the approved budget, this item is funded by a grant from FHWA in the amount of \$810,000.00 and the remainder from REET and MVET funds. Upon completion of the SW 356<sup>th</sup> Street Preservation Project, no other costs are anticipated. Funding requirements for operations and maintenance of infrastructure is reviewed and adjusted as required during the budget process.

**Background Information:**

Under the 2018 Puget Sound Regional Council (PSRC) King County Preservation Program (Federal Funds) Competition the City was awarded Grant funding for the overlay and ADA retrofit of SW 356<sup>th</sup> Street (15th Ave SW to 4th Pl. SW).

The following provides a brief synopsis of the progress on the project to date. Currently, the project design is approximately 30% complete, which includes the following completed tasks:

- Topographic Survey
- Project Design to 85%
- Preliminary Contract Specifications
- Environmental Document approval

**Ongoing Tasks Include:**

- Project Design to 100%
- Contract Specifications to 100%
- Plans to 100%

**PROJECT ESTIMATED EXPENDITURES:**

Design ( <i>by City staff</i> )	\$100,000
2021 Construction Cost	\$1,190,000
10% Construction Contingency	\$119,000
Construction Management ( <i>by City staff</i> )	\$60,800
<b>TOTAL PROJECT COSTS</b>	<b>\$1,469,800</b>

**AVAILABLE FUNDING:**

FHWA. Grant ( <i>Federal</i> )	\$810,000
MVET Funds ( <i>Motor Vehicle Excise Tax</i> )	\$500,000
REET Funds ( <i>Real Estate Excise Tax</i> )	\$74,000
<b>TOTAL AVAILABLE BUDGET</b>	<b>\$1,384,000</b>

**FUNDING SUMMARY:**

Total Project Costs	\$1,469,800
Total Available Funding	\$1,384,000
<b>PROJECT BUDGET SHORTFALL</b>	<b>\$85,800</b>

After receiving bids, the total project costs will be refined and presented to the Committee and Council for bid award authorization. Staff anticipates bidding this project in September 2020. Construction is anticipated to start in Spring 2021 with an estimated substantial completion date in Summer 2021.

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# CITY OF FEDERAL WAY

## CITY COUNCIL

### AGENDA BILL

**SUBJECT: SW 320<sup>TH</sup> ST PRESERVATION PROJECT 85% DESIGN STATUS AND AUTHORIZATION TO BID**

**POLICY QUESTION:** Should the City Council authorize staff to complete design and bid the SW 320<sup>th</sup> Street Preservation Project and return to the LUTC and Council for bid award, further reports, and authorization?

**COMMITTEE:** Land Use and Transportation

**MEETING DATE:** July 6, 2020

**CATEGORY:**

☒ **Consent**

☐ **Ordinance**

☐ **Public Hearing**

☐ **City Council Business**

☐ **Resolution**

☐ **Other**

**STAFF REPORT BY:** John Mulkey, P.E., Senior Capital Engineer

**DEPT:** Public Works

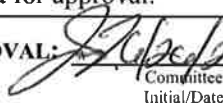
**Attachments:** Land Use and Transportation Committee memorandum dated July 6, 2020.

**Options Considered:**

1. Authorize staff to complete the design and bid the SW 320<sup>th</sup> Street Preservation Project and return to the LUTC and Council for bid award, further reports, and authorization
2. Do not authorize staff to proceed with this project and provide direction to staff.

**MAYOR'S RECOMMENDATION:** The Mayor recommends forwarding Option 1 to the July 21, 2020 City Council Consent Agenda for approval.

**MAYOR APPROVAL:**

  
Committee  
Initial/Date

  
Council  
Initial/Date

**DIRECTOR APPROVAL:**

  
Initial/Date

**COMMITTEE RECOMMENDATION:** *I move to forward Option 1 to the July 21, 2020 consent agenda for approval.*

Committee Chair

Committee Member

Committee Member

**PROPOSED COUNCIL MOTION:** *"I move to authorize staff to complete design and bid the SW 320<sup>th</sup> Street Preservation Project and return to the LUTC and Council for bid award, further reports, and authorization."*

**(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)**

**COUNCIL ACTION:**

☐ **APPROVED**

☐ **DENIED**

☐ **TABLED/DEFERRED/NO ACTION**

☐ **MOVED TO SECOND READING** (*ordinances only*)

REVISED - 4/2019

**COUNCIL BILL #**

**First reading**

**Enactment reading**

**ORDINANCE #**



**RESOLUTION #**

CITY OF FEDERAL WAY  
MEMORANDUM

**DATE:** July 6, 2020

**TO:** City Council Members

**VIA:** Jim Ferrell, Mayor

**FROM:** EJ Walsh, P.E., Public Works Director   
John Mulkey, P.E., Senior Capital Engineer 

**SUBJECT:** SW 320<sup>th</sup> Street Preservation Project 85% Design Status Report and Authorization to bid

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**Financial Impacts:**

The cost to the City for the SW 320<sup>th</sup> Street Preservation Project was included within the approved budget under the Public Works Capital Project #214. In accordance with the approved budget, this item is funded by a grant from FHWA in the amount of \$518,020.00 and the remainder by MVET funds. Upon completion of the SW 320<sup>th</sup> Street Preservation Project, no other costs are anticipated. Funding requirements for operations and maintenance of infrastructure is reviewed and adjusted as required during the budget process.

**Background Information:**

Under the recent contingency funding process, Puget Sound Regional Council (PRSC) King County Preservation Program (Federal Funds) were awarded to the overlay and ADA retrofit of SW 320<sup>th</sup> Street (11th Ave SW to 3rd Pl. SW).

The following provides a brief synopsis of the progress on the project to date. Currently, the project design is approximately 85% complete, which includes the following completed tasks:

- Project Design to 85%
- Preliminary Contract Specifications
- Environmental Document approval

**Ongoing Tasks Include:**

- Project Design to 100%
- Contract Specifications to 100%
- Plans to 100%

**PROJECT ESTIMATED EXPENDITURES:**

Design ( <i>by City staff</i> )	\$49,000
2021 Construction Cost	\$788,000
10% Construction Contingency	\$78,000
Construction Management ( <i>by City staff</i> )	\$62,000
<b>TOTAL PROJECT COSTS</b>	<b>\$977,000</b>

**AVAILABLE FUNDING:**

Federal Grant	\$518,020
<i>Motor Vehicle Fuel Tax</i>	\$401,000 (FY 2021)
<b>TOTAL AVAILABLE BUDGET</b>	<b>\$919,020</b>

**FUNDING SUMMARY:**

Total Project Costs	\$977,000
Total Available Funding	\$919,020
<b>PROJECT BUDGET SHORTFALL</b>	<b>\$57,980</b>

After receiving bids, the total project costs will be refined and presented to the Committee and Council for bid award authorization. Staff anticipates bidding this project in September of 2020. Construction is anticipated to start in Spring 2021 with an estimated substantial completion date in Summer 2021.

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# CITY OF FEDERAL WAY

## CITY COUNCIL

### AGENDA BILL

**SUBJECT: GREENWAY PAVEMENT MARKINGS PHASE I (2020) PROJECT –BID AWARD**

**POLICY QUESTION:** Should City Council award the Greenway Pavement Markings Phase I (2020) Project to the lowest responsive, responsible bidder?

**COMMITTEE:** \_\_\_\_\_

**MEETING DATE:** \_\_\_\_\_

**CATEGORY:**

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> <b>Consent</b>    | <input type="checkbox"/> <b>Ordinance</b>  | <input type="checkbox"/> <b>Public Hearing</b> |
| <input type="checkbox"/> <b>City Council Business</b> | <input type="checkbox"/> <b>Resolution</b> | <input type="checkbox"/> <b>Other</b>          |

**STAFF REPORT BY:** Naveen Chandra, P.E., Senior Capital Engineer <sup>NC</sup>

**DEPT:** Public Works

**Attachments:** Staff Report & Bid Tabulation

**Options Considered:**

1. Award the Greenway Pavement Markings Phase I (2020) Project to Apply-A-Line, LLC the lowest responsive, responsible bidder, up to the amount of \$107,930.00 and approve a ten percent contingency of \$10,793.00 for a total amount of \$118,723.00 and authorize the Mayor to execute the contract.
2. Reject all bids for the Greenway Pavement Markings Phase I (2020) Project and direct staff to rebid the project and return to Committee for further action.

**MAYOR'S RECOMMENDATION:** The Mayor recommends approval of Option 1.

<b>MAYOR APPROVAL:</b>  <small>Committee Initial/Date</small>	 <small>Council Initial/Date</small>	<b>DIRECTOR APPROVAL:</b>  <small>Initial/Date</small>
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**COMMITTEE RECOMMENDATION:** I move to forward Option 1 to the July 21, 2020 consent agenda for approval.

Mark Koppang, Committee Chair

Martin Moore, Committee Member

Hoang Tran, Committee Member

- 1. PROPOSED COUNCIL MOTION:** "I move to authorize staff to award the Greenway Pavement Markings Phase I (2020) Project to Apply-A-Line, LLC the lowest responsive, responsible bidder, up to the amount of \$107,930.00, and approve a ten percent contingency of \$10,793.00 for a total amount of \$118,723.00 and authorize the Mayor to execute the contract."

(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)

**COUNCIL ACTION:**

- ☐ **APPROVED**  
☐ **DENIED**  
☐ **TABLED/DEFERRED/NO ACTION**  
☐ **MOVED TO SECOND READING** (ordinances only)

REVISED – 2/2020

**COUNCIL BILL #** \_\_\_\_\_

**First reading** \_\_\_\_\_

**Enactment reading** \_\_\_\_\_

**ORDINANCE #** \_\_\_\_\_

**RESOLUTION #** \_\_\_\_\_



## CITY OF FEDERAL WAY M E M O R A N D U M

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**DATE:** July 6, 2020  
**TO:** Land Use & Transportation Committee  
**VIA:** Jim Ferrell, Mayor  
**FROM:** E.J. Walsh, P.E., Public Works Director  
Naveen Chandra, P.E., Senior Capital Engineer NC  
**SUBJECT:** Greenway Pavement Markings Phase I (2020) Project – Bid Results

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### **Financial Impacts:**

This project was included and is projected to be completed within the approved budget under capital project #220. In accordance with the approved budget this project is funded by fuel tax revenue. Upon completion of this project, ongoing costs associated with operations and maintenance will be performed and funded through streets maintenance. Funding requirements for operations and maintenance of infrastructure is reviewed and adjusted as required during the budget process.

### **Background Information:**

This project will install wayfinding signs and markings throughout the City directed at bicyclists, but which can also be used by pedestrians. As identified in the Bicycle and Pedestrian Master Plan which was adopted by City Council in 2012, the intent of the greenway concept is to encourage people who are interested in bicycling and walking for transportation, but intimidated by the roadway environment. It is estimated that 55% of Federal Way residents fall into this category. By addressing roadway conflicts, designating routes utilizing low-volume, low-speed streets, and making minor roadway improvements, it is hoped that the community will come to utilize these routes and feel safe in doing so. The Greenway Project will be completed in three phases due to budget constraints. The installations of signs are being performed by King County. The subject project includes installation of pavement markings for Phase I portion of the Greenway Project.

One (1) quote was received on June 25, 2020 for the Greenway Pavement Markings Phase I (2020) Project. Please see attached Bid Tabulation Summary. Staff recommends awarding the project to APPLY-A-LINE, LLC the lowest responsive, responsible bidder with a total quote of \$107,930.00.

### **ESTIMATED EXPENDITURES:**

Greenway Pavement Markings Phase I (2020) Project-Construction	\$107,930.00
10% Construction Contingency	\$10,793.00
Greenway Pavement Markings Phase I (2020) Project – CM (10%)	\$25,000.00
Design (To Date)	\$46,277.00
Signs Fabrication (All Phases)	\$40,000.00
Signs Installation (All Phases)	\$70,000.00
Signs Installation – CM (10%)	\$20,000.00
<b>Total Project Costs</b>	<b>\$ 320,000.00</b>

### **AVAILABLE FUNDING:**

Capital Project # 220 Funds	\$ 320,000.00
<b>Total Project Costs</b>	<b>\$ 320,000.00</b>

BID TABULATION - Proj # 220: Greenway Pavement Markings Phase I (2020) Project										
RFQ										
BID OPENING DATE 25-JUNE-2020										
					Vendor Name ---->		BID # 1		ENGINEER'S ESTIMATE	
					Location ----->		APPLY-A-LINE, LLC			
							Pacific, WA			
NO.	SPEC DIV	ITEM			UNIT	APX. QTY	UNIT PRICE	TOTAL	UNIT PRICE	TOTAL
SCHEDULE A - ROADWAY IMPROVEMENTS										
1	1-04	UNEXPECTED SITE CHANGES			FA	1	\$2,000.00	\$2,000.00	\$2,000.00	\$2,000.00
2	1-09	MOBILIZATION			LS	1	\$7,500.00	\$7,500.00	\$7,000.00	\$7,000.00
3	1-10	PROJECT TEMPORARY TRAFFIC CONTROL			LS	1	\$35,000.00	\$35,000.00	\$15,000.00	\$15,000.00
4	1-10	PROJECT SIGNS (4'x8')			EA	2	\$550.00	\$1,100.00	\$1,300.00	\$2,600.00
5	8-22	PLASTIC BIKE DETECTION SYMBOL			EA	21	\$150.00	\$3,150.00	\$230.00	\$4,830.00
6	8-22	PLASTIC SHARED LANE MARKINGS			EA	88	\$350.00	\$30,800.00	\$400.00	\$35,200.00
7	8-22	PAINT SHARED LANE MARKINGS			EA	473	\$60.00	\$28,380.00	\$70.00	\$33,110.00
TOTAL SCHEDULE B							\$107,930.00		\$99,740.00	
(bid items include sales tax)										

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# CITY OF FEDERAL WAY

## CITY COUNCIL

### AGENDA BILL

**SUBJECT: ORDINANCE: SOUTH 320TH STREET ANNEXATION**

**POLICY QUESTION:**

Should the Council adopt an ordinance to annex land north of South 320<sup>th</sup> Street, south of South 316<sup>th</sup> Street, and west of 32<sup>nd</sup> Avenue South into the City of Federal Way?

**COMMITTEE: Land Use and Transportation Committee**

**MEETING DATE: July 6, 2020**

**CATEGORY:**

<input type="checkbox"/> Consent	<input checked="" type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing
<input type="checkbox"/> City Council Business	<input type="checkbox"/> Resolution	<input type="checkbox"/> Other

**STAFF REPORT BY:** Robert "Doc" Hansen, Planning Manager

**DEPT:** Community Development

**Attachments:** Staff Report  
Ordinance

**Options Considered:**

1. Adopt the proposed ordinance.
2. Do not adopt the proposed ordinance.

**MAYOR'S RECOMMENDATION:** Mayor Ferrell recommends approval of the Ordinance

**MAYOR APPROVAL:**

*J. G. [Signature]*  
Committed  
Initial/Date

*J. G. [Signature]*  
Council  
Initial/Date

**DIRECTOR APPROVAL:**

*[Signature]*  
Initial/Date

**COMMITTEE RECOMMENDATION:** *I move to forward the proposed ordinance to First Reading on July 7, 2020*

Mark Koppang, Committee Chair

Martin Moore, Committee Member

Hoang Tran, Committee Member

**PROPOSED COUNCIL MOTION(S):**

**FIRST READING OF ORDINANCE (JULY 7, 2020):** *"I move to forward approval of the ordinance for annexation to the City Council meeting for enactment."*

**SECOND READING OF ORDINANCE (JULY 21, 2020):** *"I move approval of the proposed ordinance for annexation."*

*(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)*

**COUNCIL ACTION:**

- ☐ APPROVED
- ☐ DENIED
- ☐ TABLED/DEFERRED/NO ACTION
- ☐ MOVED TO SECOND READING (*ordinances only*)

REVISED – 2/2020

**COUNCIL BILL #**

First reading

Enactment reading

**ORDINANCE #**

**RESOLUTION #**



## LAND USE AND TRANSPORTATION COMMITTEE STAFF REPORT

**DATE:** July 6, 2020

**TO:** Mark Koppang, Chair, Land Use and Transportation Committee

**VIA:** Jim Ferrell, Mayor of the City of Federal Way *JF* 6/25/20

**FROM:** Brian Davis, Community Development Director *Brian Davis*  
Robert "Doc" Hansen, Planning Manager *RH*

**SUBJECT:** Action to Annex Property North of South 320<sup>th</sup> Street, South of South 316<sup>th</sup> Street, and West of 32<sup>nd</sup> Avenue South

### I. FINANCIAL IMPACT

The approval of the petition presented will not cost the City any additional funds. If the City decides to annex the property described in the report, the City will be obligated to provide public services to the annexed area, and will receive tax benefits from the developed or undeveloped land.

### II. BACKGROUND

On March 17, 2020, the City Council, after conducting a public hearing, approved annexation of land, and requested the Community Development staff submit a request to the King County Boundary Review Board (BRB) to review the approved annexation. Upon a 45-day review, the BRB approved the annexation on June 1, 2020. A June 8, 2020, letter is provided (Exhibit A) verifying the approval of the annexation. The property is just over 21 acres and is comprised of seven parcels. The report prepared for you on March 17, 2020, is enclosed for your review (Exhibit C).

### III. PROPERTY INFORMATION

The total area proposed for annexation is 21.44 acres. The property for annexation is located north of South 320<sup>th</sup> Street, west and adjacent to 32<sup>nd</sup> Avenue South and south of South 316<sup>th</sup> Street (Exhibit B). Following is a breakdown of tax parcel numbers and the size of each parcel to be annexed:

092104 9028	5.26
092104 9139	9.15
092104 9316	0.36
092104 9187	2.09
092104 9140	2.28
092104 9160	1.96
092104 9206	<u>0.34</u>

*21.44 acres*

Access to the proposed annexation area is from South 320th Street, South 316th Street, and 32nd Avenue South. South 320th and 316th Streets are improved rights-of-way. Thirty-second Avenue South borders the annexation area on the east will become an improved public right-of-way from development on the site.

The property is currently pre-designated as “Community Business” in the comprehensive plan. *Federal Way Revised Code* (FWRC) 1.35.020(b), states that, “the area annexed to the city shall retain the comprehensive plan classification.” Therefore, as annexed, the property will be zoned as “Community Business.”

There will be no City expenditures associated with the annexation. The City can provide police services without additional cost. The County will loose \$9,724 in property taxes and the City will gain \$5,044.

Annexation into the City of Federal Way should have positive impact on the area’s likelihood of achieving its employment growth target.

#### **IV. Recommendation**

The City Council has two options available for action. It may pass the ordinance as approved by the BRB or to deny the ordinance for annexation.

The Mayor recommends that the City Council pass the ordinance.

#### **LIST OF EXHIBITS**

- Exhibit A Letter from Boundary Review Board Approval of Annexation
- Exhibit B Final Legal and Map of the Area Approved by the Boundary Review Board for Annexation
- Exhibit C March 17, 2020 Report to the Council

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE of the City of Federal Way, Washington, relating to annexing approximately twenty-one (21) acres known as the “S. 320<sup>th</sup> Street Annexation,” into the City pursuant to RCW 35A.14.120; assigning zoning and comprehensive plan designations upon annexation; requiring assumption of a proportionate share of City indebtedness and providing for severability and an effective date.**

---

WHEREAS, The Federal Way City Council (Council) adopted Chapter 8 of the Federal Way Comprehensive Plan, last amended by Ordinance 15-796 in 2015, establishing planning goals, policies and implementation strategies for Potential Annexation Areas (PAAs) in accordance with Chapter 36.70A RCW; and

WHEREAS, pursuant to RCW 35A.14.120 the City Council on November 19, 2019, accepted a 10% petition for the “S. 320<sup>th</sup> Street” proposed annexation area shown in Exhibit A, which action authorized the circulation of a 60% petition for annexation subject to conditions that the area be designated and zoned Community Business (BC) and further that the area assume its proportionate share of the City’s indebtedness; and

WHEREAS, pursuant to RCW 35A.14.120, on January 15, 2020, the annexation initiators filed with the City a petition, attached Exhibit B, signed by property owners representing more than 60% of the current total assessed value of all parcels within the proposed annexation area; and

WHEREAS, pursuant to RCW 35A.01.040 the King County Assessor's Office on January 15, 2020, certified the 60% petition as sufficient (Exhibit C); and

WHEREAS, the annexation area is contiguous with the existing City limits and within unincorporated King County, and may generally be described as an area of approximately twenty-one (21) acres, bounded on the west by Interstate 5, on the north by a residential neighborhood, the east

*Ordinance No. 20-\_\_\_\_\_*

*Page 1 of 4*  
*Rev 2/19*

by the future 32nd Avenue S., and the south by S. 320th Street, as depicted in the legal description map and attached as Exhibit D and said unincorporated area is within the City's Urban Growth Area; and

WHEREAS, on March 17, 2020 a properly noticed public hearing was held pursuant to RCW 35A.14.130 and all persons who wished to provide testimony were heard. At that hearing the City Council considered the S. 320<sup>th</sup> Street Annexation, land use and zoning designations, and then issued a Notice of Intent to Annex and adopt land use and zoning designations for the annexed parcels by passing Resolution 20-783; and

WHEREAS, on April 10, 2020 the City submitted a Notice of Intent to the King County Boundary Review Board and the Board reviewed said Notice and associated materials and deemed said Notice of Intent complete issuing an effective filing date of April 15, 2020.

WHEREAS, on May 31, 2020 the 45-day notice and review period as required under Chapter 36.93.100 RCW lapsed and the jurisdiction of the Boundary Review Board was not invoked.

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

Section 1. Annexation. The property described and depicted in attached Exhibit D is hereby annexed into the City of Federal Way.

Section 2. Indebtedness. The area described in the attached Exhibit D shall be required to assume its proportionate share of the general indebtedness of the City of Federal Way at the time of the effective date of such annexation.



Section 3. Land Use. The area described in attached Exhibit D, shall be designated in the City's Comprehensive Plan as BC (Community Business) and the on the City's Official Zoning Map as BC (Community Business).

Section 4. Publication/Effective Date. A summary of this ordinance consisting of its title shall be published in the official newspaper of the City. This ordinance shall take effect and be in force five (5) days after the date of publication.

Section 5. Transmission. Upon passage of this ordinance a certified copy shall be transmitted to the Clerk of the King County Council as required by Chapter 35A.14.440 RCW, as well as the Office of Financial Management (OFM) and all special purpose districts as required.

Section 6. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or situation, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation. The City Council of the City of Federal Way hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clauses, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

Section 7. Corrections. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 8. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Ordinance No. 20-\_\_\_\_\_

Page 3 of 4  
Rev 2/19

PASSED by the City Council of the City of Federal Way this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF FEDERAL WAY:

\_\_\_\_\_  
JIM FERRELL, MAYOR

ATTEST:

\_\_\_\_\_  
STEPHANIE COURTNEY, CMC, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
J. RYAN CALL, CITY ATTORNEY

FILED WITH THE CITY CLERK:	_____
PASSED BY THE CITY COUNCIL:	_____
PUBLISHED:	_____
EFFECTIVE DATE:	_____
ORDINANCE NO.:	_____

Ordinance No. 20-\_\_\_\_\_

Page 4 of 4  
Rev 2/19



## *Washington State Boundary Review Board*

### *For King County*

*Yesler Building, 400 Yesler Way, Room 205, Seattle, WA 98104*

*Phone: (206) 477-0633 • [www.kingcounty.gov/brb](http://www.kingcounty.gov/brb)*

June 8, 2020

Robert Hansen, Planning Manager  
City of Federal Way  
33325 8<sup>th</sup> Ave. South  
Federal Way, WA 98003-6325

RE: CLOSING LETTER FOR COMPLETED ACTION –  
**File No. 2401 – City of Federal Way – S. 320<sup>th</sup> Street Annex.**

Dear Mr. Hansen:

We are writing to advise you that the Boundary Review Board has now completed the required evaluation, as specified in RCW 36.93, for the above-referenced proposed action filed with the Board effective **April 15, 2020.**

The Boundary Review Board also provided a 45-day public review period, as prescribed by RCW 36.93. The Board received no request for a public hearing of this proposed action during the public review period.

The Boundary Review Board, therefore, hereby deems this proposed action approved effective **June 1, 2020.** Final approval of the proposed action is also subject to the following actions, where applicable:

1. Sewer and Water District actions and some other actions are also subject to approval by the Metropolitan King County Council. If the Council makes changes to the proposal, the Board may then be required to hold a public hearing.
2. Filing with King County of franchise application(s), as required, accompanied by a copy of this letter.
3. Filing with King County of permit application(s), as required, accompanied by a copy of this letter.
4. Fulfillment of all other statutory requirements and/or procedures specified in your Notice of Intention.

[OVER]

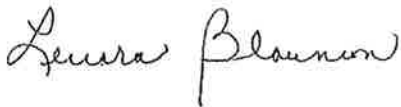
5. Notification in writing of your intended effective date of annexation. This notification should be provided as early as possible. Please send this information to:

Karen Wolf, Section Manager  
Strategic Planning and Policy Section  
King County Office of Performance, Strategy and Budget (OPSB)  
401 Fifth Avenue, Suite 810  
Seattle, Washington 98104

6. Filing with King County Council of: (1) one certified copy of final resolution or ordinance accomplishing this proposed action; and (2) a copy of this letter. This document should be filed with the Clerk of the Council (Attn: Melani Pedroza), King County Courthouse, Room 1200, Seattle, Washington 98104.

If you have questions or would like additional information, please contact our office at (206)-477-0633.

Sincerely,



Lenora Blauman  
Executive Secretary

cc: Melani Pedroza, Clerk of the Council  
Mike Reed, Council Administration  
Dave Wilson, Elections Division  
Danielle Petty, Department of Assessment  
Hong Nguyen, WLRD  
Toni Carpenter, KCGIS  
Lydia Reynolds-Jones, Manager, Road Services Division, Dept. of Local Services  
Rey Sugui, Department of Local Services  
Janise Fessenden, Senior Database Specialist, King County 911 Program  
Director, Permitting Division, Department of Local Services  
Karen Wolf, Office of Performance, Strategy and Budget (OPSB)  
Jae Hill, Department of Natural Resources  
Connie Wong, Facilities Management Division, Real Estate Section



TOYER STRATEGIC  
CONSULTING

19-104643-AX

19-104644-SE

RECEIVED

SEP 26 2019

CITY OF FEDERAL WAY  
COMMUNITY DEVELOPMENT

September 26, 2019

Doc Hansen, Planning Manager  
Margaret Clark, Principal Planner  
City of Federal Way  
33325 8th Ave. South  
Federal Way, WA 98003

**Transmittal of 10% Letter of Intent for S. 320<sup>th</sup> Street Annexation**

Dear Doc & Margaret:

As you are aware, I am representing the Initiators of the S. 320<sup>th</sup> Street Annexation.

Attached you will find a petition (a/k/a letter of intent) representing 15% of the 2019 tax year assessed valuation for the area proposed for annexation as set forth in the attached legal description and map, which petition exceeds the 10% threshold required to initiate a direct petition method annexation.

Land Use & Zoning Designations

This 10% petition for annexation requests the City assign this area a land use designation of Community Business (BC) and zoning of Community Business (BC). This request is consistent with the land use designation and zoning addressed for this potential annexation area (PAA) adopted by the City's existing comprehensive plan.

SEPA & Land Use Procedures

Recognizing that prior to adoption of an annexation the City must go through Planning Commission and the City Council to review this request, we have also attached a completed SEPA Checklist (for a non-project action) along with the required SEPA review fees.

Requested Timing

We respectfully request that the City initiate the process to allow consideration this 10% petition, as well as the requested land use and zoning designations as follows:

**October 15, 2019**

**Council Meeting with Initiators to Consider the Petition**

- We request Council review the annexation proposed and take action (at this meeting) on a resolution accepting the 10% petition and directing circulation of a 60% petition subject to the conditions that the land use designation and zoning be Community Business (BC) and the assumption of a prorated share of the city's indebtedness.

**November 6, 2019**

**Planning Commission Public Hearing on the Land Use Designation and Zoning**

- We request that the City schedule the public hearing to consider the land use designation and zoning to allow the opportunity for the City Council to hold a public hearing on this land use decision and the 60% petition at the same future meeting time.

The table shown on the next page summarizes the parcels proposed to be included within the annexation, except that it does not reflect that portion of right-of-way along 32<sup>nd</sup> Avenue S. which (as shown in the attached map) is proposed to be included in this annexation to ensure the boundary conforms to general annexation criteria for drawing logical boundaries, etc.

### S. 320th Street Annexation (Federal Way)

Name of Property Owner	Parcel Number	Acres	Valuation (Current)	% of Total Valuation	Included in 10% Petition
Henderson Family Trust	092104-9140	2.28	\$ 994,100.00	19%	
Judy James	092104-9206	0.34	\$ 146,700.00	3%	
Birk, Singh, Johal, Singh	092104-9160	1.96	\$ 996,700.00	19%	
<b>William &amp; Patti Pruett Trust</b>	<b>092104-9028</b>	<b>5.26</b>	<b>\$ 805,000.00</b>	<b>15%</b>	<b>15%</b>
Randgroup LLC	092104-9139	9.15	\$ 1,036,500.00	20%	
Randgroup LLC	092104-9316	0.36	\$ 154,700.00	3%	
Sqaw Peak Properties	092104-9187	2.09	\$ 1,077,600.00	21%	
			<b>\$ 5,211,300.00</b>	<b>100%</b>	<b>15%</b>

Thank you again for all your assistance. Please let me know if you have any questions.

Very Sincerely,



David K. Toyer  
/founder/

## NOTICE OF INTENT TO ANNEX – 320TH ANNEXATION

### DECLARATION

We, the undersigned, are owners of real property lying outside of the corporate limits of the city of Federal Way, Washington, but contiguous thereto and designated as part of the Federal Way Urban Growth boundary.

We, the undersigned, owning in excess of 10% of the total value of the area formed by our property and that between and abutting the city of Federal Way, Washington; do hereby declare our intention to circulate a petition for annexation to the city of Federal Way, Washington under the direct petition method for the area attached hereto in Exhibit A (map) and Exhibit B (legal description). It is acknowledged that this petition may consist of multiple documents filed separately.

We, the undersigned, request the City assign concurrent zoning and the assumption of a proportionate share of the City's bonded indebtedness. And that zoning applied to this area be Community Business (BC) as shown on the City's pre-annexation zoning map (Comprehensive Plan, Chapter 8, Map VIII-7, page 43):

- a. Assumption of a proportionate share of the City's bonded indebtedness.
- b. Upon the effective date of annexation ordinance that the property within the annexed area be designated in the City's Comprehensive Plan as Community Business (BC) and zoned Community Business (BC).

### AUTHORIZATION

The printed names and signatures of all persons having an interest in real property in the area formed by their property and that between and abutting the city of Federal Way whose consent is required by virtue of such interest to authorize the filing of this notice are hereto attached.

Name of Property Owner (Print Clearly)	Signature of Property Owner	Date Signed	Property Address or Assessor's Parcel Number	Acres
WILLIAM V. PRUETT JR & PATTI A. PRUETT TRUST	<i>William V. Pruett Jr</i> <i>Patti A. Pruett</i>	9-20-19	092104-9028	5.26

EACH SIGNATURE PAGE MUST CONTAIN THE DECLARATION AND CONDITIONS SO DESCRIBED ABOVE, AS WELL AS A COPY OF BOTH EXHIBITS

### WARNING:

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

RECEIVED

SEP 26 2019

CITY OF FEDERAL WAY  
COMMUNITY DEVELOPMENT

**NOTARIZED SUMMARY OF TRUST**  
**THE WILLIAM V. PRUETT, JR. AND PATTI A. PRUETT**  
**REVOCABLE LIVING TRUST**

The undersigned hereby certify that they created a Revocable Living Trust. This Trust is known as: **THE WILLIAM V. PRUETT, JR. AND PATTI A. PRUETT REVOCABLE LIVING TRUST**, dated Nov. 5, 1992, **WILLIAM V. PRUETT, JR. and PATTI A. PRUETT**, Trustors and Trustees, reside at 31625 32<sup>nd</sup> Avenue South, the City of Auburn, State of Washington, County of King.

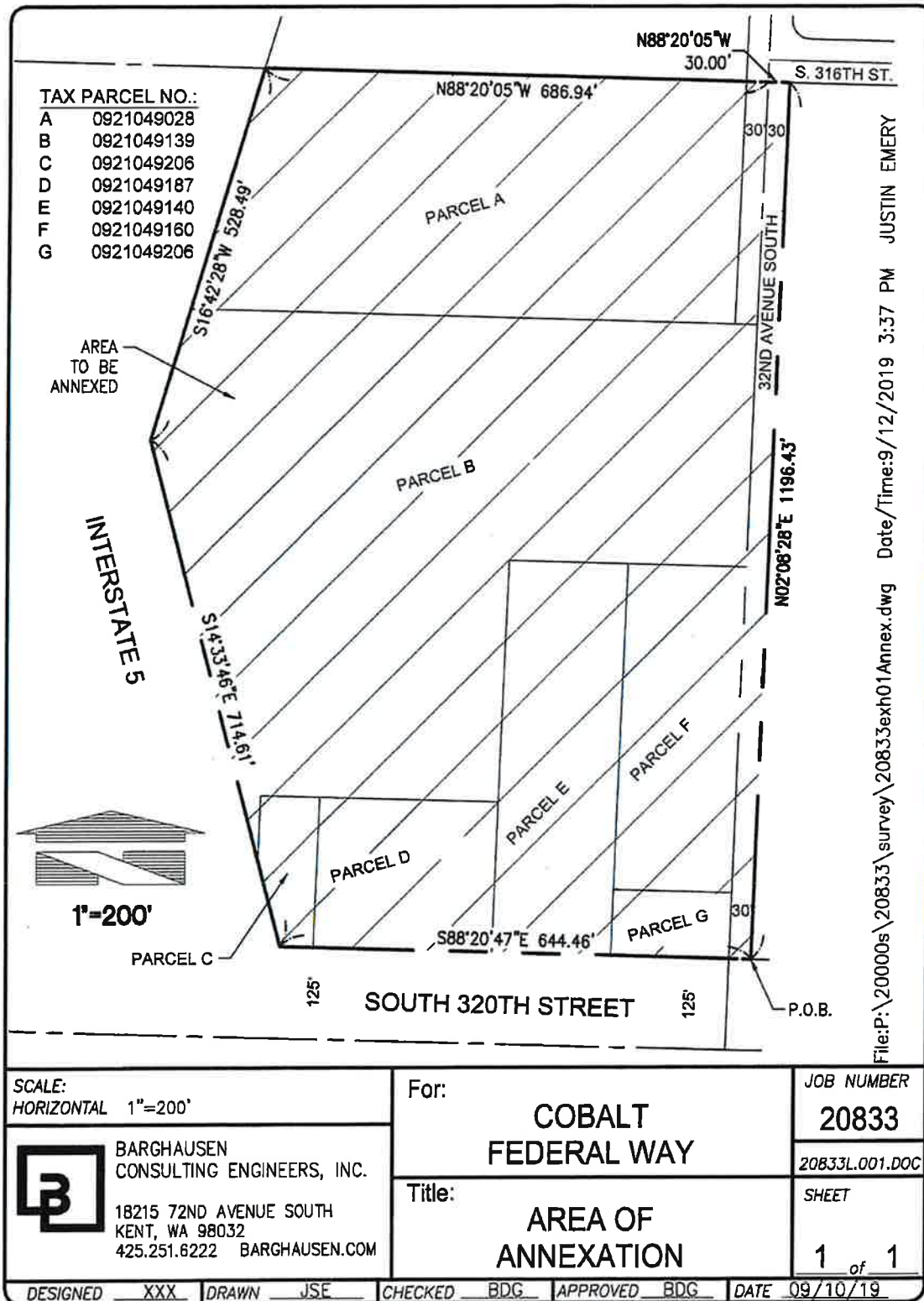
**IT IS AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS:**

**Description of Trust:**

The parties hereto desire to confirm the establishment of a Revocable Trust on this date, for the benefit of the Trustors (as husband and wife) and containing herein the following provisions:

1. The Trustors are designated as the Trustees to serve until both of their deaths, resignations or incompetence. Only one Trustee is required to execute any financial documents and/or transfer of real or personal property on behalf of any trust assets.
2. Upon the end of the terms of the original Trustees, **CORRINE WILDONER** is designated as First Successor Trustee. **WILLIE SUE BRANCH** is designated as Second Successor Trustee.
3. Upon the death of either Trustor, the surviving spouse retains the unlimited right to the Trust. She or he also retains a general power of appointment which can be exercised by will or by lifetime transfer over the Trust property.
4. Any single Trustee/Trustor has the power and authority to manage and control, buy, sell, and transfer the trust property, in such manner as the Trustee may deem advisable, and shall have, enjoy and exercise all powers and rights over and concerning said property and the proceeds thereof as fully and amply as though said Trustee were the absolute and qualified owner of same, including the power to grant, bargain, sell and convey, encumber and hypothecate, real and personal property (including but not limited to mortgages, deeds of trust and reverse mortgages), and the power to invest in corporate obligations of every kind, stocks, preferred or common, and to buy stocks, bonds and similar investments on margin or other leveraged accounts, except to the extent that such management would cause includability of an irrevocable trust in the Estate of a Trustee.



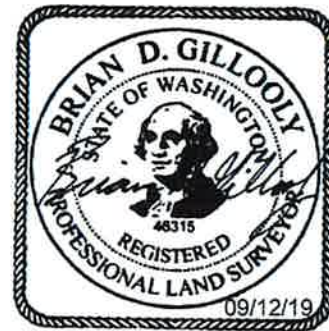


**LEGAL DESCRIPTION**

**AREA TO BE ANNEXED**

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9 AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 21 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, KING COUNTY, STATE OF WASHINGTON, DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST MARGIN OF 32ND AVENUE SOUTH AND THE NORTH MARGIN OF SOUTH 320TH STREET;  
THENCE ALONG SAID EAST MARGIN, NORTH 02°08'28" EAST, 1,196.43 FEET TO THE SOUTH MARGIN OF SOUTH 316TH STREET;  
THENCE DEPARTING SAID EAST MARGIN NORTH 88°20'05" WEST, 30.00 FEET TO THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER OF SAID SOUTHEAST QUARTER;  
THENCE CONTINUING NORTH 88°20'05" WEST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER OF SAID SOUTHEAST QUARTER, 686.94 FEET TO THE EAST MARGIN OF PRIMARY STATE HIGHWAY NO. 5;  
THENCE THE NEXT 2 COURSES ALONG SAID EAST MARGIN,  
SOUTH 16°42'28" WEST, 528.49 FEET;  
THENCE SOUTH 14°33'46" EAST, 714.61 FEET TO THE NORTH MARGIN OF SAID SOUTH 320TH STREET;  
THENCE ALONG SAID NORTH MARGIN, SOUTH 88°20'47" EAST, 644.46 FEET TO THE TRUE POINT OF BEGINNING.



Project Name: Cobalt Federal Way  
September 10, 2019

BDG / JSE  
20833L.001.doc



TOYER STRATEGIC  
CONSULTING

December 20, 2019

City of Federal Way  
Community Development  
33325 8th Ave. South  
Federal Way, WA 98003

King County Department of Assessment  
500 Fourth Ave.  
#ADM-AS-0708  
Seattle, WA 98104

**REQUEST FOR SUFFICIENCY DETERMINATION OF A 60% ANNEXATION PETITION  
FEDERAL WAY – 320<sup>th</sup> STREET ANNEXATION**

TO WHOM IT MAY CONCERN:

Attached please find an executed 60% petition for the 320<sup>th</sup> Street Annexation, including:

- ⇒ Signed "to-form" annexation petition as required by the City
- ⇒ Documentation supporting Lance Jorgensen's authority to sign on behalf of Papé Properties, Inc.
- ⇒ A legal description for the area to be annexed
- ⇒ A map of the area to be annexed
- ⇒ A spreadsheet indicating parcel numbers, assessed valuation and % of valuation signed

Papé Properties, Inc. became the owners of all seven parcels with the annexation area on December 9<sup>th</sup> and 10<sup>th</sup>, which transactions can be located at the following recording numbers:

<b><u>Recording #</u></b>	<b><u>Tax Parcel #</u></b>
20191210001552	092104-9160-09
20191209000175	092104-9316-02 & 092104-9139-07
20191209000174	092104-9140-04
20191209000172	092104-9206-05
20191209000170	092104-9187-08
20191209000169	092104-9028-01

Upon reaching a sufficiency determination, we respectfully request return of these documents along with said determination to the City of Federal Way at the address first listed above.

Should you have any questions, please do not hesitate to contact me at any time.

Very Sincerely,

David K. Toyer  
/founder/



DEPARTMENT OF COMMUNITY DEVELOPMENT  
33325 8<sup>th</sup> Avenue South  
Federal Way WA 98003  
253-835-7000  
[www.cityoffederalway.com](http://www.cityoffederalway.com)

## NOTICE OF INTENTION TO PETITION FOR ANNEXATION

TO: HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF FEDERAL WAY  
33325 8<sup>TH</sup> AVENUE SOUTH, FEDERAL WAY, WASHINGTON, 98003

The undersigned, who are a proportionate share of the existing city indebtedness and the owners of not less than sixty percent (60%) in value, according to the assessed valuation for general taxation of property for which annexation is sought, hereby advises the City Council of the City of Federal Way that it is the desire of the undersigned residents of the following area to commence annexation proceedings:

- The property referred to herein is outlined on the map marked Exhibit "A" and is described in Exhibit "B" attached hereto.

The undersigned agree that this petition is signed by a proportionate share of existing city indebtedness as required in the November 19, 2019 City Council Meeting.

*City Council Meeting Minute Entry:*

**MOTION:** Councilmember Koppang moved that the City Council accept the Notice of Intention to Petition for Annexation filed by the William V. Pruett, Jr. and Patti A. Pruett Trust on September 26, 2019, with conditions to not require adoption of new comprehensive plan and zoning designations and that the area to be annexed be required to assume a proportionate share of existing city indebtedness. Councilmember Moore seconded the motion. The motion carried 7-0.

It is requested that the City Council of the City of Federal Way set a date for a public hearing with the undersigned to determine:

1. Whether the City Council will accept the proposed annexation

Although there is no time limit specified in the annexation statutes as to when a petition needs to be filed with the Council after it has begun circulating for signatures, the signatures on a petition are valid only if signed no later than six months prior to the filing date, and any signatures older than six months are required to be stricken from the petition by the City Clerk at the time he or she certifies the petition.

This page is one of the group of pages containing identical text material and is intended by the signers of this Notice of Intention to be presented and considered as one Notice of Intention, and may be filed with other pages containing additional signatures which cumulatively may be considered as a single Notice of Intention.

**RECORD OF ACTION TAKEN WITHOUT MEETING  
BY THE DIRECTORS OF  
PAPE PROPERTIES, INC.**

The following action is taken by the Directors without a meeting but upon the unanimous written consent of the Directors as shown below:

RESOLVED, that the Directors of Papé Properties, Inc. approve the purchase of the following properties located in Federal Way, WA from the following sellers:

Seller's Name	Address	Parcel#
Rand Group, LLC	3001 S. 320th Street, Federal Way WA 98003	921049139
Rand Group, LLC	3010 S. 320th Street, Federal Way, WA 98003	921049316
Squaw Peak Properties, LLC	3014 S. 320th Street, Federal Way WA 98003	921049187
Henderson Family Trust	3112 S. 320th Street, Federal Way WA 98003	921049140
Judy James	3114 S. 320th Street, Federal Way WA 98003	921049206
Birkirandeep Singh, Balbir Birk, Sukhraj Singh, Lukbinder Johal	3126 S. 320th Street, Federal Way WA 98003	921049160
William Pruett and Patti Pruett	31625 32nd Ave S., Auburn WA 98001	921049028

for a total aggregate purchase price of not more than \$7,700,000 in each case pursuant to a Real Estate Purchase and Sale Agreement, a copy of each of which is attached as Exhibits A through G hereto; and

FURTHER RESOLVED, that each of Lance Jorgensen, Seth Smythe and Randall Jordan Papé is hereby authorized to sign all documents required to complete this transaction.

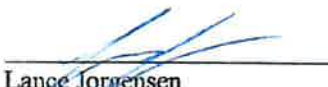
EFFECTIVE DATE: December 3, 2019

APPROVED:

  
Mary Susan Papé

  
Randall Jordan Papé

  
Seth Smythe

  
Lance Jorgensen

	OWNER'S SIGNATURE	PRINTED NAME	ADDRESS & PARCEL	DATE SIGNED
1.		LANCE JORGENSEN	31625 32ND AVE S 98003 0921049028	12/16/19
2.		LANCE JORGENSEN	NO SITE ADDRESS 092104-9139	12/16/19
3.		LANCE JORGENSEN	3001 S 320TH ST 98003 092104-9316	12/16/19
4.		LANCE JORGENSEN	3014 S 320TH ST 98003 092104-9187	12/16/19
5.		LANCE JORGENSEN	NO SITE ADDRESS 092104-9140	12/16/19
6.		LANCE JORGENSEN	NO SITE ADDRESS 092104-9160	12/16/19
7.		LANCE JORGENSEN	3114 S 320TH ST 98003 092104-9206	12/16/19

NOTE: EACH SIGNATURE PAGE MUST CONTAIN THE DECLARATION AND CONDITIONS SO DESCRIBED ABOVE, AS WELL AS A COPY OF BOTH EXHIBITS ATTACHED THERETO

**WARNING:**

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

**LEGAL DESCRIPTION**

**AREA TO BE ANNEXED**

THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 9 AND THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 21 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, KING COUNTY, STATE OF WASHINGTON, DESCRIBED AS FOLLOWS:

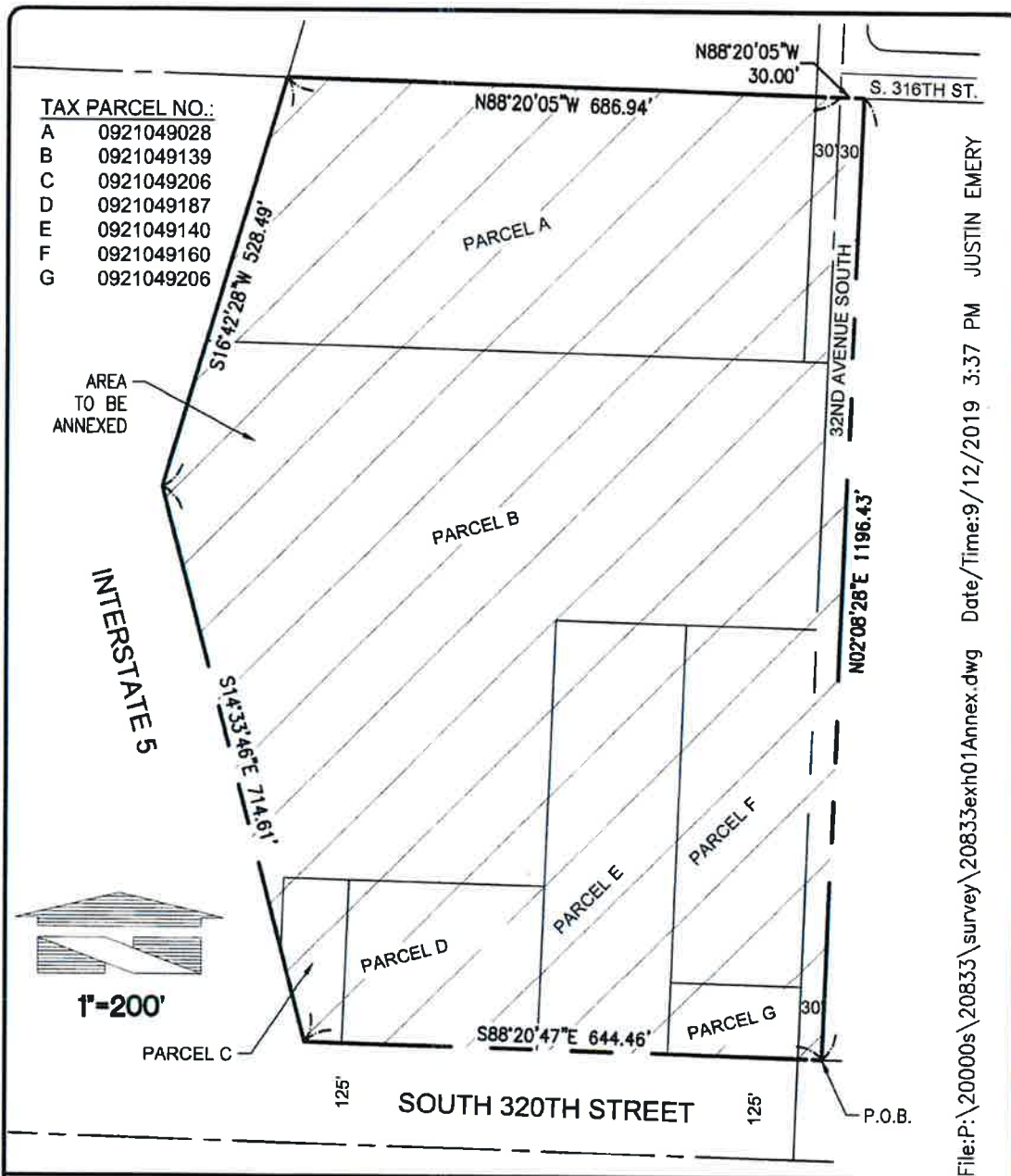
BEGINNING AT THE INTERSECTION OF THE EAST MARGIN OF 32ND AVENUE SOUTH AND THE NORTH MARGIN OF SOUTH 320TH STREET;  
THENCE ALONG SAID EAST MARGIN, NORTH 02°08'28" EAST, 1,196.43 FEET TO THE SOUTH MARGIN OF SOUTH 316TH STREET;  
THENCE DEPARTING SAID EAST MARGIN NORTH 88°20'05" WEST, 30.00 FEET TO THE NORTHEAST CORNER OF SAID SOUTHEAST QUARTER OF SAID SOUTHEAST QUARTER;  
THENCE CONTINUING NORTH 88°20'05" WEST ALONG THE NORTH LINE OF SAID SOUTHEAST QUARTER OF SAID SOUTHEAST QUARTER, 686.94 FEET TO THE EAST MARGIN OF PRIMARY STATE HIGHWAY NO. 5;  
THENCE THE NEXT 2 COURSES ALONG SAID EAST MARGIN,  
SOUTH 16°42'28" WEST, 528.49 FEET;  
THENCE SOUTH 14°33'46" EAST, 714.61 FEET TO THE NORTH MARGIN OF SAID SOUTH 320TH STREET;  
THENCE ALONG SAID NORTH MARGIN, SOUTH 88°20'47" EAST, 644.46 FEET TO THE TRUE POINT OF BEGINNING.




Project Name: Cobalt Federal Way  
September 10, 2019

BDG / JSE  
20833L.001.doc





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SCALE: HORIZONTAL 1"=200'		For: <b>COBALT FEDERAL WAY</b>	JOB NUMBER <b>20833</b>
 BARGHAUSEN CONSULTING ENGINEERS, INC. 18215 72ND AVENUE SOUTH KENT, WA 98032 425.251.6222 BARGHAUSEN.COM		Title: <b>AREA OF ANNEXATION</b>	20833L.001.DOC SHEET <b>1 of 1</b>
DESIGNED XXX	DRAWN JSE	CHECKED BDG	APPROVED BDG
DATE 09/10/19			



### S. 320th Street Annexation (Federal Way)

Parcel Number	Acres	Valuation	% of Total Valuation
092104-9140	2.28	\$ 994,100.00	19%
092104-9206	0.34	\$ 146,700.00	3%
092104-9160	1.96	\$ 966,700.00	19%
092104-9028	5.26	\$ 805,000.00	16%
092104-9139	9.15	\$1,036,500.00	20%
092104-9316	0.36	\$ 154,700.00	3%
092104-9187	2.09	\$1,077,600.00	21%
		<u>\$5,181,300.00</u>	<u>100%</u>



## **King County**

Department of Assessments

Accounting Division

500 Fourth Avenue, ADM-AS-0725

Seattle, WA 98104-2384

(206) 263-2381 FAX (206) 296-0106

Email: [assessor.info@kingcounty.gov](mailto:assessor.info@kingcounty.gov)

<http://www.kingcountv.gov/assessor/>

**John Wilson**

*Assessor*

## **ANNEXATION PETITION CERTIFICATION**

THIS IS TO CERTIFY that the petition submitted December 26, 2019 to the King County Department of Assessments by David Toyer, President Toyer Strategic Advisors, Inc., supporting the annexation to the City of Federal Way of the properties described as the 320<sup>th</sup> Street Annexation, has been examined, the property taxpayers, tax parcel numbers, and assessed values of each property listed thereon carefully compared with the King County tax roll records, and as a result of such examination, found to be sufficient under the provisions of the Revised Code of Washington, Section 35A.01.040.

The Department of Assessments has not verified that the signatures on the petition are valid through comparison with any record of actual signatures, nor that the signatures were obtained or submitted in an appropriate time-frame and this document does not certify such to be the case.

Dated this 15th day of January, 2020

John Wilson, King County Assessor

**LEGAL DESCRIPTION**

**AREA TO BE ANNEXED**

THAT PORTION OF THE SOUTHEAST QUARTER OF SECTION 9 AND THE SOUTHWEST QUARTER OF SECTION 10, TOWNSHIP 21 NORTH, RANGE 4 EAST, WILLAMETTE MERIDIAN, KING COUNTY, STATE OF WASHINGTON, DESCRIBED AS FOLLOWS:

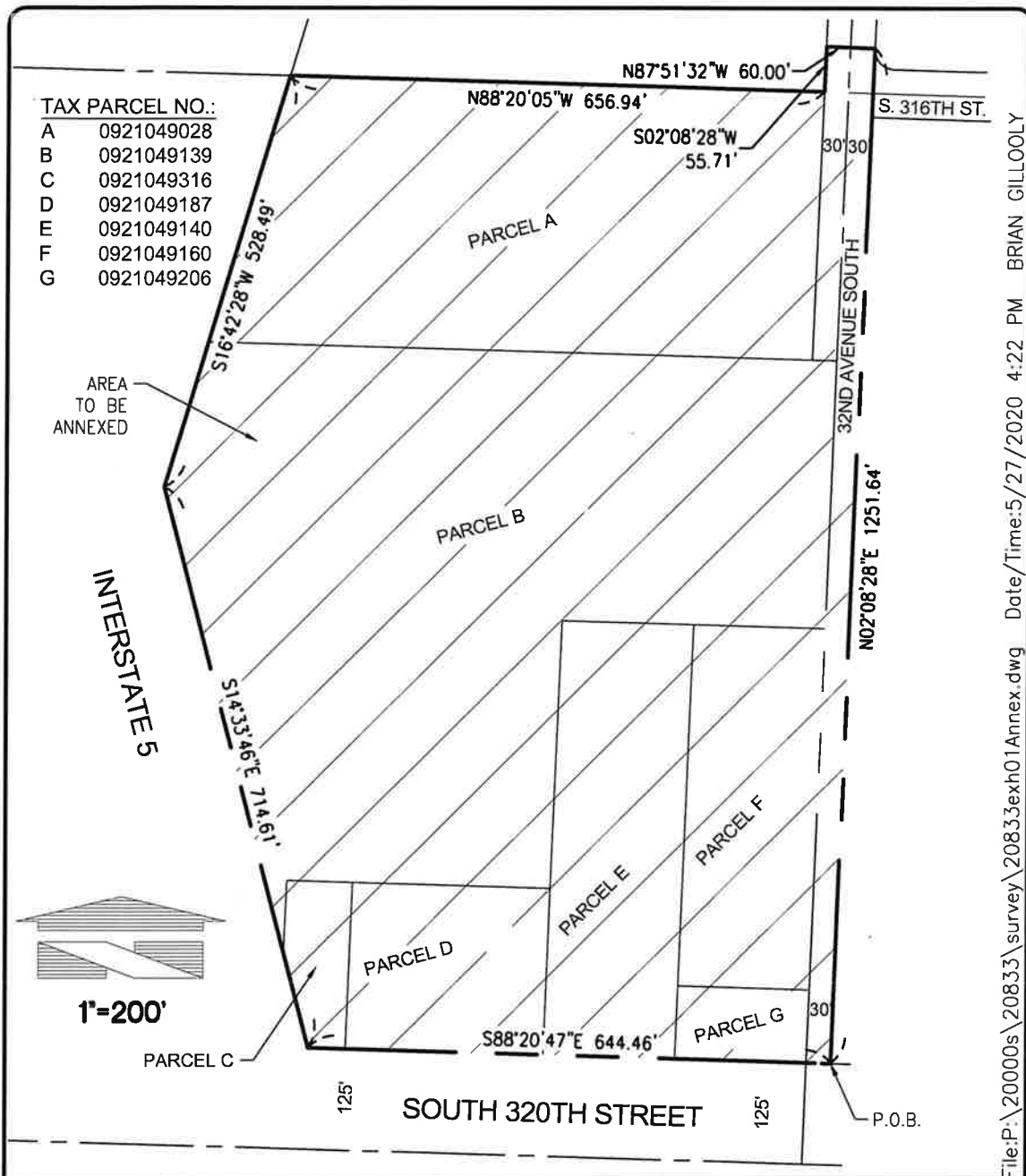
BEGINNING AT THE INTERSECTION OF THE EAST MARGIN OF 32ND AVENUE SOUTH AND THE NORTH MARGIN OF SOUTH 320TH STREET;  
THENCE ALONG SAID EAST MARGIN, NORTH 02°08'28" EAST, 1,251.64 FEET TO A POINT OF CURVATURE OF THE NORTH MARGIN OF SOUTH 316TH STREET;  
THENCE WESTERLY AT RIGHT ANGLES, NORTH 87°51'32" WEST, 60.00 FEET TO THE WESTERLY MARGIN OF SAID 32ND AVENUE SOUTH;  
THENCE SOUTH 02°08'28" WEST, 55.71 FEET ALONG SAID WESTERLY MARGIN TO THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SOUTHEAST QUARTER;  
THENCE NORTH 88°20'05" WEST ALONG SAID NORTH LINE, 656.94 FEET TO THE EAST MARGIN OF PRIMARY STATE HIGHWAY NO. 5;  
THENCE SOUTH 16°42'28" WEST, 528.49 FEET ALONG SAID EAST MARGIN;  
THENCE SOUTH 14°33'46" EAST, 714.61 FEET ALONG SAID EAST MARGIN TO THE NORTH MARGIN OF SAID SOUTH 320TH STREET;  
THENCE ALONG SAID NORTH MARGIN, SOUTH 88°20'47" EAST, 644.46 FEET TO THE TRUE POINT OF BEGINNING.

CONTAINING 915,776 SQUARE FEET, MORE OR LESS.




Project Name: Cobalt Federal Way  
May 27, 2020

BDG / JSE  
20833L.001.doc



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SCALE: HORIZONTAL 1"=200'		For: <b>COBALT FEDERAL WAY</b>	JOB NUMBER <b>20833</b>
 <b>BARGHAUSEN CONSULTING ENGINEERS, INC.</b>  18215 72ND AVENUE SOUTH KENT, WA 98032 425.251.6222 BARGHAUSEN.COM		Title: <b>AREA OF ANNEXATION</b>	20833L.001.DOC  SHEET <b>1 of 1</b>
		DESIGNED <u>XXX</u> DRAWN <u>JSE</u> CHECKED <u>BDG</u> APPROVED <u>BDG</u> DATE <u>05/27/20</u>	

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# CITY OF FEDERAL WAY

## CITY COUNCIL

### AGENDA BILL

**SUBJECT: ORDINANCE: AMEND 19.142 FWRC, FLOOD DAMAGE PREVENTION IN ORDER TO CONTINUE PARTICIPATION IN THE NATIONAL FLOOD INSURANCE PROGRAM**

**POLICY QUESTION:** Should the City Council amend the FWRC 19.142, Flood Damage Prevention,

**COMMITTEE:** Land Use and Transportation

**MEETING DATE:** July 6, 2020

**CATEGORY:**

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Consent               | <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Public Hearing |
| <input type="checkbox"/> City Council Business | <input type="checkbox"/> Resolution           | <input type="checkbox"/> Other          |

**STAFF REPORT BY:** Doc Hansen, Planning Manager


**DEPT:** Community Development

**Attachments:** Staff Report  
Ordinance

**Options Considered:**

1. To adopt the proposed ordinance
2. To not adopt the proposed ordinance and provide direction to staff.

**MAYOR'S RECOMMENDATION:** Option 1: To adopt the proposed ordinance

**MAYOR APPROVAL:**  for  
Mayor Ferrell

**DIRECTOR APPROVAL:**   
6-30-2020

6-30-2020

Committee  
Initial/Date

Council  
Initial/Date

Initial/Date

**COMMITTEE RECOMMENDATION:** *I move to forward the proposed ordinance to First Reading on July 21, 2020 Council meeting*

Mark Koppang, Committee Chair

Martin Moore, Committee Member

Hoang Tran, Committee Member

**PROPOSED COUNCIL MOTION(S):**

**FIRST READING OF ORDINANCE (JULY 21):** *"I move to forward the proposed ordinance to the August 11, 2020 Council Meeting for second reading and enactment."*

**SECOND READING OF ORDINANCE (AUGUST 11):** *"I move approval of the proposed ordinance."*

(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)

**COUNCIL ACTION:**

- ☐ APPROVED
- ☐ DENIED
- ☐ TABLED/DEFERRED/NO ACTION
- ☐ MOVED TO SECOND READING (*ordinances only*)

**COUNCIL BILL #** \_\_\_\_\_

First reading \_\_\_\_\_

Enactment reading \_\_\_\_\_

**ORDINANCE #** \_\_\_\_\_

**RESOLUTION #** \_\_\_\_\_





## CITY OF FEDERAL WAY M E M O R A N D U M

**DATE:** July 6, 2020

**TO:** Mark Koppang, Chair of Land Use Transportation Committee

**VIA:** Jim Ferrell, Mayor

**FROM:** Brian Davis, Community Development Director   
Robert "Doc" Hansen, Planning Manager 

**SUBJECT:** Amendments to Chapter FWRC 19.142 Regarding Flood Damage Prevention

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### **I. FINANCIAL IMPACT**

The approval of the following proposed Code amendment will not cost the City any additional funds, and will require no transfer of general funds for the action.

### **II. BACKGROUND**

In February, new digital maps designating the City of Federal Way's coastal area and determining the floodplains location were adopted by Federal Emergency Management Agency (FEMA) and the State of Washington. On February 19, 2020, the City was sent a letter from the FEMA regarding amendments that need to be made to FWRC 19.142 to meet to the new Federal floodplain standards. The amendments are necessary for the City to keep flood insurance through the National Flood Insurance Program provided by the Federal government.

Most lands considered "floodplains," or special flood hazard area (SFHA), are located on the City's coastline according to past Floodplain Insurance Rate Maps (FIRM). The new digitized maps to be adopted and which go into effect on August 19<sup>th</sup> will not significantly change these previous maps. The new language will minimally affect areas classified under the program as VE and AE zones under the new digital floodplain maps approved.

### **III. PROPOSED CHANGES TO CODE**

The draft proposed code amendments are attached as Exhibit A at the end of this brief. The amendments will mainly place more responsibility on local governments for implementation and place greater limitation on developments in areas that have more environmental significance. In summary, proposed amendments would:

1. Amend and add a number of definitions to the Code, many of which are designed to provide clarity to intentions of the regulation relating to substantial improvement, meaning of new

construction, and reference to measuring water level. Manufactured Homes are identified more specifically in a number of definitions as are historic structures for their protection.

2. Reference the effective date that new maps will be used.
3. Place more responsibility upon local agencies in approving permits and variances.
4. Require the Director to notify the Federal Insurance Administrator whenever development may change the mean sea level on the property.
5. Provide greater distinction between the “AE” zone and the more environmental sensitive “VE” zone as identified on the new maps by placing greater restriction to development proposed in the “VE” zone.
6. Require manufactured home parks to be considered subdivisions in order to be considered under flood insurance program.

#### **IV. PLANNING COMMISSION ACTION**

Per Code, the Planning Commission held a public hearing and made recommendation to the City Council on proposed code amendments. Public Notice was made in the official newspaper on June 15, 2020 and was posted on line. No comments were received regarding the proposal. The Planning after public hearing and discussion unanimously agreed to pass the proposal to City Council with recommendation for approval.

#### **V. TIMELINE**

The planned actions to amend FWRC 19.142 are as shown below:

1. Notice of Planning Commission Public Hearing – May 29, 2020
2. SEPA DNS Notice issued – May 15, 2020
3. Planning Commission Public Hearing – June 15, 2020
4. Land Use/Transportation Committee Public Meeting – July 6, 2020
5. City Council Public Meeting 1<sup>st</sup> Reading of Ordinance – July 21, 2020
6. City Council Public Meeting 2<sup>nd</sup> Reading of Ordinance – August 11, 2020
7. Ordinance Effective – August 14, 2020

#### **VI. MAYOR’S RECOMMENDATION**

After consideration of the review of staff analysis and options available for action (approval, approval with modification or denial), the Mayor recommends that the proposed amendments be approved as recommended by the Planning Commission.

Exhibit A: Amendments to FWRC 19.142 presented to Planning Commission and recommended for approval



## Exhibit A: Amendments to FWRC 19.142

### Chapter 19.142 FLOOD DAMAGE PREVENTION<sup>1</sup>

Sections:

#### Article I. Generally

- 19.142.010 Purpose.
- 19.142.020 Adoption of state and federal statutes and regulations.
- 19.142.030 Methods of reducing flood losses.
- 19.142.040 Definitions.

#### Article II. Provisions

- 19.142.050 General provisions.
- 19.142.060 Development activities subject to floodplain development permits.
- 19.142.070 Use of other base flood data (in A and V zones).
- 19.142.080 Information to be obtained and maintained.
- 19.142.090 Alteration of watercourses.
- 19.142.095 Notification to Other Entities Changes to Floodplain Maps
- 19.142.100 Conditions for variances.
- 19.142.110 Provisions for flood hazard reduction.
- 19.142.120 Development Proposals, Including Manufactured Home Parks and Subdivision proposals.
- 19.142.130 Review of building permits.
- 19.142.140 Specific standards.
- 19.142.150 AE and A1-30 zones with base flood elevations but no floodways.
- 19.142.160 Floodways.
- 19.142.170 Critical facility.

#### Article I. Generally

### 19.142.010 Purpose.

It is the purpose of this chapter to promote the public health, safety, and general welfare and minimize public and private losses due to flood conditions in specific areas by provisions designed:

- (1) To protect human life and health;
- (2) To minimize expenditure of public money and costly flood control projects;
- (3) To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) To minimize prolonged business interruptions;
- (5) To minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; streets; and bridges located in areas of special flood hazard;
- (6) To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;
- (7) To ensure that potential buyers are notified that property is in an area of special flood hazard;
- (8) To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

## **19.142.020 Adoption of state and federal statutes and regulations.**

The following state statutes and administrative regulations as currently existing and hereafter amended are hereby adopted by this reference as if set forth in full:

- (1) Chapter [86.16](#) RCW, Floodplain Management.
- (2) [44](#) CFR [59.22](#)(a).
- (3) [44](#) CFR [60.3](#)(c)(1)(d)(2).
- (4) [44](#) CFR [60.3](#)(b)(1).
- (5) [44](#) CFR [59.22](#)(b)(1).
- (6) [44](#) CFR [60.3](#)(a)(2).

(Ord. No. 06-536, § 2(Exh. A), 11-7-06. Code 2001 § 21-101. Formerly 16.40.020.)

## **19.142.030 Methods of reducing flood losses.**

In order to accomplish its purposes, this chapter includes methods and provisions for:

- (1) Restricting or prohibiting uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) Requiring that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel floodwaters;
- (4) Controlling filling, grading, dredging, and other development which may increase flood damage; and
- (5) Preventing or regulating the construction of flood barriers that unnaturally divert floodwaters or may increase flood hazards in other areas.

## 19.142.040 Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise. Terms not defined here are defined according to Chapter [19.05](#) or [16.05](#) FWRC or FWRC [1.05.020](#), in that order.

*“Actual start of construction”* means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. *“Actual start of construction,”* for a substantial improvement, means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*“Alteration of watercourse”* means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

*“Appeal”* means a request for a review of the interpretation of any provision of this chapter or a request for a variance.

*“Area of shallow flooding”* means designated as AO or AH zone on the flood insurance rate map (FIRM). AO zones have base flood depths that range from one to three feet above the natural ground; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. AO is characterized as sheet flow; AH indicates ponding, and is shown with standard base flood elevations.

*“Area of special flood hazard”* means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. ~~Designation on maps always includes the letter A or V.~~

*“Base flood”* means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the “100-year flood”). ~~Designated on flood insurance rate maps by the letter A or V.~~

*“Base flood elevation (BFE)”* means the elevation to which floodwater is anticipated to rise during the base flood.

*“Basement”* means any area of the building having its floor sub-grade (below ground level) on all sides.

*“Breakaway wall”* means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

*“Coastal high hazard area”* means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as zone V1-30, VE or V.

*“Critical facility”* means a facility for which even a slight chance of flooding might be too great. Critical facilities include (but are not limited to) schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

*“Development”* means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavations, drilling operations, or storage of equipment or materials located within the area of special flood hazard.

*“Director”* means the director of the city of Federal Way community development department or his or her designee.

*“Elevated building”* means, for insurance purposes, a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

*“Elevation certificate”* means ~~the official form (FEMA Form 81-31)~~ an administrative tool of the National Flood Insurance Program that can be used to track development, provide elevation information ~~necessary to ensure compliance with community floodplain management ordinances,~~ and to determine the proper insurance premium rate, with Section B completed by Federal Way, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision – Based on Fill (LOMR-F).

*“Existing manufactured home park or subdivision”* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

*“Expansion to an existing manufactured home park or subdivision”* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured

homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

“Flood” or “flooding” means a general and temporary condition of partial or complete inundation of normally dry land areas from:

(1) The overflow of inland or tidal waters; and/or

(2) The unusual and rapid accumulation of runoff of surface waters from any source.

(3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

(b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (a)(1) of this definition.

“Flood insurance rate map (FIRM)” means the official map on which the Federal Insurance Administration ~~has~~ delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

“Flood insurance study (FIS)” means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a Flood Elevation Study, the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary floodway map, and the water surface elevation of the base flood.

“Floodplain or flood-prone area ” means any land area susceptible to being inundated by water from any source. See “Flood or flooding”.

“Floodplain management regulations” means zoning ordinances, subdivision regulations, building codes, health regulations, special purposes ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

“Flood proofing” means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation

“Floodway” means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than ~~one foot~~ a designated height. Also known as a Regulatory Floodway”.

“Functionally dependent use” means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” means any structure that is:

- 1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or
- 2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or
- 3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- 4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - a) By an approved state program as determined by the Secretary of the Interior, or
  - b) Directly by the Secretary of the Interior in states without approved programs.

“Lowest floor” means the lowest enclosed area (including basement), except that where an unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is built in compliance with the applicable non-elevation design requirements of FWRC [19.142.140](#)(1)(b), the next lowest enclosed area is the lowest floor.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities, but does not include a recreational vehicle.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Mean Sea Level” means for purposes of the National Flood Insurance Program, the vertical datum to which Base Flood Elevations shown on a community’s Flood Insurance Rate Map are referenced.

“New construction” means for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, “new construction” means structures for which the “start of construction” commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. ~~for which the start of construction commenced on or after the effective date of the ordinance codified in this chapter.~~

*“New manufactured home park or subdivision”* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

*“Recreational vehicle”* means a vehicle:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*“Start of construction”* includes substantial improvement, and means the date the building permit was issued, where the actual start of construction, repair, reconstruction, placement or other improvement occurs within 180 days of the permit date. See also “actual start of construction.”

*“Structure”* means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

*“Substantial damage”* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*“Substantial improvement”* means any improvement of a structure, including ~~any repair or reconstruction, rehabilitation, addition, or other improvement of a structure where~~ the cost of which the improvement equals or exceeds 50 percent of the market value of the structure ~~either before the improvement is started or, if the structure has been damaged and is being restored, before the damage occurred.~~

Substantial improvement does not include: “Start of Construction” means the improvement of structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

- (a) any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
- (b) any alteration of a “historic structure” that precludes the structure’s continued designation as a “historic structure” listed on the National Register of Historic Places or a State Inventory of Historic Places.

~~Substantial improvement begins when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.~~



“*Variance*” means a grant of relief from the requirements of this chapter that permits construction in a manner that would otherwise be prohibited by this chapter.

“*Violation*” means the failure of a structure or other development to be fully compliant with the community’s flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

“*Water-dependent*” means a structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

## Article II. Provisions

### 19.142.050 General provisions.

(1) *Application of chapter.* This chapter shall apply to all areas of special flood hazards within the jurisdiction of Federal Way. The areas of special flood hazard identified by the Federal Insurance Administration ~~in~~ in a scientific and engineering report entitled “The Flood Insurance Study for King County, Washington and Incorporated Areas” dated ~~May 16, 1995~~ August 19, 2020, and any revisions thereto, with an accompanying flood insurance rate map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter. The flood insurance study and the FIRM are on file at Federal Way City Hall. The best available information for flood hazard area identification as outlined in FWRC 19.142.070 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under FWRC 19.142.070.

(2) *Penalties for noncompliance.* ~~No structure or land shall hereafter be constructed, located, extended, converted, or altered. Any person responsible for constructing, locating, extending, converting, or altering a structure or land~~ without full compliance with the terms of this chapter and other applicable regulations shall be subject to civil enforcement penalties under FWRC 1.15.

(3) *Summary abatement.* Whenever any violation of this chapter causes or creates a condition which constitutes or contributes to an immediate and emergent threat to the public health, safety or welfare or to the environment, the director may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the person responsible for the violation as soon as reasonably possible after abatement. The costs of such summary abatement shall be recoverable via procedures for recovery of abatement costs as set forth in Chapter 1.15 FWRC, Civil Enforcement of Code.

(4) *Abrogation and greater restrictions.* This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(5) *Interpretation.* In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.



(6) *Warning and disclaimer of liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Federal Way, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

## **19.142.060 Development activities subject to floodplain**

### **development permits.**

(1) *Floodplain development permit required.* A floodplain development permit shall be obtained before construction or development begins within any area of special flood hazard established in FWRC [19.142.050](#)(1). The permit shall be for all structures including manufactured homes, as set forth in FWRC [19.142.040](#), and for all development including fill and other activities, also as set forth in FWRC [19.142.040](#).

(2) *Nondevelopment activities.* ~~The following aActivities that do not meet the definition of "development" in this chapter~~ are allowed in the regulatory floodplain without the need for a floodplain development permit under this chapter, provided all other federal, state, and local requirements are met. The following are examples of activities not considered development or manmade changes to improved or unimproved real estate:

- (a) Routine maintenance of landscaping that does not involve grading, excavation, or filling;
- (b) Removal of noxious weeds and hazard trees and replacement of nonnative vegetation with native vegetation;
- (c) Normal maintenance of structures, such as reroofing and replacing siding, as long as such work does not qualify as a substantial improvement;
- (d) Normal maintenance of above ground public utilities and facilities, such as replacing downed power lines;
- (e) Normal street and road maintenance, including filling potholes, repaving, and installing signs and traffic signals, but not including expansion of paved areas; and
- (f) Normal maintenance of a levee or other flood control facility prescribed in the operations and maintenance plan for the levee or flood control facility.

(3) *Other activities.* All other activities not described in subsection (2) of this section are allowed, as long as a floodplain development permit is approved, and, if required, as long as such activities meet all the other requirements of this chapter and the other provisions of the FWRC.

(4) *Application for floodplain development permit [in the AE zone](#).* Application for a floodplain development permit shall be made and will include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or

proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- (a) Proposed Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate (FEMA Form 81-31) with Section B completed by the city of Federal Way building official;
- (b) Proposed Elevation in relation to mean sea level to which any structure ~~has been~~ will be floodproofed;
- (c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in FWRC [19.142.140](#)(2);
- (d) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

(5) Application for development permit for Zone VE. Application for a floodplain development permit shall be made and will include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(a) Proposed elevation in relation to mean sea level of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all structures, and whether such structures contain a basement;

(b) Base Flood Elevation data for subdivision proposals or other development, including manufactured home parks or subdivisions, greater than 50 lots or 5 acres, whichever is the lesser; and

(c) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development

(56) *Designation of the local administrator.* The director or designee is hereby appointed to administer, ~~and~~ implement and enforce this chapter by granting or denying development permit applications in accordance with its provisions. The director shall:

- (a) Review all development applications to determine that the requirements of this chapter have been satisfied;
- (b) Review all development applications to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required; and
- (c) Review all development applications to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of FWRC [19.142.160](#)(1) are met.

(67) *Project requirements.* If the project is located in the regulatory floodplain and includes activities not listed in subsection (2) of this section, the application shall include a habitat impact assessment

completed by a professional biologist. If that assessment determines that impacts upon the habitat would result from the project, the application shall also include a habitat mitigation plan. The habitat assessment and the habitat mitigation plan shall be performed as described in FEMA's Regional Guidance for Floodplain Habitat Assessment and Mitigation in the Puget Sound Basin, 2013, and any revisions thereto.

~~(78)~~ *Third-party review.* For any habitat impact assessment or habitat mitigation plan, the city may require a third-party review. Third-party review requires the applicant's habitat impact assessment, habitat mitigation plan, and/or additional technical studies to be reviewed by an independent third party, paid for by the applicant, but hired by the city. Third-party review shall be conducted by a qualified consultant as defined in the Floodplain Habitat Assessment and Mitigation Regional Guidance, FEMA Region X, 2010, and any revisions thereto.

### **19.142.070 Use of other base flood data (in A and V zones).**

When base flood elevation data has not been provided (in A or V zones) in accordance with FWRC [19.142.050](#)(1), the director shall obtain, review, and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer FWRC [19.142.140](#), Specific standards, and FWRC [19.142.160](#), Floodways.

### **19.142.080 Information to be obtained and maintained.**

(1) Where base flood elevation data is provided through the FIS, FIRM, or required as in FWRC [19.142.070](#), the applicant shall obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement and provide such information to the director or designee on a current FEMA elevation certificate (FEMA Form 81-31). Section B will be completed by the city.

(2) For all new or substantially improved floodproofed nonresidential structures where base flood elevation data is provided through the FIS, FIRM, or as required in FWRC [19.142.070](#), the applicant shall obtain and record the elevation (in relation to mean sea level) to which the structure was floodproofed and provide such information to the city. The city shall maintain the floodproofing certifications required in FWRC [19.142.060](#)(2)(c).

(3) The city shall maintain for public inspection all records pertaining to the provisions of this chapter.

### **19.142.090 Alteration of watercourses.**

The city shall notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration and shall ~~require assure that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished the carrying capacity of the altered or relocated portion of said watercourse is maintained.~~

### **19.142.095. Notification to Other Entities Changes to Floodplain Maps**

Base Flood Elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Director shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

The Director shall notify the Federal Insurance Administrator in writing of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.

## **19.142.100 Conditions for variances.**

(1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a ~~small or irregularly shaped~~ lot one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.

(2) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other existing laws or ordinances.

(5) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from flood elevations should be quite rare.

(6) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (1) of this section and otherwise complies with FWRC [19.142.110](#)(1) and (3), and [19.142.120](#).

(7) Any applicant to whom a variance is granted shall be given written notice over the signature of the Director that the permitted issuance of a variance to construct a structure will be built with its lowest floor below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for every \$100 of insurance coverage and that such construction below the BFE increases risks to life and property and that the cost of flood insurance will be commensurate with the increased risk.

(8) The Director shall maintain a record of all variance actions, including justification for their issuance.

(9) The Director shall condition the variance as needed to ensure that the requirements and criteria of this chapter are met.

## **19.142.110 Provisions for flood hazard reduction.**

In all areas of special flood hazards, the following standards are required:

### *(1) Anchoring.*

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic or hydrostatic loads, including the effects of buoyancy;

(b) All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

### *(2) Construction materials and methods.*

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Locating such equipment below the base flood elevation may cause annual flood insurance premiums to be increased.

### *(3) Utilities.*

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;

(b) Water wells shall be located on high ground that is not in the floodway;

(c) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;

(d) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

#### (4) Storage of Materials and Equipment

(a) The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas.

(b) Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

### **19.142.120 Development Proposals, Including Manufactured Home Parks and Subdivision proposals.**

All development proposals, including subdivision and manufactured home park or subdivision proposals, shall:

- (1) ~~All subdivision proposals shall~~ bBe consistent with the need to minimize flood damage;
- (2) ~~All subdivision proposals shall~~ hHave public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- (3) ~~All subdivision proposals shall~~ hHave adequate drainage provided to reduce exposure to flood damage;
- (4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for ~~subdivision proposals and other proposed developments which contain at least~~ all development proposals greater than 50 lots or five acres (whichever is less).

### **19.142.130 Review of building permits.**

Where elevation data is not available either through the FIS, FIRM, or from another authoritative source (FWRC [19.142.070](#)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding as determined by the director. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available.

### **19.142.140 Specific standards.**

The following provisions are required in all areas of special flood hazards where base flood elevation data has been provided as set forth in FWRC [19.142.050\(1\)](#) or [19.142.070](#).

(1) *Residential construction in Zone AE.*

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation (BFE).

(b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or if used solely for parking, access or storage, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

Foundation vent standards required by the IBC/IRC outside the floodplain do not meet this standard and are often inadvertently permitted. Insurance rates reflect an “all or nothing” standard. Partially ventilated crawlspaces may be subject to an additional loading fee of 20 to 25 percent attached to the annual insurance premium.

Upon completion of the structure, certification by a registered professional engineer or surveyor that the elevation requirements of the lowest floor, including basement, of this section have been satisfied shall be provided to the Director for verification.

(2) *Residential construction in Zone VE*

(a) Be located landward of the reach of mean high tide;

(b) Have the bottom of the lowest structural member of the lowest floor (excluding pilings and columns), elevated to or above the Base Flood Elevation;

(c) Have the pile or column foundation and structure attached thereto be anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards;

(d) Have the space below the lowest floor, usable solely for parking of vehicles, building access, or storage, either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot;



(e) Prohibit the use of fill for structural support of buildings; and

(f) Prohibit man-made alteration of sand dunes and mangrove stands.

A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this Section.

Upon completion of construction, certification by a registered professional engineer or architect that these design standards have been satisfied, and certification by a registered professional engineer or surveyor that the elevation requirements of the bottom of the lowest structural member of the lowest floor, excluding pilings and columns, of this section have been satisfied shall be provided to the Director for verification.

*(23) Nonresidential construction in an AE zone.* New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in FWRC [19.142.060](#)(2);

(d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (1)(b) of this section.

Applicants who are floodproofing nonresidential buildings should beware that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below). Floodproofing the building an additional foot will reduce insurance premiums significantly.

Upon completion of the structure, certification by a registered professional engineer or surveyor that the elevation requirements of the lowest floor, including basement, of this section have been satisfied shall be provided to the Director for verification; or certification by a registered professional engineer or architect that the floodproofing design of this section is satisfied, including the specific elevation in relation to mean sea level to which such structures are floodproofed, shall be provided to the Director for verification.

(4) Non-residential construction in Zone VE. Floodproofing of non-residential structures is prohibited. All structures must be elevated and constructed according to the requirements set forth in FWRC 19.142.140(1).



~~(35)~~ *Manufactured homes.* All manufactured homes ~~in the floodplain~~ to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

Upon completion of installation of the manufactured home, certification by a registered professional engineer or surveyor that the elevation requirements of this section have been satisfied shall be provided to the Director for verification.

~~(6)~~ *Manufactured homes in Zone VE.* All manufactured homes to be placed or substantially improved on sites shall meet the standards of residential construction in VE Zones in FWRC 19.142.140(1).

Upon completion of installation of the manufactured home, certification by a registered professional engineer or surveyor that the elevation requirements of this section have been satisfied shall be provided to the Director for verification.

~~(47)~~ *Recreational vehicles.* Recreational vehicles placed on sites are required to either:

- (a) Be on the site for fewer than 180 consecutive days; or
- (b) Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or
- (c) Meet the requirements of subsection (3) of this section and the elevation and anchoring requirements for manufactured homes.

## **19.142.150 AE ~~and A1-30~~ zones with base flood elevations but no floodways.**

In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within ~~zones A1-30 and Zone~~ AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

## **19.142.160 Floodways.**

Located within areas of special flood hazard established in FWRC [19.142.050\(1\)](#) are areas designated as floodways. Chapter [86.16](#) RCW will need to be consulted in addition to this Code. The more restrictive provisions shall apply. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

(1) Encroachments, including fill, new construction, substantial improvements, and other development shall be prohibited unless certification by a registered professional engineer is provided

demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

(2) Construction or reconstruction of residential structures is prohibited within designated floodways, except for (a) repairs, reconstruction, or improvements to a structure which do not increase the ground floor area; and (b) repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either (i) before the repair, or reconstruction is started, or (ii) if the structure has been damaged, and is being restored, before the damage occurred. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the 50 percent.

(3) If subsection (1) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of FWRC [19.142.110](#), Provisions for flood hazard reduction.

### **19.142.170 Critical facility.**

Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area (SFHA) (100-year floodplain). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet above BFE or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE of the City of Federal Way, Washington, relating to floodplain development and permitting processes within the City; amending FWRC 19.142 (Amending Ordinance Nos. 06-536, 09-593, 09-597, and 18-856)**

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WHEREAS, the City recognizes the need to periodically modify Title 19 of the Federal Way Revised Code (“FWRC”), “Zoning and Development Code,” in order to conform to state and federal law, codify administrative practices, clarify and update zoning regulations as deemed necessary, and improve the efficiency of the regulations and the development review process; and

WHEREAS, this ordinance, containing amendments to development regulations and the text of Title 19 FWRC, has complied with Process VI review, Chapter 19.80 FWRC, pursuant to Chapter 19.35 FWRC; and

WHEREAS, it is in the public interest for the City Council to revise the regulations for flood damage prevention which establishes development regulations within flood hazard areas within the City of Federal Way; and

WHEREAS, it is in the public interest for the City Council to adopt amended development regulations for Chapter 19.142 FWRC regarding development within frequently flooded areas; and

WHEREAS, the State developed new language regarding flood prevention that has not been incorporated into Chapter 19.142 FWRC; and

WHEREAS, the State Department of Ecology, through its Community Assistance Visit, informed the City that the new State language needed to be added to the chapters of the FWRC

that regulate development within the areas designated as floodplains by the Federal Emergency Management Agency (“FEMA”); and

WHEREAS, the absence of such language necessitates amendment to the FWRC Section 19.142 to incorporate the State-required language; and

WHEREAS, the Planning Commission conducted public discussion of these code amendments throughout May and early June 2020; and

WHEREAS, an Environmental Determination of Nonsignificance (“DNS”) was properly issued for the Proposal on May 15, 2020 and no comments or appeals were received and the DNS was finalized on June 19, 2020; and

WHEREAS, the Planning Commission properly conducted a duly noticed public hearing on these code amendments on June 17, 2020 and forwarded a recommendation for approval to the City Council to (1) amend FWRC 19.142.040 add and amend definitions; (2) amend FWRC 19.142.050 by referencing the date of affect for new data; (3) amend FWRC 19.142.060 to distinguish regulations for the AE and VE; and (5) amend FWRC 19.142.090 and adding FWRC 19.142.095 placing greater responsibility upon the floodplain administrator insuring that developments meet adopted criteria; and (6) amend FWRC 19.142.100 by placing additional actions necessary in granting variances to the code; and (7) amend FWRC 19.142.110 by placing greater restriction on storage of hazardous materials upon areas of floodplain; and (8) amend FWRC 19.142.120 by including manufactured home parks as subdivisions; and (9) amend FWRC 19.142.140 adding standards for development in the AE and VE zones; and (10) amend FWRC 19.142.150 eliminating the A1-30 flood classification.

WHEREAS, this ordinance, containing amendments to development regulations and the text of Title 19 FWRC, has complied with Process VI review, Chapter 19.80 FWRC, pursuant to Chapter 19.35 FWRC; and

WHEREAS, the Land Use & Transportation Committee of the Federal Way City Council considered these code amendments on July 6, 2020, and recommended adoption of the text amendments as recommended by the Planning Commission.

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

Section 1. Findings. The City Council of the City of Federal Way makes the following findings with respect to the proposed amendments:

(a) These code amendments are in the best interest of the residents of the City and will benefit the City as a whole by clarifying requirements of State regulation and correcting textual duplication within the Code that will mitigate the need for interpretation when reviewing projects proposed within the identified floodplains.

(b) These code amendments comply with Chapter 36.70A RCW, Growth Management.

(c) These code amendments are consistent with the intent and purpose of Title 19 and Title 15 FWRC and will implement, and are consistent with, the applicable provisions of the Federal Way Comprehensive Plan.

(d) These code amendments bear a substantial relationship to, and will protect and not adversely affect, the public health, safety, and welfare.

(e) These code amendments have followed the proper procedure required under the Federal Way Revised Code.

Section 2. Conclusions. Pursuant to Chapter 19.80 FWRC and Chapter 19.35 FWRC, and based upon the recitals and the findings set forth in Section 1, the Federal Way City Council makes the following Conclusions of Law with respect to the decisional criteria necessary for the adoption of the proposed amendments:

(a) The proposed FWRC amendments are consistent with, and substantially implement, the following Federal Way Comprehensive Plan goals and policies:

Goals:

- |       |  |
|-------|--|
| NEG1  | To preserve the City's natural systems in order to protect public health, safety, and welfare, and to maintain the integrity of the natural environment.   |
| NEP4  | The City will continue to work with internal departments, state and regional agencies, neighboring jurisdictions, and tribes to protect environmentally critical areas and the City's natural environment.   |
| NEP6  | Mitigation sequencing steps, which begin with avoiding impacts altogether by not taking certain action or parts of an action, should be applied to all projects where impacts to environmentally critical areas are proposed.                                    |
| NEP7  | Implement and periodically update environmentally critical area regulations consistent with Best Available Science while also taking into consideration the City's obligation to meet urban-level densities and other requirements under the GMA.                |
| NEG6  | To prevent the loss of life, property, and habitat in frequently flooded areas.  |
| NEP41 | New improvements should not be located in floodplains unless fully mitigated via best building practices within areas of special flood hazard, shallow flooding, coastal high hazard, and floodways. FWCP – Chapter Nine, Natural Environment Revised 2015 IX-10 |

(b) The proposed FWRC amendments bear a substantial relationship to the public health, safety, and welfare because they provide clarification and additions to the sections of the

Code designed to prevent flood damage to life and property located in identified floodplains within the City of Federal Way.

(c) The proposed amendments are in the best interest of the public and the residents of the City of Federal Way because they conform to requirements of the Federal Emergency Management Agency and allow land within the City to remain eligible for federal flood insurance.

Section 3. Chapter 19.142 is hereby amended to read as follows:

### **Chapter 19.142**

### **FLOOD DAMAGE PREVENTION**

Sections:

#### Article I. Generally

19.142.010 Purpose.

19.142.020 Adoption of state and federal statutes and regulations.

19.142.030 Methods of reducing flood losses.

19.142.040 Definitions.

#### Article II. Provisions

19.142.050 General provisions.

19.142.060 Development activities subject to floodplain development permits.

19.142.070 Use of other base flood data (in A and V zones).

19.142.080 Information to be obtained and maintained.

19.142.090 Alteration of watercourses.

19.142.095 Notification to Other Entities Changes to Floodplain Maps

19.142.100 Conditions for variances.

- 19.142.110 Provisions for flood hazard reduction.
- 19.142.120 Development proposals, including manufacturing home parks and  
Subdivision proposals.
- 19.142.130 Review of building permits.
- 19.142.140 Specific standards.
- 19.142.150 AE and ~~A1-30~~ zones with base flood elevations but no floodways.
- 19.142.160 Floodways.
- 19.142.170 Critical facility.

Section 4. FWRC 19.142.040 is hereby amended to read as follows:

**19.142.040 Definitions.**

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise. Terms not defined here are defined according to Chapter 19.05 or 16.05 FWRC or FWRC 1.05.020, in that order.

*“Actual start of construction”* means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, any work beyond the stage of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. *“Actual start of construction,”* for a substantial improvement, means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*“Alteration of watercourse”* means any action that will change the location of the channel occupied by water within the banks of any portion of a riverine waterbody.

*“Appeal”* means a request for a review of the interpretation of any provision of this chapter or a request for a variance.



*“Area of shallow flooding”* means designated as zone AO or AH ~~zone~~ on the flood insurance rate map (FIRM). Zone AO ~~zones have~~has base flood depths that range from one to three feet above the natural ground; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Zone AO is characterized as sheet flow; zone AH indicates ponding, and is shown with standard base flood elevations.

*“Area of special flood hazard”* means the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. Designation on maps always includes the letter A or V.

*“Base flood”* means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the “100-year flood”). Designated on flood insurance rate maps by the letter A or V.

*“Base flood elevation (BFE)”* means the elevation to which floodwater is anticipated to rise during the base flood.

*“Basement”* means any area of the building having its floor sub-grade (below ground level) on all sides.

*“Breakaway wall”* means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces, without causing damage to the elevated portion of the building or supporting foundation system.

*“Coastal high hazard area”* means an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources. The area is designated on the FIRM as zone V1-30, VE or V.

*“Critical facility”* means a facility for which even a slight chance of flooding might be too great. Critical facilities include (but are not limited to) schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use, or store hazardous materials or hazardous waste.

*“Development”* means any manmade change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavations, drilling operations, or storage of equipment or materials located within the area of special flood hazard.

*“Director”* means the director of the city of Federal Way community development department or his or her designee. The director or his or her designee is the Floodplain Administrator for the city.

*“Elevated building”* means, for insurance purposes, a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

*“Elevation certificate”* means ~~the official form (FEMA Form 81-31)~~ an administrative tool of the National Flood Insurance Program that can be used to track development, provide elevation information necessary to ensure compliance with community floodplain management ordinances, and to determine the proper insurance premium rate, with Section B completed by Federal Way, and to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision – Based on Fill (LOMR-F).

*“Existing manufactured home park or subdivision”* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the adopted floodplain management regulations.

*“Expansion to an existing manufactured home park or subdivision”* means the preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

*“Flood”* or *“flooding”* means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; and/or
- (2) The unusual and rapid accumulation of runoff of surface waters from any source.
- (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in:

a) (2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.

b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an

abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (a)(1) of this definition.

*“Flood insurance rate map (FIRM)”* means the official map on which the Federal Insurance Administration ~~has~~ has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

*“Flood insurance study (FIS)”* means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a Flood Elevation Study, the official report provided by the Federal Insurance Administration that includes flood profiles, the flood boundary floodway map, and the water surface elevation of the base flood.

*“Floodplain or flood-prone area ”* means any land area susceptible to being inundated by water from any source. See “Flood or flooding”.

*“Floodplain management regulations”* means zoning ordinances, subdivision regulations, building codes, health regulations, special purposes ordinances (such as floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*“Flood proofing”* means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate risk of flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents. Flood proofed structures are those that have the structural integrity and design to be impervious to floodwater below the Base Flood Elevation.

*“Floodway”* means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than ~~one foot~~ a designated height. Also known as a Regulatory Floodway”.

*“Functionally dependent use”* means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, and does not include long term storage or related manufacturing facilities.

“Highest adjacent grade” means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

“Historic structure” means any structure that is:

(1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; or

(2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; or

(3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or

(4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:

(a) By an approved state program as determined by the Secretary of the Interior, or

(b) Directly by the Secretary of the Interior in states without approved programs.

“Lowest floor” means the lowest enclosed area (including basement), except that where an unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is built in compliance with the applicable non-elevation design requirements of FWRC 19.142.140(1)(b), the next lowest enclosed area is the lowest floor.

“Manufactured home” means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities, but does not include a recreational vehicle.

“Manufactured home park or subdivision” means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

“Mean Sea Level ” means for purposes of the National Flood Insurance Program, the vertical datum to which Base Flood Elevations shown on a community's Flood Insurance Rate Map are referenced.

“New construction” means for the purposes of determining insurance rates, structures for which the “start of construction” commenced on or after the effective date of an initial Flood Insurance Rate Map or after December 31, 1974, whichever is later, and includes any subsequent

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improvements to such structures. For floodplain management purposes, “new construction” means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures for which the start of construction commenced on or after the effective date of the ordinance codified in this chapter.

*“New manufactured home park or subdivision”* means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of adopted floodplain management regulations.

*“Recreational vehicle”* means a vehicle:

- (1) Built on a single chassis;
- (2) Four hundred square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light duty truck; and
- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*“Start of construction”* includes substantial improvement, and means the date the building permit was issued, where the actual start of construction, repair, reconstruction, placement or other improvement occurs within 180 days of the permit date. See also “actual start of construction.”

*“Structure”* means a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a manufactured home.

*“Substantial damage”* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

*“Substantial improvement”* means any improvement of a structure, including ~~any repair or reconstruction, rehabilitation, addition, or other improvement of a structure where the cost of which the improvement equals or exceeds 50 percent of the market value of the structure either before the “start of construction” of the improvement is started or, if the structure has been damaged and is being restored, before the damage occurred.~~

~~Substantial improvement does not include:~~ This term includes structures which have incurred “substantial damage”, regardless of the actual repair work performed. The term does not, however, include either:

(1) any project for improvement of a structure to correct pre-cited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or

(2) any alteration of a “historic structure” that precludes the structure’s continued designation as a “historic structure” listed on the National Register of Historic Places or a State Inventory of Historic Places.

Substantial improvement begins when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

“Variance” means a grant of relief from the requirements of this chapter that permits construction in a manner that would otherwise be prohibited by this chapter.

“Violation” means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this ordinance is presumed to be in violation until such time as that documentation is provided.

“Water-dependent” means a structure for commerce or industry that cannot exist in any other location and is dependent on the water by reason of the intrinsic nature of its operations.

Section 5. FWRC 19.142.050 is hereby amended to read as follows:

### **19.142.050 General Provisions**

(1) *Application of chapter.* This chapter shall apply to all areas of special flood hazards within the jurisdiction of Federal Way. The areas of special flood hazard identified by the Federal Insurance-Administration ~~or~~ in a scientific and engineering report entitled “The Flood Insurance Study for King County, Washington and Incorporated Areas” dated ~~May 16, 1995~~ August 19, 2020, and any revisions thereto, with an accompanying flood insurance rate map (FIRM), and any revisions thereto, are hereby adopted by reference and declared to be a part of this chapter.

The flood insurance study and the FIRM are on file at Federal Way City Hall. The best available information for flood hazard area identification as outlined in FWRC 19.142.070 shall be the basis for regulation until a new FIRM is issued that incorporates data utilized under FWRC 19.142.070.

(2) *Penalties for noncompliance.* ~~No structure or land shall hereafter be constructed, located, extended, converted, or altered~~ Any person responsible for constructing, locating, extending, converting, or altering a structure or land without full compliance with the terms of this chapter and other applicable regulations: shall be subject to civil enforcement penalties under FWRC 1.15.

(3) *Summary abatement.* Whenever any violation of this chapter causes or creates a condition which constitutes or contributes to an immediate and emergent threat to the public health, safety or welfare or to the environment, the director may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the person responsible for the violation as soon as reasonably possible after abatement. The costs of such summary abatement shall be recoverable via procedures for recovery of abatement costs as set forth in Chapter 1.15 FWRC, Civil Enforcement of Code.

(4) *Abrogation and greater restrictions.* This chapter is not intended to repeal, abrogate, or impair any existing easements, covenants, or deed restrictions. However, where this chapter and another ordinance, easement, covenant, or deed restriction conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

(5) *Interpretation.* In the interpretation and application of this chapter, all provisions shall be:

- (a) Considered as minimum requirements;
- (b) Liberally construed in favor of the governing body; and
- (c) Deemed neither to limit nor repeal any other powers granted under state statutes.

(6) *Warning and disclaimer of liability.* The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of Federal Way, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administrative decision lawfully made hereunder.

Section 6: FWRC 19.142.060 is hereby amended to read as follows:

**Development activities subject to floodplain development permits.**

(1) *Floodplain development permit required.* A floodplain development permit shall be obtained before construction or development begins within any area of special flood hazard established in FWRC 19.142.050(1). The permit shall be for all structures including manufactured homes, as set forth in FWRC 19.142.040, and for all development including fill and other activities, also as set forth in FWRC 19.142.040.



(2) *Nondevelopment activities.* ~~The following a~~Activities ~~that do not meet the definition of~~  
~~“development” in this chapter~~ are allowed in the regulatory floodplain without the need for a  
floodplain development permit under this chapter, provided all other federal, state, and local  
requirements are met. The following are examples of activities not considered development or  
manmade changes to improved or unimproved real estate:

- (a) Routine maintenance of landscaping that does not involve grading, excavation, or filling;
- (b) Removal of noxious weeds and hazard trees and replacement of nonnative vegetation  
with native vegetation;
- (c) Normal maintenance of structures, such as reroofing and replacing siding, as long as such  
work does not qualify as a substantial improvement;
- (d) Normal maintenance of above ground public utilities and facilities, such as replacing  
downed power lines;
- (e) Normal street and road maintenance, including filling potholes, repaving, and installing  
signs and traffic signals, but not including expansion of paved areas; and
- (f) Normal maintenance of a levee or other flood control facility prescribed in the operations  
and maintenance plan for the levee or flood control facility.

(3) *Other activities.* All other activities not described in subsection (2) of this section are  
allowed, as long as a floodplain development permit is approved, and, if required, as long as such  
activities meet all the other requirements of this chapter and the other provisions of the FWRC.

(4) *Application for floodplain development permit in zone AE.* Application for a floodplain development permit shall be made and will include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(a) Proposed Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures recorded on a current elevation certificate (FEMA Form 81-31) with Section B completed by the city of Federal Way building official;

(b) Proposed Elevation in relation to mean sea level to which any structure ~~has been~~ will be floodproofed;

(c) Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet floodproofing criteria in FWRC 19.142.140(2);

(d) Description of the extent to which a watercourse will be altered or relocated as a result of proposed development.

(5) Application for floodplain development permit for zone VE. Application for a floodplain development permit shall be made and will include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question, existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

(a) Proposed elevation in relation to mean sea level of the bottom of the lowest structural member of the lowest floor (excluding pilings and columns) of all structures, and whether such structures contain a basement;

(b) Base Flood Elevation data for subdivision proposals or other development, including manufactured home parks or subdivisions, greater than 50 lots or 5 acres, whichever is the lesser; and

(c) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development

~~(56)~~ *Designation of the local administrator.* The director or designee is hereby appointed to administer, ~~and~~ implement and enforce this chapter by granting or denying development permit applications in accordance with its provisions. The director shall:

(a) Review all development applications to determine that the requirements of this chapter have been satisfied;

(b) Review all development applications to determine that all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required; and

(c) Review all development applications to determine if the proposed development is located in the floodway. If located in the floodway, assure that the encroachment provisions of FWRC 19.142.160(1) are met.

(67) *Project requirements.* If the project is located in the regulatory floodplain and includes activities not listed in subsection (2) of this section, the application shall include a habitat impact assessment completed by a professional biologist. If that assessment determines that impacts upon the habitat would result from the project, the application shall also include a habitat mitigation plan. The habitat assessment and the habitat mitigation plan shall be performed as described in FEMA's Regional Guidance for Floodplain Habitat Assessment and Mitigation in the Puget Sound Basin, 2013, and any revisions thereto.

(78) *Third-party review.* For any habitat impact assessment or habitat mitigation plan, the city may require a third-party review. Third-party review requires the applicant's habitat impact assessment, habitat mitigation plan, and/or additional technical studies to be reviewed by an independent third party, paid for by the applicant, but hired by the city. Third-party review shall be conducted by a qualified consultant as defined in the Floodplain Habitat Assessment and Mitigation Regional Guidance, FEMA Region X, 2010, and any revisions thereto.

Section 7. FWRC 19.142.090 is hereby amended to read as follows:

**Alteration of watercourses.**

The city shall notify adjacent communities and the Department of Ecology prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration ~~or~~ and shall ~~require~~ assure that ~~maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished the~~ carrying-capacity of the altered or relocated portion of said watercourse is maintained.

The Director shall notify the Federal Insurance Administrator in writing of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.

Section 8. FWRC 19.142.100 is hereby amended to read as follows:

**Conditions for variances.**

(1) Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a ~~small or irregularly shaped~~ lot one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.

(2) Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

(3) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

(4) Variances shall only be issued upon:

(a) A showing of good and sufficient cause;

(b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and

(c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with other existing laws or ordinances.

(5) Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods. As such, variances from flood elevations should be quite rare.

(6) Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of floodproofing than watertight or dry floodproofing, where it can be determined that such action will have low damage potential, complies with all other variance criteria except subsection (1) of this section and otherwise complies with FWRC 19.142.110(1) and (3), and 19.142.120.

(7) Any applicant to whom a variance is granted shall be given written notice over the signature of the Director that the ~~permitted~~ issuance of a variance to construct a structure will be built with its lowest floor below the base flood elevation will result in increased premium rates for flood insurance up to amounts as high as \$25 for every \$100 of insurance coverage and that such construction below the BFE increases risks to life and property and that the cost of flood insurance will be commensurate with the increased risk.

(8) The Director shall maintain a record of all variance actions, including justification for their issuance.

(9) The Director shall condition the variance as needed to ensure that the requirements and criteria of this chapter are met.

Section 9. FWRC 19.142.110 is hereby amended to read as follows:

**Provisions for flood hazard reduction.**

In all areas of special flood hazards, the following standards are required:

*(1) Anchoring.*

(a) All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic or hydrostatic loads, including the effects of buoyancy;

(b) All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

*(2) Construction materials and methods.*

(a) All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

(b) All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

(c) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Locating such equipment below the base flood elevation may cause annual flood insurance premiums to be increased.

(3) *Utilities.*

(a) All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems;

(b) Water wells shall be located on high ground that is not in the floodway;

(c) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of floodwaters into the systems and discharges from the systems into floodwaters;

(d) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

(4) Storage of Materials and Equipment

(a) The storage or processing of materials that could be injurious to human, animal, or plant life if released due to damage from flooding is prohibited in special flood hazard areas.



(b) Storage of other material or equipment may be allowed if not subject to damage by floods and if firmly anchored to prevent flotation, or if readily removable from the area within the time available after flood warning.

Section 10. Chapter 19.142.120 is hereby amended to read as follows:

**Subdivision proposals.**

All development proposals, including subdivision and manufactured home park or subdivision proposals, shall:

- (1) ~~All subdivision proposals shall~~ be consistent with the need to minimize flood damage;
- (2) ~~All subdivision proposals shall~~ have public utilities and facilities, such as sewer, gas, electrical, and water systems located and constructed to minimize or eliminate flood damage;
- (3) ~~All subdivision proposals shall~~ have adequate drainage provided to reduce exposure to flood damage;
- (4) Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for ~~subdivision proposals and other proposed developments which contain at least~~ all development proposals greater than 50 lots or five acres (whichever is less).

Section 11. FWRC 19.142.140 is hereby amended to read as follows:

**Specific standards.**

The following provisions are required in all areas of special flood hazards where base flood elevation data has been provided as set forth in FWRC 19.142.050(1) or 19.142.070.

*(1) Residential construction in zone AE.*

(a) New construction and substantial improvement of any residential structure shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation (BFE).

(b) Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or if used solely for parking, access or storage, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

(i) A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

(ii) The bottom of all openings shall be no higher than one foot above grade.

(iii) Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

Foundation vent standards required by the IBC/IRC outside the floodplain do not meet this standard and are often inadvertently permitted. Insurance rates reflect an “all or nothing” standard. Partially ventilated crawlspaces may be subject to an additional loading fee of 20 to 25 percent attached to the annual insurance premium.

Upon completion of the structure, certification by a registered professional engineer or surveyor that the elevation requirements of the lowest floor, including basement, of this section have been satisfied shall be provided to the Director for verification.

(2) Residential construction in Zone VE

(a) Be located landward of the reach of mean high tide;

(b) Have the bottom of the lowest structural member of the lowest floor (excluding pilings and columns), elevated to or above the Base Flood Elevation;

(c) Have the pile or column foundation and structure attached thereto be anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components. Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable state or local building standards;

(d) Have the space below the lowest floor, usable solely for parking of vehicles, building access, or storage, either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the

building or supporting foundation system. For the purposes of this section, a breakaway wall shall have a design safe loading resistance of not less than 10 and no more than 20 pounds per square foot;

(e) Prohibit the use of fill for structural support of buildings; and

(f) Prohibit man-made alteration of sand dunes and mangrove stands.

A registered professional engineer or architect shall develop or review the structural design, specifications and plans for the construction, and shall certify that the design and methods of construction to be used are in accordance with accepted standards of practice for meeting the provisions of this Section.

Upon completion of construction, certification by a registered professional engineer or architect that these design standards have been satisfied, and certification by a registered professional engineer or surveyor that the elevation requirements of the bottom of the lowest structural member of the lowest floor, excluding pilings and columns, of this section have been satisfied shall be provided to the Director for verification.

(23) Nonresidential construction in an AE zone. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

(a) Be floodproofed so that below one foot or more above the base flood level the structure is watertight with walls substantially impermeable to the passage of water;

(b) Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;

(c) Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in FWRC 19.142.060(2);

(d) Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in subsection (1)(b) of this section.

Applicants who are floodproofing nonresidential buildings should beware that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building floodproofed to the base flood level will be rated as one foot below). Floodproofing the building an additional foot will reduce insurance premiums significantly.

Upon completion of the structure, certification by a registered professional engineer or surveyor that the elevation requirements of the lowest floor, including basement, of this section have been satisfied shall be provided to the Director for verification; or certification by a registered professional engineer or architect that the floodproofing design of this section is satisfied, including the specific elevation in relation to mean sea level to which such structures are floodproofed, shall be provided to the Director for verification.

(4) Non-residential construction in Zone VE. Floodproofing of non-residential structures is prohibited. All structures must be elevated and constructed according to the requirements set forth in FWRC 19.142.140(1).

(35) Manufactured homes in zone AE. All manufactured homes ~~in the floodplain~~ to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

Upon completion of installation of the manufactured home, certification by a registered professional engineer or surveyor that the elevation requirements of this section have been satisfied shall be provided to the Director for verification.

(6) All manufactured homes to be placed or substantially improved on sites shall meet the standards of residential construction in VE Zones in FWRC 19.142.140(1).

Upon completion of installation of the manufactured home, certification by a registered professional engineer or surveyor that the elevation requirements of this section have been satisfied shall be provided to the Director for verification.

(47) Recreational vehicles. Recreational vehicles placed on sites are required to either:

(a) Be on the site for fewer than 180 consecutive days; or

(b) Be fully licensed and ready for highway use, on wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions; or

(c) Meet the requirements of subsection (3) of this section and the elevation and anchoring requirements for manufactured homes.

Section 12. Chapter 19.142.150 is hereby amended to read as follows:

**~~AE and A1-30~~ zones with base flood elevations but no floodways.**

In areas with base flood elevations (but a regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within ~~zones A1-30 and~~ Zone AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

Section 13. FWRC 19.142.095 is hereby added to read as follows:

**Notification to Other Entities Changes to Floodplain Maps**

Base Flood Elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Director shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of

those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.

Section 14. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to any other persons or circumstances.

Section 15. Corrections. The City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance including, but not limited to, the correction of scrivener/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

Section 16. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 17. Effective Date. This ordinance shall be effective five (5) days after passage and publication as provided by law.

PASSED by the City Council of the City of Federal Way this 11th day of August, 2020.

[signatures to follow]



CITY OF FEDERAL WAY:

\_\_\_\_\_  
JIM FERRELL, MAYOR

ATTEST:

\_\_\_\_\_  
STEPHANIE COURTNEY, CMC, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
J. RYAN CALL, CITY ATTORNEY

FILED WITH THE CITY CLERK:	_____
PASSED BY THE CITY COUNCIL:	_____
PUBLISHED:	_____
EFFECTIVE DATE:	_____
ORDINANCE NO.:	_____

# CITY OF FEDERAL WAY

## CITY COUNCIL

### AGENDA BILL

**SUBJECT: ORDINANCE: REGARDING EXTENSION OF INTERIM ZONING REGULATIONS FOR A 6-MONTH PERIOD UNTIL REVIEW OF NEW FEDERAL RULES ARE COMPLETED.**

**POLICY QUESTION:** Should Council extend the interim small wireless zoning regulations and development guidelines, enacted by Ordinance No. 19-862, for a 6-month period, after conducting a public hearing, in order to complete review of new federal rules?

**COMMITTEE:** Land Use and Transportation

**MEETING DATE:** July 6, 2020

**CATEGORY:**

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Consent               | <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Public Hearing |
| <input type="checkbox"/> City Council Business | <input type="checkbox"/> Resolution           | <input type="checkbox"/> Other          |

**STAFF REPORT BY:** Desiree' S. Winkler, P.E., Deputy Director

**DEPT:** Public Works

**Attachments:** 1. Staff Report  
2. Ordinance

**Options Considered:**

1. Adopt the proposed ordinance.
2. Do not adopt the proposed ordinance and provide direction to staff.

**MAYOR'S RECOMMENDATION:** Option 1.

**MAYOR APPROVAL:**

*[Signature]*  
Committee  
Initial/Date

*[Signature]*  
Council  
Initial/Date

**DIRECTOR APPROVAL:**

*[Signature]*  
Initial/Date

**COMMITTEE RECOMMENDATION:** *I move to forward the proposed ordinance to First Reading and adoption on July 21, 2020.*

Mark Koppang, Committee Chair

Hoang Tran, Committee  
Member

Martin Moore, Committee  
Member

**PROPOSED COUNCIL MOTION(S):**

**FIRST READING OF ORDINANCE AND ADOPTION (JULY 21, 2020):** *"I move approval and adoption of the proposed ordinance."*

*(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)*

**COUNCIL ACTION:**

- ☐ APPROVED
- ☐ DENIED
- ☐ TABLED/DEFERRED/NO ACTION
- ☐ MOVED TO SECOND READING (*ordinances only*)

REVISED - 11/2019

**COUNCIL BILL #** \_\_\_\_\_

First reading \_\_\_\_\_


Enactment reading \_\_\_\_\_

**ORDINANCE #** \_\_\_\_\_

**RESOLUTION #** \_\_\_\_\_

## CITY OF FEDERAL WAY M E M O R A N D U M

---

**DATE:** July 6, 2020  
**TO:** City Council  
**VIA:** Jim Ferrell, Mayor  
**FROM:** EJ Walsh, P.E. Public Works Director   
Desiree' Winkler, P.E. Deputy Public Works Director  
**SUBJECT:** Six Month Extension of Interim Small Wireless Zoning Regulations and Development Guidelines

---

### **FINANCIAL IMPACTS:**

There are no financial impacts to the City at this time.

### **BACKGROUND INFORMATION:**

In January 2019, Ordinance No. 19-862 was enacted as interim code in part to address the requirements of the Federal Communications Commission ("FCC") regarding zoning regulations for telecommunication facilities. These regulations stemmed from the Regulatory Ruling, Order, and Regulation 85 FCC 51867 ("FCC Order") imposes limitations on the processing of all permits associated with the deployment of small wireless facilities. The FCC Order has been subject to multiple appeals, which have been consolidated before the Federal Ninth Circuit Court of Appeals. Oral argument for this matter was heard in February 2020 with the Declaratory Ruling and Notice of Proposed Rulemaking ("FCC Rules") issued in June 10, 2020.

City Council is being asked to approve an extension of the previously adopted interim zoning ordinance, Ordinance No. 19-862, to delay adoption of permanent small wireless regulations until staff have an opportunity to review and incorporate the new "FCC Rules" enacted June 10, 2020.

The City's current interim zoning ordinance lapses on July 9, 2020; therefore, for the ordinance to go into immediate effect and close the gap in the regulations, Council must pass the emergency ordinance with a majority plus one of the whole membership of the Council.

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE of the City of Federal Way, Washington, relating to the adoption and extension of interim land use regulations and official controls pursuant to RCW 35A.63.220 and RCW 36.70A.390 to control the provision of telecommunications facilities within the City, which were adopted pursuant to Ordinance No. 19-862. (Amending Ordinance Nos. 19-862, 18-850; 15-804; 15-797; 13-754; 11-700; 09-610; 09-605; 09-593; 08-585; 97-291; 90-43 and 19-862).**

---

WHEREAS, the City of Federal Way has the authority to adopt interim land use regulations pursuant to RCW 35A.63.220; and

WHEREAS, Chapter 19.256 of the Federal Way Revised Code (“FWRC”) was amended pursuant to Ordinance 19-862 adopting interim zoning regulation regarding telecommunications facilities effective January 9, 2019; and

WHEREAS, the Federal Communications Commission (“FCC”) adopted a Regulatory Ruling, Order, and Regulation 85 FCC 51867 (“FCC Order”) governing small wireless facilities that impose limitations on the processing of all permits associated with the deployment of small wireless facilities; and

WHEREAS, the FCC Order requires the City to adopt aesthetic standards for such deployments and to utilize a consolidated process emphasizing administrative review in order to comply with federal safe harbors or presumptively reasonable time limits for review; and

WHEREAS, Ordinance No. 19-862 was enacted in part to address the requirements of FCC regulatory orders; and

WHEREAS, the Federal Order imposed significant constraints on the exercise of local authority as well as procedural requirements; and

WHEREAS, the FCC Order has been the subject of multiple appeals consolidated before the Federal Ninth Circuit Court of Appeals; and

WHEREAS, FCC issued its Declaratory Ruling and Notice of Proposed Rulemaking (RM-11849) (“FCC Rules”) on June 10, 2020 further addressing local agencies abilities to regulate small wireless facility design and modifications; and

WHEREAS, The City’s adoption of interim regulations provides a structural framework and aesthetic standards for wireless communication facilities; and

WHEREAS, the City Council deems it to be in the public interest to delay final consideration of its interim regulations until further review can be completed of the recent “FCC Rules”; and

WHEREAS, RCW 36.70A.390 permits the City to extend the interim regulations for additional six-month periods if a subsequent public hearing is held; and

WHEREAS, a public hearing was held before the City Council on July 21, 2020.

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

Section 1. Findings of Fact. For the Findings of Fact required pursuant to RCW 35A.63.220 and 36.70A.390, the City Council hereby adopts the recitals set forth above.

Section 2. Ordinance Extension. Ordinance 19-862 is hereby extended for an additional six months effective July 9, 2020.

Section 3. Severability. The provisions of this ordinance are declared separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of the application thereof to any person or circumstance, shall not affect the validity of the remainder of the ordinance, or the validity of its application to any other persons or circumstances.

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

Section 5. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 6. Effective Date. The Council finds that this interim regulation is for a public emergency, necessary for the protection of public health, public safety, public property, or the public peace, and for the immediate support of City government, and is not subject to initiative or referendum pursuant to Chapter 1.30 FWRC. This ordinance shall be retroactively effective on July 9, 2020, and be in full force immediately upon adoption.

PASSED by the City Council of the City of Federal Way this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

[Signature page follows]

CITY OF FEDERAL WAY:

\_\_\_\_\_  
JIM FERRELL, MAYOR

ATTEST:

\_\_\_\_\_  
STEPHANIE COURTNEY, CMC, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
J. RYAN CALL, CITY ATTORNEY

FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
PUBLISHED:  
EFFECTIVE DATE:  
ORDINANCE NO.:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# CITY OF FEDERAL WAY

## CITY COUNCIL

### AGENDA BILL

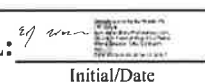
**SUBJECT: TRANSPORTATION GRANT FUNDING APPLICATIONS****POLICY QUESTION:** Should the City Council authorize staff to submit the proposed grant applications for transportation projects?**COMMITTEE:** Land Use and Transportation**MEETING DATE:** July 6, 2020**CATEGORY:**

- |   |  |  |
|---|--|--|
| <input checked="" type="checkbox"/> <b>Consent</b>    | <input type="checkbox"/> <b>Ordinance</b>  | <input type="checkbox"/> <b>Public Hearing</b> |
| <input type="checkbox"/> <b>City Council Business</b> | <input type="checkbox"/> <b>Resolution</b> | <input type="checkbox"/> <b>Other</b>          |

**STAFF REPORT BY:** Desiree Winkler, P.E., Deputy Director**DEPT:** Public Works**Attachments:** Land Use and Transportation Committee memorandum dated July 6, 2020.**Options Considered:**

1. Authorize staff to submit the proposed grant applications for transportation projects.
2. Do not authorize staff to submit the proposed grant applications and provide direction to staff.

**MAYOR'S RECOMMENDATION:** Option 1.**MAYOR APPROVAL:**
  
 Committee  
Initial/Date

  
 Council  
Initial/Date
**DIRECTOR APPROVAL:**
  
 Initial/Date
**COMMITTEE RECOMMENDATION:** *"I move to forward Option 1 to the July 21, 2020 Council consent agenda for approval."*

Mark Koppang, Committee Chair

Hoang Tran, Committee  
MemberMartin Moore, Committee  
Member**PROPOSED COUNCIL MOTION:** *I authorize staff to submit the proposed grant applications for transportation projects.**(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)***COUNCIL ACTION:**

- ☐ **APPROVED**
- ☐ **DENIED**
- ☐ **TABLED/DEFERRED/NO ACTION**
- ☐ **MOVED TO SECOND READING** (ordinances only)

REVISED - 4/2019

**COUNCIL BILL #**

First reading

Enactment reading

**ORDINANCE #****RESOLUTION #**



# CITY OF FEDERAL WAY

## MEMORANDUM

**DATE:** July 6, 2020  
**TO:** City Council  
**VIA:** Jim Ferrell, Mayor  
**FROM:** EJ Walsh, P.E., Public Works Director  
Desiree S. Winkler, P.E., Deputy Public Works Director  
**SUBJECT:** TRANSPORTATION GRANT FUNDING APPLICATIONS

### **FINANCIAL IMPACTS:**

The match for the projects is proposed to be funded from the 2021-2024 capital transportation funding (Fund 306) made up of Real Estate Excise Tax (REET), Motor Vehicle Excise Tax (MVET), and Traffic Impact Fees. Operations and maintenance of these projects will be considered as part of the 2023-24 budget.

### **BACKGROUND INFORMATION:**

This memorandum provides the Council with the current status of new grant funding programs for transportation improvement projects. Staff has evaluated all projects listed on the City's Six Year Transportation Improvements Plan (TIP) and Comprehensive Plan projects and concluded that the following projects will likely be competitive in the WA State Transportation Improvement Board (TIB) Urban Arterial Program.

<b>Project (Funding Phase) Grant</b>	<b>Estimated Project Cost</b>	<b>Possible Grant Funds</b>	<b>Estimated City Match</b>
<b>S 288<sup>th</sup> Street – Pacific Hwy S to 34<sup>th</sup> Ave S – Bike and Pedestrian Improvements (Design and Construction)</b>			
Bicycle and Pedestrian Program (Federal Funds)	\$2,500,000	\$1,700,000	\$800,000

# CITY OF FEDERAL WAY

## CITY COUNCIL

### AGENDA BILL

**SUBJECT: ORDINANCE: RELATING TO VACATION OF RIGHT OF WAYS**

**POLICY QUESTION:** Should City Council approve the ordinance to modify and add new sections to Federal Way Revised Code related to vacation of Right of Ways?

**COMMITTEE:** Land Use and Transportation Committee

**MEETING DATE:** July 6, 2020

**CATEGORY:**

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Consent               | <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Public Hearing |
| <input type="checkbox"/> City Council Business | <input type="checkbox"/> Resolution           | <input type="checkbox"/> Other          |

**STAFF REPORT BY:** EJ Walsh, P.E., Public Works Director

**DEPT:** Public Works

**Attachments:** 1. Staff Report  
2. Ordinance

**Options Considered:**

1. Approve the proposed ordinance.
2. Reject the proposed ordinance and provide direction to staff.

**MAYOR'S RECOMMENDATION:** Option 1.

**MAYOR APPROVAL:**

*[Signature]*  
Committee  
Initial/Date

*[Signature]*  
Council  
Initial/Date

**DIRECTOR APPROVAL:**

*[Signature]*  
Initial/Date

**COMMITTEE RECOMMENDATION:** *I move to forward the proposed ordinance to First Reading on July 21, 2020.*

Committee Chair

Committee Member

Committee Member

**PROPOSED COUNCIL MOTION(S):**

**FIRST READING OF ORDINANCE (JULY 21, 2020):** "I move to forward approval of the ordinance to the August 11, 2020 Council Meeting for enactment."

**SECOND READING OF ORDINANCE (AUGUST 11, 2020):** "I move approval of the proposed ordinance."

(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)

**COUNCIL ACTION:**

- ☐ APPROVED
- ☐ DENIED
- ☐ TABLED/DEFERRED/NO ACTION
- ☐ MOVED TO SECOND READING (*ordinances only*)

REVISED – 11/2019

**COUNCIL BILL #**

**First reading**

**Enactment reading**


**ORDINANCE #**

**RESOLUTION #**

_____
_____
_____
_____
_____

## CITY OF FEDERAL WAY M E M O R A N D U M

---

**DATE:** July 6, 2020  
**TO:** City Council  
**VIA:** Jim Ferrell, Mayor  
**FROM:** EJ Walsh, P.E., Director of Public Works   
**SUBJECT:** ORDINANCE: Relating to vacation of Right of Ways

---

**FINANCIAL IMPACTS:**

This Ordinance does not contain provisions that staff anticipates will have a financial impact.

**BACKGROUND:**

Public Right of Ways are held by the City in trust for public use, and, relinquishing a Right of Way restricts public movement and is therefore a significant act.

From time to time the City receives requests to vacate public Right of Ways. Typically, these requests are in conjunction with, or as a result of, private development. Current adopted code does contain a section related to Right of Way vacations, however does not establish criteria under which such requests should be reviewed. Further, in accordance with the Revised Code of Washington, vacations should only be completed when it significantly serves the public interest.

Therefore, the proposed Ordinance establishes criteria under which to review requests for Right of Way vacation, requires the applicant to demonstrate the public benefit, and directs establishment of Administrative policies, including an application and checklist.

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE of the City of Federal Way, Washington, relating to Right of Way Vacations; amending FWRC 4.20.120 and adding a new section to chapter 19.135 FWRC. (Amending Ordinance No. 19-107)**

---

WHEREAS, the City of Federal Way (“City”) is a non-charter code city under Title 35A of the Revised Code of Washington (“RCW”); and

WHEREAS, occasionally property owners desire to acquire the Right of Way next to their property; and

WHEREAS, the City holds Right of Ways in trust for public use; and

WHEREAS, relinquishing the easement and restricting public movement through the Right of Way is a significant act and not done lightly; and

WHEREAS, the City Council shall determine that doing so significantly serves the public interest.

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

Section 1. FWRC 4.20.120 is hereby amended to read as follows:

**4.20.120 Conduct of hearing – Basis for decision.**

A public hearing on a proposed street vacation shall be held before the city council. At the time of the hearing on the vacation, or at such time as the same may be continued by the city council, the matter shall be considered and those desiring to speak on the vacation shall be heard. Following the hearing, the council shall decide whether to grant or deny the petition for vacation. Such determination shall include, but not be limited to:

(1) Compliance with the following criteria:

(a) The vacation provides a public benefit or is for a public benefit. The benefit may

include economic or business support the community as a whole derives from the abutting property owner;

(b) The street, alley or portion thereof is no longer required for public use;

(c) The vacation does not abut a body of water, such as a river, lake, or salt water, except for a public purpose such as a park or port facility and which reverts to a public authority; and

(2) Consideration of the following criteria:

(a) The vacation meets the intent of the city's comprehensive plan's general purposes and objectives;

(b) The vacation provides for an exchange of public property in the public interest;

(c) Whether conditions may so change in the future as to provide a greater use or need than presently exists;

(d) Whether objections to the proposed vacation are made by owners of private property, exclusive of petitioners, abutting the same;

(e) The vacation would not interfere with future development or access to other existing or future developments.

(f) The petitioner has demonstrated the vacation complies with FWRC 19.135.252.

Section 2. Chapter 19.135 of the Federal Way Revised Code is hereby amended to add a new section 19.135.252 to read as follows:

**19.135.252 Vacation of Right of Way.**

(1) Generally. The Public Works Director shall prepare and make available for distribution administrative Street Vacation Policies, including an application checklist and application.

(2) Right of Way may be reduced or vacated only after the following requirements are completed:

(a) Analysis and documentation consistent with the Street Vacation Policies.

(b) Demonstration that the remaining street network meets the block perimeter standards of FWRC 19.135.251. Where block perimeter standards are not met prior to vacation, any vacation of public Right of Way shall not result in an increase in the non-conforming block length.

(c) A traffic analysis demonstrating that there will be no increase in trips by vehicles, pedestrians, or other modes on the Right of Way network as a result of the vacation; or proposed improvements required for mitigation so there is no resulting increase in trips on the Right of Way network.

(d) A public hearing before the City Council complying with the requirements of FWRC 4.20.120.

Section 3. Severability. Should any section, subsection, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or situation, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance or its application to any other person or situation. The City Council of the City of Federal Way hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clauses, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional.

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

Section 5. Ratification. Any act consistent with the authority and prior to the effective date of this ordinance is hereby ratified and affirmed.

Section 6. Effective Date. This ordinance shall take effect and be in force thirty (30) days from and after its passage and publication, as provided by law.

PASSED by the City Council of the City of Federal Way this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

CITY OF FEDERAL WAY:

\_\_\_\_\_  
JIM FERRELL, MAYOR

ATTEST:

\_\_\_\_\_  
STEPHANIE COURTNEY, CMC, CITY CLERK

APPROVED AS TO FORM:

\_\_\_\_\_  
J. RYAN CALL, CITY ATTORNEY

FILED WITH THE CITY CLERK: \_\_\_\_\_  
PASSED BY THE CITY COUNCIL: \_\_\_\_\_  
PUBLISHED: \_\_\_\_\_  
EFFECTIVE DATE: \_\_\_\_\_  
ORDINANCE NO.: \_\_\_\_\_

**CITY OF FEDERAL WAY**

**ADMINISTRATIVE**

**STREET VACATION POLICIES**

**PUBLIC WORKS DEPARTMENT**

**JULY 2020**



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DRAFT

## INTRODUCTION

The City's existing Right of Way network of improved and unimproved public streets as currently exist and as contemplated in the Comprehensive Plan, City Code, and Development Standards contain the City's vision for the future transportation network to support residents, businesses, commerce, tourism and more.

Right of Way vacations may be initiated in two ways. The first is by a property owner(s) whom desire to acquire the Right of Way adjacent to and abutting their property. This process is called a Right of Way Vacation. To commence a property-owner initiated Right of Way Vacation, the property owner petitions the City in accordance with State law, City Code and this Policy.

The second is City initiated through a resolution. Council may initiate Right of Way vacations by resolution only for a public purpose or when extraordinary circumstances prevent following the petition process. If the Council initiates a petition, all other aspects and procedures of State Law, City Code and these policies still apply.

To grant a Right of Way Vacation, the City is responsible to ensure that the public's interest in the transportation network is protected; approves an associated public benefits proposal; and typically receives the property's fair market value.

These policies guide petitioners, City departments, Boards and Commissions, and the public through the City's process to analyze, review and assess Right of Way vacation petitions. They apply to all Right of Ways whether improved or unimproved.

The City's default position is that unless there are compelling reasons to vacate a Right of Way and it is in the public's benefit to do so; the City will keep it for future public purposes.

### PROPERTY OWNER INITIATED RIGHT-OF-WAY VACATIONS IN GENERAL

A Right of Way Vacation is a discretionary legislative act by the City Council that relinquishes the public's right to use the Right of Way. Through a petition, a property owner asks the City, on behalf of the public, to relinquish the public's right to use a street, alley, or other public Right of Way<sup>1</sup> abutting their property. For the purposes of these policies a "Right of Way Vacation" describes vacating any Right of Way over which the public has the right of travel.

These policies use the term "street" to refer to all types of public Right of Way including streets, alleys, boulevards, paths, stairways, and public places, whether improved or unimproved. The Revised Code of Washington (RCW) Chapter 35.79 guides the City's review of Right of Way Vacation petitions. That Chapter assigns responsibility over Right of Way vacation decisions to the Council.

### FRAMEWORK FOR DECISION-MAKING

Right of Ways are different and unique from other types of property. When the City grants a Right of Way Vacation, it is relinquishing the public's rights to utilize an area and allowing the abutting property owners to take possession and control of the former Right of Way.

The City holds Right of Ways in trust on behalf of the public, for public use. Relinquishment, and subsequently restricting public movement through the remaining Right of Way is a significant act. For a Right of Way Vacation petition to be approved, the Council shall determine that to do so would significantly serve the public's interest. It is the petitioner's obligation to provide a

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<sup>1</sup> "Public right of way" is any property where the City has a right to use the land for street purposes, whether improved or not.

justification for the vacation, information demonstrating there are no feasible alternatives, and ensure that the remaining transportation network is not negatively impacted.

Right of Ways are dedicated in perpetuity for use by the public for travel, transportation of goods, and locating utilities. The dedication carries with it public rights to circulation, access, utilities, light, air, open space, views, free speech, and assembly, and contributes significantly to the form and function of the city. The primary concern of the City in evaluating vacation petitions is to safeguard the public's present and future needs and to act in the public's best interest.

The Council's responsibility is to weigh the public trust and land use effects of a vacation, mitigating measures, and the public benefit provided by the vacation to determine if the vacation is in the public's interest. In balancing these elements of the public interest, the Council places primary importance upon protecting the public trust it holds in the Right of Way.

Guidance of this process is based upon the following:

**Public Trust Doctrine:** The City is responsible for holding the rights-of-way in public trust. The components of the public trust form the foundation of the City's review of vacation petitions and public benefit proposals.

**Public Trust Analysis:** Describes the criteria the City uses to determine whether it is appropriate to vacate a Right of Way.

**Public Benefit Analysis:** Describes the types of public benefits the City expects to see provided in exchange for vacation of a Right of Way.

**Process for City Review of Right of Way Vacation Petitions:** Describes the process the City utilizes to review Right of Way vacations.

## **DISTINCTION BETWEEN RIGHT-OF-WAY VACATIONS AND LAND USE DECISIONS**

There are no rights under Federal Way Revised Code, the Revised Code of Washington, or elsewhere to acquire or develop within a public Right of Way. To do so, a property owner shall petition for and receive the Council's approval for a Right of Way Vacation. Under State law, the Council may not approve a Right of Way vacation unless it is in the public's best interest. The City uses a two-part test to make this determination.

First, based on materials submitted by the Petitioner, the City performs a "Public Trust Analysis," a determination of whether the Right of Way is needed and whether the public interest can be protected if the Right of Way is vacated. Second, also based on materials submitted by the Petitioner, the City undertakes a "Public Benefit Analysis," assessing the petitioner's proposal to provide benefits to the public.

Established plans, policies, and standards guide this review. The City will not support vacations that conflict with City planning goals. However, land use policies and codes do not bind the Council's decision to grant or deny a Right of Way vacation petition. The Council may condition or deny vacations as it deems necessary to protect the public's interest.

In land use decisions, the Council's role is administrative. The Council sets policies in the form of zoning and land use codes, development standards, and environmental policies and regulations, while the decision authority has been delegated to various staff or the Hearing Examiner.

Under state law, Right of Way Vacation decisions must be made by the Council. The Council cannot delegate that authority. Unless the Council approves a Right of Way vacation, property owners have no right to use or occupy the Right of Way, if not otherwise permitted by the Public Works

Department. The Council typically makes its approval of a vacation conditional on the petitioner meeting a number of requirements.

In addition to reviewing the vacation petition under these policies, a development proposal that requires a vacation may also undergo one or more of the following reviews:

- Land use and zoning review, including review of re-zones;
- Design review and other discretionary land use actions;
- State Environmental Policy Act (SEPA);
- Transportation modal plans;
- Right of Way Permit; or
- Engineering review.

These reviews may result in additional conditions applied in the Right of Way vacation review. Petitioners are required to obtain all necessary land use and building permits before developing the site.

## **1) PUBLIC TRUST DOCTRINE**

City Right of Ways are held in trust for the public, meaning the City is the trustee and guardian of the Right of Way, not an underlying property owner. The Council may approve vacations only when they are in the public's interest. Right of Ways will be retained unless it can be shown that they are not needed for a current or foreseeable public use, there is no negative impacts to the remaining transportation network, and the Council is assured that the vacation is in the public interest. Documentation is required from the Petitioner to demonstrate each of the following areas is maintained with the proposed vacation.

### **a) CIRCULATION**

Right of Ways enable the movement of people, goods, and vehicles through the city as part of a transportation network. If a part of the network is removed, there may be rippling effects throughout. The City will only vacate a Right of Way if doing so does not result in negative effects or displacement of trips onto the remaining network; disrupt the movement of people, goods, and vehicles through the city; and it is consistent with the City's transportation plans.

### **b) ACCESS**

Right of Ways provide access to abutting property from the surrounding community and to the surrounding community from private property. Improved rights-of ways or streets are designed to provide access via a range of transportation modes, including walking, bicycling, riding transit, and driving. The City will only vacate a Right of Way if doing so does not result in negative effects on the current or future needs of the City's vehicular, bicycle, or pedestrian circulation systems, or on access to private property.

### **c) UTILITIES**

City and private utilities use Right of Ways to serve the community and their customers. The City will only vacate a Right of Way when all utilities using or potentially using the Right of Way can be adequately protected with easements, relocations, or utility corridors satisfactory to the utilities' owners. Future potential utilities are required to be accommodated.

### **d) FREE SPEECH**

The public has traditionally had the right and ability to use Right of Ways to exercise constitutional rights under the First Amendment. The City will only vacate a Right of Way when offsetting publicly-accessible spaces on the site will be kept open for the same speech-related purposes.

### **e) PUBLIC ASSEMBLY**

Right of Ways act as places for people to gather, to meet their neighbors, for children to play, and for all segments of society to interact. This role of the Right of Way can be particularly important for people who have the fewest resources. The City will only vacate a Right of Way when the Petitioner demonstrates that the remaining Right of Way network provides the same level of service to the surrounding properties.

### **f) OPEN SPACE**

In addition to providing space for people to gather, interact, and travel, Right of Ways offer open space benefits. This includes space between structures, connections to the community

surroundings, places for trees and vegetation, and contributions to the open space network. The City will only vacate a Right of Way when the Petitioner demonstrates that any development will have a similar resulting function.

**g) LIGHT AND AIR**

Right of Ways maintain access to light and air to their users and surrounding properties. The City will consider loss of light and air, and shadow impacts in considering whether to approve a Right of Way vacation. Of particular importance are shadow impacts on nearby spaces where public may gather.

**h) VIEWS**

Right of Ways provide views to mountains, bodies of water, and the city itself. The City will consider feedback from impacted property owners, the impacts on views of and from public places, and views of the natural landscape.

**i) LAND USE AND URBAN FORM**

The Right of Way plays a significant role in the shape of the city. The City will consider the relationship between the intended character of the area as described in the Comprehensive Plan and adopted neighborhood, subarea, or community plans. The width and spacing of streets, the presence and absence of connector streets, and the location and path of boulevards, pedestrian trails, and other linear open spaces have significant impacts on neighborhoods and how they function. The City will consider impacts that disrupt an existing pattern of development in a neighborhood or area.

## 2) PUBLIC TRUST ANALYSIS

This section describes the components of the City's analysis in reviewing petitions under the public trust doctrine.

In reviewing a vacation petition, the City evaluates the impacts of a vacation on the public trust, mitigating measures, and public benefits proposed by the petitioner to determine if the vacation is in the public interest. In balancing these elements of the public interest, the City will place primary importance on protecting the public trust.

Right of Ways are dedicated in perpetuity for public travel and the movement of goods. The designation of a Right of Way carries with it rights to circulation, access, utilities, public speech, public use, open space, light, air, views, land use, and urban form. City government acts as the public's trustee in managing the uses within the Right of Way. The City has an interest in protecting the rights of those with the least access to other resources and those most likely to be harmed by development. In that endeavor, the primary concern of the City in vacation decisions is to safeguard the public's present and future needs.

Existing and potential future uses of the Right of Way, whether improved or unimproved, will be identified during the vacation petition review. All or a portion of the Right of Way may be retained for public purposes, including potential future needs that are unknown at the time of review.

The City will consider the impacts of a vacation on the immediately surrounding neighborhood, the broader city and, when appropriate, the region. The larger the project, the more the City's focus will be on broader community impacts, particularly impacts on communities with the least access to opportunity and most likely to experience the negative resulting impacts.

When several vacations are proposed for a particular area of the City by one or multiple petitioners, City staff or Council may request that a comprehensive review be undertaken to determine the cumulative effects of the vacations, particularly on circulation, access, land use and urban form, and impacts to the overall city transportation network. City reviewers shall consider the impacts on the larger transportation system, and impacts on the loss of the Right of Way proposed for vacation.

The requirements for a Right of Way Vacation petition is not limited to documents prepared for other aspects of the project under review. To fully assess the impacts of a vacation on the public trust, City departments, boards and commissions, and the Council may ask petitioners for additional information regarding impacts.

### a) CIRCULATION

Right of Ways provide necessary space for the movement of people and vehicles. Vacations may be approved only if they do not result in negative effects on the current and future needs for the City's vehicular, bicycle, or pedestrian circulation systems unless the negative effects are fully mitigated by the petitioner. When the traffic functions of a street are necessary for the transportation network, the City will not grant the vacation.

Arterial streets, truck routes, and truck streets may be vacated only when an alternative circulation route is substituted and impacts of the loss of the street are mitigated.

The City will not approve vacations that:

- i) Propose agreements for public vehicular travel across private property to offset impacts;
- ii) Result in diverting truck or commercial traffic to nearby residential streets;
- iii) May encourage traffic code violations, such as backing out from an alley onto a street;

- iv) Result in a measurable reduction to the functionality or capacity of arterials or collector streets, as defined by the City's Comprehensive Plan, that cannot be mitigated to a level of no impact;
- v) Result in increase response times for emergency responders;
- vi) Result in non-conformance with City block length standards, or where block perimeter standards are not met prior to vacation, any Right of Way vacation which results in an increase in non-conformance block length;
- vii) Result in an increase in vehicle or pedestrian trips on surrounding existing streets as a result of the vacation of the Right of Way;
- viii) Result in partial vacation of a Right of Way where the remaining Right of Way width is less than that required in the Comprehensive Plan; or which creates a Right of Way island, where the remainder is not connected or feasibly utilized for the transportation network.

Transit facilities and routes will be protected through the Right of Way Vacation process. Right of Ways that are used by public transit agencies will be considered for vacation only after review and comment by those agencies and identification of alternative locations or routes for those transit functions.

Pedestrian circulation shall be protected when approving a vacation. Formal and informal pedestrian routes, may be vacated only for public purposes, such as parks. Pedestrian circulation functions of the Right of Way may be replaced by a pedestrian route across private property only when:

- ix) A major public benefit, as approved by City Council, is provided;
- x) A perpetual agreement for public access across the property is reached;
- xi) The public access to be provided is comparable in terms of safety, convenience, and directness; and
- xii) The free speech functions of the Right of Way will be maintained in public spaces.

Alleys and paths that are part of the pedestrian circulation system, may be vacated only when comparable public pedestrian circulation is provided and the pedestrian environment along the corridor is improved. Similarly, vacations resulting in a reduction of sidewalk width may be vacated only when provisions are made to otherwise accommodate the pedestrian traffic. Right of Way vacations that include unimproved pedestrian trails may be approved only when the public pedestrian function is protected.

The continuity and integrity of existing and planned bicycle paths and bicycle lanes, will be protected. Such streets and off-street pathways may be vacated only when a comparable or better bicycle Right of Way is provided as part of the vacation. Bicycle access shall be comparable in terms of safety, convenience, and directness.

If a vacation is granted, the Council may impose conditions on the vacation to reduce impacts on vehicular, transit, freight, pedestrian, and bicycle circulation. Such conditions may be in addition to any conditions resulting from environmental review or land use regulation.

## **b) ACCESS**

Right of Way Vacation petitions may be approved only if access is retained to properties on the block where the Right of Way is located and to properties on neighboring blocks or streets, or through dedication and improvements by the Petitioner so an equal level of access is provided.

If the number of curb cuts along a street frontage is likely to be increased due to the petition, the vacation will not be approved.



If there is public parking on the Right of Way proposed to be vacated, the City will analyze if the Petitioner's proposal for mitigation meets or exceeds the currently available parking. Only petitions that improve parking availability and ease of use will be approved.

If a vacation is granted, the Council may impose conditions on the vacation to reduce impacts on vehicular, freight, pedestrian, and bicycle access. The conditions may be in addition to any conditions resulting from environmental or land use review and analysis.

#### **c) UTILITIES**

Right of Ways that contain or are needed for current or future utility lines or facilities may be vacated only when the utility can be adequately protected with an easement, relocation, fee ownership, or similar agreement satisfactory to the utility owner and the Petitioner has obtained and provided the consent of all utilities.

Public Right of Way provide utilities with corridors for the efficient transportation of people and goods, collection of solid waste, and delivery of utility services to the public in the least costly manner possible. Utilities generally assess vacation petitions from an operational perspective to ensure that a vacation will not impair current service reliability and capacity levels, nor limit the ability to expand services in the future. The growth of telecommunications utilities above and below ground, increased urban densities, and demand for undergrounding of utility facilities all place pressure on the value of public rights-of-way, for future utility needs.

Utilities will be given an opportunity to review the proposed vacation, to identify existing and future interests in the Right of Way, and to indicate what actions are necessary to protect their interests and the interests of their customers. The petitioner is responsible for working with the utilities to identify and address any utility issues. The petitioner shall ensure that each utility will be in a similar position as before the vacation without detriment to current or future utility services.

If utility easements are required to maintain service, the easements shall state the rights and responsibilities of each party. Utilities may prohibit constructing buildings, structures, grading and filing, and other uses over or under their easements where the activities would inhibit operation of or prevent access to the utility facilities for maintenance and repair, cause extra cost or liability to the utility, or affect the safety and integrity of the utility. Any costs for the repair of damages to the improvements placed on or over the utility easement by the property owner due to the utility maintenance repair or installation will be the express responsibility of property owner.

The Council may impose conditions on vacations to assure continued service to the public in the most efficient and least costly manner.

#### **d) FREE SPEECH**

Courts have recognized the role of Right of Way as spaces for public speech and dialogue. The City will consider the potential loss of free speech activities when reviewing Right of Way Vacations and will not vacate a public place if the loss of the public speech function cannot be adequately mitigated.

Right of Ways are dedicated for public use and enjoyment. Vacations that solely result in the private regulation of access to public property shall not be granted. Vacations are not considered a solution to security problems and shall not normally be approved for this reason absent extraordinary circumstances.

The Council may impose conditions on vacations to preserve the public's right to free speech, particularly within any privately-owned public space offered as a public benefit in exchange for a Right of Way vacation.

**e) PUBLIC ASSEMBLY**

Right of Ways have always served as a place of public assembly. The City will consider the importance and impact of the request on the community. Right of Ways that are adjacent to public uses will be particularly scrutinized to ensure that the public's right to congregate will not be impaired.

The City may impose conditions on vacations to maintain the public's right to assembly, particularly within any privately-owned public space offered as a public benefit in exchange for a Right of Way Vacation.

**f) OPEN SPACE**

The open space opportunities provided by Right of Ways are important resources that contribute to quality of life and become more valuable as the City becomes more densely developed. The contribution of this function to the public's existing and future quality of life is an important consideration when reviewing each proposed vacation. The open space functions provided by the Right of Way will be identified and the effects of their loss will be analyzed.

When the City determines that the open space function provided by a Right of Way shall be retained, the Right of Way may be vacated only if the open space functions can be retained or replaced by dedicating to the City other comparable Right of Way or by providing other publicly-accessible property.

The impact of development associated with Right of Way Vacations on open space and pedestrian amenities shall be limited. The analysis of the open space functions of Right of Ways will consider the impact of the proposed vacation on:

- i) The contribution of the Right of Way to open space areas;
- ii) Use of the Right of Way as a space for play and recreation;
- iii) The role of the Right of Way as an area of neighborhood focus and activity, and
- iv) Privacy impacts resulting from the Right of Way open space being occupied by a proposed structure.

The City will only approve vacation requests of undeveloped Right of Ways used by the community as open space to facilitate development when the proposed mitigation exceeds the existing conditions.

Existing and proposed urban trails, public paths, other rights-of-way connecting parks and open spaces, or streets connecting the community with parks, schools, shorelines, or other public facilities will not be vacated unless the Right of Way is exchanged for other land that provides better pedestrian or bicycle pathways resulting in improved open space function.

The Council may impose conditions on vacations to mitigate any potential negative effects of the vacation on the open space functions of the Right of Way.

**g) LIGHT AND AIR**

The light and air opportunities provided by the Right of Way are important resources that contribute to quality of life and public health and becomes more valuable as the City becomes more densely developed. The contribution to the public's existing and future quality of life is a consideration in each proposed vacation.

The analysis of the light and air functions of Right of Ways will consider the impact of the proposed vacation upon the access to sun, light, and air circulation provided to pedestrians, bicyclists, vehicle occupants, and abutting properties.

The analysis will include the potential shadow impacts of the increase in development potential directly attributable to the vacation on nearby public parks and public open spaces. Any potential impacts of the vacation on light and air will be compared with similar impacts that would result from development without the vacation. Vacations generally shall not be approved if the development proposed as part of the vacation request would result in additional shadowing of parks or other public spaces.

The Council may impose conditions on a vacation to reduce shadow impacts.

#### **h) VIEWS**

The views provided along Right of Ways are important resources that contribute to the public's quality of life. Views are of particular value to members of the public that do not have private views. The contribution of this function to the public's existing and future quality of life will be a consideration in reviewing vacations.

Within the City Center, as identified within the City's Comprehensive Plan, Right of Ways shall not be vacated except when conditions are placed on the vacation to ensure public views are preserved.

Right of Ways shall not be vacated unless the Petitioner ensures that the areas above the former Right of Way remains open to the sky and to protect views from uphill public spaces. Public views worthy of protection include, but are not limited to views:

- i)** From public streets, public open spaces, or public places;
- ii)** From a substantial number of residences or properties abutting the Right of Way proposed to be vacated,
- iii)** Of important natural features, such as mountains, waterbodies, and public greenbelts; and
- iv)** Of designated landmarks and points of cultural or civic interest.

Potential view impacts from a vacation will be identified and compared with a no vacation alternative. The quality of impacted views will be considered when evaluating each proposed Right of Way vacation.

The Council may impose conditions, including height limitations on development, on vacations to mitigate any potential negative effects of the vacation on the view functions of the Right of Way.

#### **i) LAND USE AND URBAN FORM**

Vacations affect the land use and development patterns in an area by adding to the developable land base, altering the local land division pattern, changing vehicular and pedestrian movement patterns, and increasing the development potential on the vacated and abutting properties.

Typically, Right of Way Vacation petitions are intended to facilitate a development project. Petitioners shall provide the City with information about the completed project's density and the development potential of the property without a vacation. The information shall be provided as the percentage increase in the development potential and the additional square footage added to the project.

Petitioners shall provide the City with information on how the project advances City planning goals, how it relates to City Comprehensive Plan, and how the project meets the zoning criteria where the project is located.

A vacation petition may be approved only when the increase in development potential that is attributable to the vacation would be consistent with the Comprehensive Plan. The criteria considered for making individual vacation decisions will vary with the plans, policies, and regulations for the area where the Right of Way is located. The Council may place conditions on a vacation to mitigate negative land use effects.

Vacations may be approved only when the remaining Right of Way network meets the maximum block perimeter requirements, or in areas where the block perimeter requirements are not met prior to the vacation petition there is no increase in non-conformance.

**i) Land Use Considerations**

To determine if the land use and urban form effects of a vacation are in the public interest, the following factors will be considered:

- (1) The long- and short-term effects of the changes in development potential attributable to the vacation on the circulation, access, utility, light, air, open space, and view functions of nearby streets and public places;
- (2) The consistency of land use changes with the Comprehensive Plan, particularly in the land use, transportation, and neighborhood elements of the plan;
- (3) The compatibility of the size, scale, and character of potential development with the size, scale, and character of existing development in the area and development as provided for by the Land Use Code, given typical lot sizes and configurations;
- (4) The compatibility of the size, scale, and character of the blocks formed by the vacation when compared with the size, scale, and character of existing blocks in the area and goals for pedestrian connectivity and circulation; and
- (5) The post-vacation lot size and configuration compared with surrounding properties and with the local pattern of land division and organization.

In areas where streets provide an edge or boundary between zones or areas of different scale and character, the Right of Way may be vacated only when a suitable alternative boundary buffer can be achieved with the proposed vacation.

In addition to the general Right of Way vacation policies and guidelines, Comprehensive Plan policies for the area and the relationship between the proposed vacation to other City plans and policies such as transportation modal plans will be used to determine if the land use changes of each vacation are in the public interest.

**ii) Area-specific review**

Guidelines related to specific areas are provided below. They shall be used to supplement the general provisions and guidelines of these policies and other policies for protecting the public interest.

**(1) Urban Centers and Urban Villages**

In addition to other guidance regarding specific land uses described below, for Urban Centers and Urban Villages the policies of adopted neighborhood plans will be considered, as appropriate.

**(2) Manufacturing/Industrial Centers**

Many Right of Ways in or adjacent to Manufacturing/Industrial Centers provide transportation for freight transport, loading, and delivery. Impacts on truck routes, intersections, and access points as a result of Right of Way vacations may impact supply chains that serve areas outside the immediate area of vacation. The capacity and functionality of these critical corridors will be preserved.

**(3) Single-family areas**

Right of Ways in single-family areas provide a number of public benefits including providing for consistency in the pattern and scale of development and providing important open space in a neighborhood. Except as noted below, Right of Ways in single-family areas shall be retained as these areas may be needed to provide for public uses, such as utility corridors that cannot be currently identified or anticipated. Petitions for vacations in single-family areas shall be reviewed by the same criteria as applied to other vacation petitions, including the requirement that the vacation provide a long-term benefit to the public.

Clustered housing and other planned housing developments or innovative housing initiatives in single-family-zoned areas shall be reviewed based on the criteria established for the review of multifamily areas.

**(4) Multi-family areas**

In general, Right of Ways in multifamily areas will be retained to aid in vehicular, bicycle, and pedestrian circulation and neighborhood access. Petitions will be reviewed for potential impact on neighborhood traffic volumes, associated noise, and access.

**(5) Commercial, mixed-use, and City Center areas**

In general, Right of Ways in commercial, mixed-use, and City Center areas will be preserved to facilitate moving goods and people and maintain access to property that is separate from pedestrian routes. In general, these Right of Ways will be retained unless it can be demonstrated that the vacation meets another important public purpose without jeopardizing the area's functioning and its compatibility with surrounding areas. A vacation must preserve access to off-street loading and parking areas and the continuity of street fronts, particularly in areas with pedestrian activity.

**(6) Shoreline overlay districts**

Vacation of a Right of Way that abuts a waterbody is regulated by RCW 35.79.035.

- (a) The City will consider vacating Right of Ways that abut a salt or fresh waterbody only if the vacation is sought to enable the City to acquire the property for beach or water access purposes, boat moorage or launching sites, park purposes (including

open space preservation), public view, recreational purposes, water-dependent or water-related educational or interpretive purposes, water quality improvement purposes, or other water-dependent or water-related public uses.

- (b) To preserve future public access opportunities, the option of leasing Right of Way ends, as permitted in RCW 35.23.410, shall be explored as an alternative to vacation.
- (c) Vacations of public Right of Way abutting any waterbody may be approved only when comparable or improved public access is provided. Providing new public access shall not be considered a public benefit for the purposes of these policies.
- (d) Right of Way that is needed for vehicular access to the water may be vacated only when comparable access will be provided.
- (e) If upland Right of Way is needed for public access to waterfront Right of Way or other public access to the water, it may be vacated only when comparable or better public access is provided.

**(7) Environmentally critical areas**

Right of Ways in geologic hazard areas and steep slope erosion hazard areas, wetlands, flood plains, fish and wildlife habitat conservation areas, or other critical areas shall generally be retained to reduce development intensity in environmentally critical areas and to protect public health, safety, and welfare.

**iii) Land use conditions on vacations**

The Council may place conditions on vacations to guard against the negative land use effects of additional development potential attributable to the vacation and to ensure that policy objectives are met, as follows:

- (1) The conditions will be related to the identified negative effects attributable to the vacation.
- (2) Land use conditions will be stated in terms of development parameters, such as floor area maximums or building envelopes that may not be surpassed and will generally run with the land.
- (3) Land use conditions imposed on a vacation do not preclude related project conditions being imposed under SEPA. If a vacation-related proposal is subject to SEPA review, the review may reveal the need for SEPA conditioning that reduces the upper limits placed on the vacation.
- (4) Land use conditions imposed on a vacation, in addition to conditions applied pursuant to the Land Use Code, SEPA, the Building Code and other City codes, will be relied on to regulate post-vacation development.
- (5) Approval of a Right of Way vacation is not City approval of the development project for the site and shall not relieve the petitioner of obtaining all necessary land use approvals, building permits, Right of Way use permits, or other City approvals before developing the site.

**j) OTHER CONSIDERATIONS IN PUBLIC TRUST ANALYSIS**

**i) Undeveloped Right of Ways**

Vacation of undeveloped Right of Way sections will generally be discouraged to:

- (1) Retain the existing pattern of extra setbacks and open space in residential neighborhoods;
- (2) Provide opportunities for pedestrian and bicycle amenities and connections;
- (3) Preserve opportunities for utility connections;
- (4) Maintain areas of natural scenery along view streets and boulevards;
- (5) Provide a buffer between land uses and zoning districts; and
- (6) Provide continuity of wildlife habitat corridors.

## **ii) Subsurface Vacations**

Subsurface Right of Way vacations may be approved only when protection against future impairment of the street's surface is assured, current and future utility functions are provided for, and the City is adequately protected from potential liability from failure of the surface and any other retained segment below grade due to problems with the underlying structure. A subsurface vacation shall maintain or improve all current and planned functions of the Right of Way and shall not increase traffic impacts on surrounding Right of Way.

Subsurface vacations shall consider future use of the subsurface portions of the Right of Way for future utility needs and future transportation needs.

A subsurface vacation shall, at a minimum, be deep enough to provide space for a utility corridor large enough to accommodate all utilities currently serving the area and potential future utility needs. The Council may require that a project including a subsurface vacation provide a utility corridor or other mitigation of impacts on potential future utility needs. The subsurface vacation shall be designed so that there will be no impact to the public nature and the surface functions of the Right of Way.

## **iii) Aerial vacations**

Aerial vacations will be considered only in limited circumstances. Aerial portions of the Right of Way are an important resource providing light, air, open space, and consistency in the development pattern. These aerial portions are an important public trust function of the Right of Way.

Aerial vacations will be considered only as follows:

- (1) For the development or expansion of public facilities, public institutions, or non-profit institutions, the petitioner shall demonstrate to the satisfaction of the Council that no feasible development alternative exists; and
- (2) That neither a Right of Way lease or subsurface vacation can adequately meet the needs of the petitioner.

Petition review shall include specific review of the impacts of the proposed aerial structure, including addressing items as the design of the structure and its dimensions, transparency, material quality, the scale of the project including the aerial portion, and the impact on the streetscape below the structure. The public trust functions of light, air, open space, and views will be carefully reviewed for aerial vacations. The Council shall require mitigation specific to the urban design impacts of the aerial structure.

#### **iv) Trade or exchange of property**

The review of any vacation may consider the opportunity for exchange of property. Any proposed property exchange shall identify property the City is willing to accept. The Petitioner shall be responsible for providing, as needed, title insurance, environmental site assessment and environmental remediation, deeds in a form acceptable to the City, and filing and recording fees or escrow. Additionally, the petitioner shall be responsible for any taxes resulting from the transfer. Exchanges may be considered when the property:

- (1) Would be useful to mitigate or enhance the various aspects identified in the property proposed to be vacated, such as exchanging a vacation for a street conforming to the ultimate built condition in the Comprehensive Plan;
- (2) Would result in better circulation and access than is provided for by the current street grid, by aligning misaligned streets;
- (3) Would exchange property identified as open space for property that would create a contiguous open space parcel; or
- (4) Would shift development from property identified as open space to a property with less environmental impact.

#### **v) Alternatives to vacation**

When reviewing the petitioner's indicated use of the property, the City may consider the practicality of issuing Right of Way use permits to provide for temporary uses. In circumstances where a Right of Ways use permit can accommodate the uses indicated by the petitioner, a permit is preferred and a vacation will not be granted. A Right of Way use permit as an alternative to a Right of Way vacation may be issued under the following conditions:

- (1) The private use of an undeveloped Right of Way does not hinder the achievement of any identified objectives;
  - (2) Private landscaping or gardening of undeveloped Right of Way may be allowed with a Right of Way use permit, provided that public pedestrian access and circulation and access to shoreline areas are retained; and
- 3) Street corridor views are not obstructed.



## 4) ANALYSIS OF PUBLIC BENEFITS OF THE VACATION

### a) PUBLIC BENEFIT REQUIREMENT

A vacation shall include a commitment to provide public benefits. The concept of providing a public benefit is derived from the public nature of Right of Ways. Right of Ways, whether improved or unimproved, provide important benefits to the public. Among the various benefits are preserving the street grid that provides for consistency in the development pattern and influences the scale and orientation of buildings. These benefits are in addition to the public functions provided by Right of Ways, including:

- i) Moving people and goods in vehicles, on foot, or by bicycle; and providing for current and future utility services, and for street trees and other amenities.
- ii) The City acts as a trustee for the public in its administration of Right of Ways. Courts have required that in each vacation there shall be an element of public use or benefit, and a vacation cannot be granted solely for a private use or benefit. Therefore, before this public asset can be vacated, there shall be a permanent, long-term, benefit to the public.
- iii) The fact that these benefits are provided equally to all members of the public may be most important to those who have the least. To best address the needs of the community, a strong focus on social equity is important in assessing the public benefits included as part of a Right of Way vacation petition.
- iv) Proposed vacations may be approved only when they provide a permanent, long-term, public benefit. Because the public permanently loses the Right of Way, short-term public benefits or public benefits that solely benefit individuals will not be considered. The following are not considered public benefits:
  - (1) Mitigating the vacation's adverse effects;
  - (2) Meeting code requirements for development;
  - (3) Paying the required vacation fee;
  - (4) Facilitating economic activity; or
  - (5) Providing a public, governmental, or educational service.

While the nature of the project is a factor in deciding the adequacy of a public benefit proposal, it is not itself a public benefit.

Consequently, the public benefit shall exceed elements required by City Code or mitigation required under SEPA or other regulations and is in addition to Right of Way vacation fees and other obligations. The petitioner's public benefit proposal shall recognize the loss of the benefits provided by the Right of Way to the public and the gains received by the petitioner. The public benefit proposal should also consider the comments, ideas, and concerns voiced by the public in the early community engagement process.

The public benefit analysis should balance what the public loses through the vacation with what the public will gain from the project. The comparison is intended to be an element of evaluating a public benefit proposal. The public benefit should not merely be compensatory and should provide a benefit to the public. In particular, public benefits that address the needs of those members of the public most vulnerable to the negative impacts of development.

The proposal to provide a public benefit does not entitle a petitioner to a vacation; the decision whether to grant a vacation is based on a holistic review of all elements in these policies. The

petitioner shall provide objective information about the public benefit proposal, such as budget, dimensions, materials, and other relevant facts. The public benefit proposal shall include a table or chart that details the public benefit elements, the cost/budget, timing of implementing the public benefit elements, whether the elements are required by code, and additional information as requested by the City.

As part of the petition process, the petitioner shall provide information to the City regarding the public benefit proposal. The City will assist the petitioner in refining and developing the public benefit proposal. The Council will make the final determination as to whether the public benefit package is acceptable.

Several factors will be considered in identifying whether a public benefit package is sufficient, including the:

- Zoning designation;
- Street classification of the Right of Way to be vacated;
- Traffic volumes on the street proposed to be vacated;
- Designation of the street in transportation modal plans and functions of the street in modal networks;
- Square footage of the project;
- Square footage of the area to be vacated;
- Vacated area's contribution to the site's development potential, including the percentage increase of the project and additional square feet; and
- Cumulative impacts of vacations in the area.

The following factors are not public benefits, but may be considered when reviewing the public benefit package:

- Project compliance with City policies, goals, and the Comprehensive Plan;
- Proposals designed to improve race and social equity, improve access to opportunity, and reduce the threat of displacement by providing quality jobs or education to communities with low access to opportunity or increasing the supply of affordable housing beyond City requirements;
- Addressing the effects of the vacation on vulnerable low-income populations;
- Providing affordable or special needs housing, job training, or other human services;
- The public nature of the project;
- Ideas resulting from the early community engagement process;
- Neighborhood support or opposition;
- Broad-based community support or opposition;
- Support or opposition from non-governmental organizations or other government entities;
- Agreements with non-governmental organizations or community-based organizations to provide benefits beyond those proposed for the Right of Way vacation;

- Protecting landmarks and other historic/community resources; and
- Protecting environmentally sensitive lands.

## **b) PUBLIC BENEFITS IDENTIFIED**

Public benefit proposals may be informed by needs and ideas identified through community engagement. Public benefits may include, but are not limited to:

### **i) Physical public benefits**

The City may accept a commitment to provide and maintain physical benefits that serve the public, including but not limited to:

- (1) Creating or enhancing publicly-accessible plazas, open spaces, or other green spaces;
- (2) Streetscape enhancements beyond those required by codes such as widened sidewalks, stairways, additional street trees or landscaping, street furniture, pedestrian lighting, wayfinding, art, or fountains;
- (3) Public art;
- (4) Enhancing the pedestrian or bicycle environment;
- (5) Pedestrian trails, accessible public routes providing access through the site, and improvements to existing public stairs;
- (6) Spaces that support City goals for social equity;
- (7) Bicycle paths, protected bike lanes, or cycle tracks;
- (8) Other improvements to the pedestrian or bicycle environment, such as intersection safety improvements;
- (9) View easements or corridors;
- (10) Preserving landmark buildings or other community resources; or
- (11) Implementing an element from a City adopted Neighborhood Plan or other City adopted plans.

### **ii) Programmatic public benefits**

The City may accept a long-term or permanent commitment to undertake a program to address systemic inequities as a public benefit. The City will not accept a short-term proposal or a proposal to fund an existing program. The City will look for a long-term commitment to the program and may impose conditions on the proposed public benefit to ensure that the long-term nature of the benefit is ensured.

### **iii) Real Property**

The City may accept real property as a public benefit. The property proposed to be conveyed must be property the City is willing to accept. The petitioner is responsible for any costs associated with the conveyance including appraisals, title work, environmental site assessment and remediation, deeds or other document production, taxes on the transaction, or other expenses related to the conveyance of real property, including environmental remediation. Where other conditions or specific mitigations require dedication of land, such dedication is a mitigation of impacts and will not constitute a public benefit.

#### **iv) Payment of Funds**

Where the City has an identified project on its Transportation Improvement Plan that would provide an equal or above public benefit and the Petition has demonstrated to the City's satisfaction that it is not practicable to provide or develop public benefits such as those listed above, at the City's sole discretion, it may accept the payment of in-lieu funds for the identified project provided the project can be constructed in a City determined reasonable time frame concurrent with the Petitioner's proposal to provide the public benefit. A payment to meet public benefit obligations does not substitute for paying the required Right of Way vacation fee or meeting any other policy requirements.

DRAFT

## **5) PROCESS FOR CITY REVIEW OF RIGHT OF WAY VACATION APPLICATIONS**

### **a) GOALS/INTENT OF PROCESS**

Depending on the complexity and completeness of the Petitioner's application, a Right of Way vacation review process can be lengthy and complicated. While City Council is the ultimate decision-maker, the Council looks to City departments and the Land Use and Transportation Committee to provide a thorough review and analysis of a petition based on City Code, City Policies, and the interests of the public. Review timeframes of a Right of Way vacation petition largely rely on the timeliness and responsiveness of the petitioner to requests for information and comments.

This section is to provide transparency and predictability for petitioners, the public, and City departments.

### **b) PETITIONERS**

RCW Chapter 35.79, restricts petitions for Right of Way vacations to "owners of an interest in any real estate abutting upon any street or alley." A petition shall be filed first with the Public Works Department and subsequently with the City Clerk in accordance with the requirements of this section. If the petition contains all required information and is signed by the owners of two-thirds of the property owners adjacent to the Right of Way to be vacated, the City will proceed with analyzing the petition.

The Council may also initiate a Right of Way vacation process through a resolution. City Council will initiate Right of Way vacations by resolution only for a public purpose or when extraordinary circumstances prevent following the petition process. If the Council initiates a petition, all other aspects of these policies, including protecting the public trust and the requirements for providing a public benefit still apply.

### **c) PRE-PETITION ACTIVITIES**

In preparing to file a petition for a Right of Way vacation, consult with Public Works staff on the feasibility of the petition. A meeting to discuss feasibility with City staff and other interested agencies, utilities with facilities or jurisdiction will be held.

Prior to submitting a vacation petition, the petitioner is required to:

- i)** Prepare a community engagement plan. The Right of Way vacation petition shall include a community engagement plan and a report on early community engagement;
- ii)** Conduct early community engagement according to the community engagement plan;
- iii)** Present the vacation at a regularly scheduled meeting of the Land Use and Transportation Committee; and,
- iv)** If the project is a Capital Improvement Project brought by the City or any other public agency, present an evaluation of vacation and no-vacation alternatives.

### **d) REQUIRED COMPONENTS OF THE PETITION**

Petitions shall be submitted to Public Works through the City's Permit Center with all required supporting documentation. Petitions submitted with incomplete or missing required information will be returned to the petitioner with no action. Once the petition is determined to be complete, Public Works will file the petition with the City Clerk, which begins the formal review of the petition.

Petitions shall, at a minimum, include the following:

- i) Site information:**
  - (1) Identification of the Right of Way proposed for vacation, including a legal description and, if Public Works determines it is necessary, survey and title work;
  - (2) Site and topographical maps; and
  - (3) Signatures of the owners of more than two-thirds of the property abutting the Right of Way proposed for vacation.
- ii) Project information:**
  - (1) Information identifying the development team; and
  - (2) Location and description of the project proposed for the site, including preliminary project site plans.
- iii) Land use information:**
  - (1) Current zoning and Comprehensive Plan land use designation;
  - (2) A summary of current applicable City plans and policies, including Comprehensive Plan policies;
  - (3) Identification of any land use actions required to develop the project and a report on the status of each of those reviews;
  - (4) A comparison of development of the site with and without a Right of Way vacation;
  - (5) An urban design analysis of the area surrounding the project site that includes ½ mile area surrounding the vacation;
  - (6) An analysis of the land use and urban design impacts of development; and,
  - (7) An analysis of the impacts of the vacation on existing essential public facilities;
- iv) Transportation information:**
  - (1) Information regarding the Right of Way to be vacated, including the current use and design of the street;
  - (2) Designation of the street, including street type;
  - (3) Analysis of the transportation impacts of any loss of Right of Way, including impacts to transit, freight, pedestrian, and bicycle circulation and access; and
  - (4) Analysis demonstrating the capacity of the transportation network with and without the vacation and identifying mitigation measures, if necessary, to mitigate any reduction in vehicular, pedestrian and bike capacity.
- v) Utility information:**
  - (1) Identification of all utilities in the Right of Way.
- vi) Historic sites or buildings:**
  - (1) If the Right of Way vacation would include or would be adjacent to a historic landmark or site, identify any historic resources and provide a determination of completeness for an application for a certificate of approval from the relevant board.

**vii) Community engagement:**

- (1) The community engagement plan and a report on all community engagement completed to date, including a report on comments from the public and how the petition responds to those comments;
- (2) If the project is in an urban center, urban village, or other area covered by a neighborhood plan, the goals and policies from the neighborhood plan; and
- (3) If the project is in or adjacent to a zoned Manufacturing or Industrial Land Use, the goals and related policies from the Comprehensive Plan, and input from businesses and public agencies that may be impacted by the vacation.

**viii) Right of Way vacation policies:**

- (1) A preliminary outline on how the vacation meets or addresses the Right of Way vacation policies; and
- (2) A preliminary public benefit proposal.

**ix) Environmental review:**

- (1) If environmental review is required for the project, a SEPA checklist.

**x) Appraisal:**

- (1) An appraisal report of the area requested to be vacated, completed by a certified appraiser.

**xi) Previously rejected Right of Way vacations:**

- (1) If the Council has previously rejected a Right of Way vacation petition for part or all of the Right of Way proposed to be vacated, the new petition should explain how circumstances have changed since the previous Council vote.

**xii) Filing fee**

- (1) A filing fee shall be paid pursuant to the current adopted fee schedule.

**e) REVIEW PROCESS**

There are two stages to the Right of Way vacation review: public trust analysis and public benefit analysis. The following steps will provide for review of a Right of Way vacation petition. Each step may be iterative and may take multiple rounds of review depending on the complexity of the project or the quality of the information provided. While Right of Way vacations are legislative actions that are not subject to the specific timelines for review that apply to land use permits, City staff will work with the petitioner to make the process as efficient as possible, assuming all necessary information to support City staff efforts is provided by the applicant in a timely manner.

**i) Circulating the petition**

After Public Works files the complete petition with the City Clerk, Public Works will circulate the petition to City departments, South King Fire Department, Federal Way School District, utilities, transit agencies, and other organizations as appropriate or requested by Council.

**ii) Early Council Briefing or Forum**

Upon receipt of a complete petition Public Works will provide an informational briefing to the Land Use and Transportation Committee.

When the committee deems it appropriate, they may request a briefing for the full Council.

The Land Use and Transportation committee may also direct staff to work with the Petitioner to host a briefing or public open house on the Right of Way vacation petition prior to commencing technical review. The purpose is to provide the public with an early opportunity to provide input on the vacation to the Council, the petitioner, and City reviewers.

### **iii) Public Trust Analysis**

The Public Works department will make the petition available to other City departments, South King Fire Department, Federal Way School District, utilities, transit agencies, and other organizations as appropriate, may review the public trust elements of the petition and provide comments to Public Works on whether the petitioner has fully analyzed the impacts of the proposed vacation along with developing mitigating measures to address any such impacts. Public Works will provide the Petitioner with any comments and provide the Petitioner an opportunity to respond to the comments. This may result in multiple rounds of review, comment, and refinement of the analysis and petition with subsequent information to adequately addresses the impacts of the vacation. Additional information may be requested from the petitioner to complete the analysis.

If an environmental impact statement is required, the Land Use and Transportation Committee will not make a final recommendation to the Council on the public trust elements of a Right of Way vacation petition until a Final Environmental Impact Statement has been published.

If an environmental impact statement is not required, the Land Use and Transportation Committee will only make a final recommendation on the public trust elements of a Right of Way vacation petition when sufficient information to assess the impacts of the vacation on the public trust functions has been compiled.

For City Capital Improvement Projects seeking a vacation, the Land Use and Transportation Committee shall also have approved the project concept, or 30% review, either before or concurrent to making any final recommendations on the public trust analysis.

Non-city public agencies seeking a vacation may request the Land Use and Transportation Committee, through a request to Public Works, to review and make a preliminary recommendation to the Council on the public trust analysis concurrent with submission of a 30% project submission and issuance of a draft environmental impact statement, provided that sufficient information to assess the impacts of the vacation on the public trust functions has been submitted by the petitioner. Subsequent substantial changes to the 30% drawings, at the sole determination of the City, may invalidate the public trust analysis and require additional or updated analysis. No final action will be taken until after a Final Environmental Impact Statement has been published.

The Public Works Director shall prepare a report on the vacation petition request and make an overall recommendation on the petition, addressing each component of the public trust analysis and any recommended mitigation, to the Land Use and Transportation Committee. The Land Use and Transportation Committee will consider comments and issues identified by City Departments, South King Fire Department, Federal Way School District, utilities, transit agencies, and other organizations, and, as relevant, other City Boards and Committees, and make a recommendation to the Council on the public trust elements of the petition. The Public Works Director shall incorporate the Committee's recommendation into



the report on the public trust elements of the petition and make a final recommendation to the full Council.

**iv) Public Benefit Analysis**

The intent of the public benefit analysis phase of the Right of Way vacation review is to ensure that adequate public benefits will be provided to offset the loss to the public of the public trust functions. This review will be guided by these policies.

City departments, South King Fire Department, Federal Way School District, utilities, transit agencies, and other organizations as appropriate, may review the public benefit analysis and provide comments to Public Works. Public Works will provide the Petitioner with any comments and provide the Petitioner an opportunity to respond to the comments. This may result in multiple rounds of review, comment, and refinement of the analysis with subsequent information to adequately resolve the comments. Additional information may be requested from the petitioner to complete the analysis.

For City Capital Improvement Projects seeking a vacation, the Land Use and Transportation Committee shall also have approved a 60% review either before or concurrent to the Committee making any final recommendations on the public benefit analysis.

Non-city public agencies seeking a vacation may request the Land Use and Transportation Committee, through a request to Public Works, to review and make a preliminary recommendation to the Council on the public benefits analysis concurrent with submission of a 60% project submission and subsequent to issuance of a draft environmental impact statement, provided that sufficient information to evaluate the public benefit analysis has been submitted by the petitioner. Subsequent substantial changes to the 60% drawings, at the sole determination of the City, may invalidate the public benefit analysis and require additional or updated analysis. No final action will be taken until after a Final Environmental Impact Statement has been published.

At the recommendation of the Land Use and Transportation Committee, the City Council may convene a subcommittee consisting of Council or Commission members, City staff, and individuals with expertise related to items within the public benefit analysis to receive public comment and review public benefit packages.

The Public Works Director shall prepare a report on the public benefit analysis and make an overall recommendation, addressing each component of the public trust analysis and any recommended mitigation, to the Land Use and Transportation Committee. The Land Use and Transportation Committee will consider comments and issues identified by City Departments, South King Fire Department, Federal Way School District, utilities, transit agencies, and other organizations, and, as relevant, other City Boards and Committees, and make a recommendation to the Council on the public benefits elements of the petition. The Public Works Director shall incorporate the Committee's recommendation into the report on the public benefits elements of the petition and make a final recommendation to the full Council.

The Land Use and Transportation Committee will consider the recommendations of the subcommittee, City departments, and public testimony in developing a recommendation to the Council on the public benefit package.

**v) Final Recommendation**

Public Works will compile all recommendations and comments on the public trust analysis and the public benefit package. The Public Works Director will prepare a recommendation and a resolution setting a public hearing date for the Right of Way vacation for presentation to the Land Use and Transportation Committee and then City Council.

**vi) Council Review and Conditional Approval**

The Council will hold a public hearing on the petition. It will consider public comments, the recommendations of the Public Works Director, City departments, South King Fire Department, Federal Way School District, utilities, transit agencies, and other organizations as appropriate. The Council may ask for additional information from the petitioner related to the public trust analysis or public benefit proposal before deciding whether to approve the petition.

If the Council grants a Right of Way vacation, its initial approval will be conditional. The Council grants a Right of Way vacation subject to conditions to ensure the project is built as proposed, to mitigate any impacts, to assure the provision of the public benefit, and to guarantee required fees are paid. Following this conditional approval, City departments may issue other necessary permits and the petitioner may proceed with developing the project.

Before beginning work that would alter the Right of Way, the petitioner shall submit and obtain approval of a plan documenting how and when each condition will be met. Once approved, the petitioner shall obtain any required permits from Public Works for work within the Right of Way prior to it being vacated. The petitioner shall fulfill the conditions in a manner approved by the City. As the development proceeds and the petitioner works on meeting the conditions, regular reports shall be provided to Public Works.

The petitioner bears the responsibility for satisfying the conditions and all costs associated with satisfying the conditions. The conditions imposed on a vacation vary and the means to assure compliance will also vary as follows:

- (1) Time for completion: Conditions will be placed on the vacation requiring starting development by a certain date and completing development by a certain date. The maximum time for starting development will be 12 month and completion of development will be 5 years, unless the petitioner demonstrates special circumstances and the Council approves longer time frames. If work is not started or completed within the stated period, the petitioner will be required to receive approval from the Council to extend the conditional approval. If construction work has not started within the stated period the Council may require that a new petition be filed, and the vacation be reviewed anew.
- (2) Conditions related to the development: Conditions related to developing the project vary and may be imposed to address design, transportation issues, to mitigate impacts, or as related to providing the public benefit. These types of conditions are generally met by completing the project. The City may require a performance bond or other method to ensure the work is completed.
- (3) Conditions related to utilities: Following the vacation conditional approval, the petitioner shall perform all identified work associated with utilities identified in the vacation conditions. All easements, restrictive covenants, and relocation agreements shall be executed before the vacation ordinance is passed. If acceptable to the utility, a performance bond may be posted before final vacation approval.

- (4) Transportation Conditions: Any conditions imposed to ensure the smooth and safe operation of the transportation network, including constructing required improvements, shall be carried out before the vacation ordinance is passed.
- (5) Conveying real property: If the conditions require the dedication of property, exchange of property, or the dedication of Right of Way, the petitioner shall convey the property before the vacation ordinance is passed. The petitioner shall convey property acceptable to the City and provide an acceptable deed form, title insurance, environmental site assessment and environmental remediation, perform any other review deemed necessary by the City, and pay any applicable taxes.
- (6) Conditions that extend beyond the development phase of the project: For conditions that will last for the life of the project such as public benefit requirements, areas to remain accessible to the public, or any other item deemed by the City to extend beyond the development phase, a Property Use and Development Agreement (PUDA), easement, or other binding mechanism acceptable to the City shall be required and recorded before the vacation ordinance is passed.
- (7) Payment of fees: All fees shall be paid before the vacation ordinance is passed. Any conditions that require the payment of funds shall occur before the vacation ordinance is passed.

In no circumstances will the City pass a final vacation ordinance without certainty about completing all required conditions and paying all required fees.

#### **vii) Final Right of Way vacation**

Once all conditions have been satisfied, Public Works will prepare and the Council will consider and pass a final Right of Way vacation ordinance granting control of the Right of Way to the abutting property owners.

Unless otherwise stipulated in the Petition, when more than one party owns property abutting the Right of Way, the Right of Way will be divided so that each side of the Right of Way receives the part of the Right of Way closest to their property.

#### **viii) Costs and Fees**

The costs and fees associated with a vacation are established in the City of Federal Way fee schedule. The petitioner is responsible for preparing and providing information necessary to respond to City questions or concerns. Additional costs may include required mitigation measures and the costs associated with providing the public benefit.

To protect the integrity of the legislative Right of Way vacation review process, a notarized statement shall be signed by the petitioner and included in the petition for the proposed vacation. The statement shall indicate that the petitioner acknowledges that the vacation petition may be subsequently denied at the Council's discretion; and that any financial commitment the petitioner has made before vacation approval is at their own risk and will not be a factor in the Council's decision on the proposed Right of Way vacation.

# CITY OF FEDERAL WAY

## RIGHT OF WAY VACATION

### CHECKLIST

*This checklist is intended to provide an overview of key requirements for submission, see the Administrative Street Vacation Policies for additional information.*

#### **STEP 1: Before Applying -**

- ☐ Contact Public Works - Development Services to discuss feasibility and alternatives
- ☐ Schedule and conduct a pre-application meeting
- ☐ Prepare a written initial community engagement plan consistent with the WSDOT Community Engagement Plan Guide
- ☐ Conduct early community engagement and collect feedback

#### **STEP 2: Petition -**

1. Complete the attached Request for Petition Form and submit it to Public Works.
2. Collect signatures on the provided form(s).
3. Once signatures have been collected, proceed to Step 3.

*Note: The City will provide the petition signature form after the information in step 1 is submitted.*

#### **STEP 3: Application for Vacation -**

Submit the completed Right of Way Vacation Application Form, all pages of the signed petition forms, and all required supporting documentation.

Applications submitted without all required information will be returned to petitioner with no action. Once Public Works has determined all required information has been provided and is complete, Public Works will file it with the City Clerk, which commences the review process.

Five (5) hard copies and an electronic copy, in file formats acceptable to the City, of the following minimum information is required:

- ☐ Completed petition forms with notarized signatures of 2/3 of adjacent property owners proposed to be vacated.
  - Petition must contain signatures of property owners on both sides of street, even if only a portion of the Right of Way is sought for vacation.
  - For property owned by other than an individual, petition must include notarized signatures of two authorized officers. Submittal must also include documentation demonstrating the authorized officer's authority to bind the entity.
- ☐ Project description, including:
  - Dimensions, height, stories, parking, land use and site access for all modes of transportation for both existing and proposed conditions
  - Site plans, elevations, conceptual building drawings and renderings demonstrating proposed conditions
  - Description for the reason the vacation is needed, including what the vacation contributes to the property, and the increase in development potential attributable to the vacation
  - Provision for a "no vacation" alternative, describing what could be built on site without a vacation. Site plans showing a layout with no vacation must be provided and document why it is in the public's interest to vacate the Right of Way
  - Proposed development timeline
  - Project construction value, itemized by AIA specification numbering
  - Project taxable value

- ☐ Site Information:
  - Legal description of street proposed to be vacated, prepared and sealed by a Licensed Surveyor
  - Site, zoning, overlay and topographical maps, identified site constraints
- ☐ Project Information:
  - Development and consultant team contact information
  - Background information on petitioner proposing vacation
  - Documentation showing the petitioner has legal authority to initiate the petition
  - Map of Right of Way proposed for vacation
  - Description of existing conditions and uses
- ☐ Land Use Information:
  - Current Zoning and Comprehensive Plan Land Use designations
  - Summary of City plans and policies impacted
  - Identification of land use actions by both the City and other regulatory authorities required to develop the project
  - Comparison of development with and without the vacation
  - Urban design analysis of area surrounding the project site that includes a minimum of ½ mile in all directions
  - Analysis of land use and urban design impacts of development
  - Analysis of impacts on essential public facilities
- ☐ Transportation Information:
  - Current use and design of the Right of Way
  - Roadway designation, including street type
  - Analysis of transportation impacts from vacation, for both a build and no build condition, for:
    - Vehicles
    - Transit
    - Bicycle
    - Pedestrian
    - Freight
- ☐ Utilities Information:
  - Identification of current utilities within the area proposed for vacation
  - Potential future utilities
  - Proposed mitigation for impacts to current and future utilities
- ☐ Historic sites or buildings Information:
  - Identification of any designated historical site or building within ½ mile in all directions
  - Proposed mitigation for impacts
- ☐ Community Engagement Plan:
  - Preliminary community engagement plan
  - All comments and feedback received from preliminary community engagement
  - Full community engagement plan
- ☐ Vacation Policies:
  - Public Trust Analysis
  - Public Benefit Proposal
- ☐ Environmental Review:
  - SEPA/NEPA checklist
- ☐ Previously rejected vacation proposal:
  - Explanation of altered circumstances since previous rejection
- ☐ Filing Fee

# CITY OF FEDERAL WAY RIGHT OF WAY VACATION REQUEST FOR PETITION FORM

## PROJECT INFORMATION

Project Name: \_\_\_\_\_

Short Name of Right of Way to be vacated: \_\_\_\_\_

Pre-application Meeting Date: \_\_\_\_\_

## CONTACT INFORMATION

Company Name: \_\_\_\_\_

Individual Point of Contact: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Address: \_\_\_\_\_

## GENERAL INFORMATION

Street Name requested to be vacated: \_\_\_\_\_

Nearest intersection on each side of requested vacation:

(1) \_\_\_\_\_

(2) \_\_\_\_\_

Centerline length of requested vacation: \_\_\_\_\_ feet

Number of total adjacent property owners between identified intersections: \_\_\_\_\_

## REQUIRED ATTACHMENTS

- ☐ Legal description of Right of Way proposed to be vacated
- ☐ Map of proposed vacation
- ☐ Plan for the proposed project
- ☐ Names and addresses of all property owners adjacent to vacation area, inclusive of the entire Right of Way to the nearest intersections adjacent to the proposed vacation
- ☐ Initial Community Engagement Plan
- ☐ Collected community feedback
- ☐ Proof of Signature Authority (not applicable to a request by an individual)

*I certify under penalty of perjury that I am the property owner. I certify that to the best of my knowledge, the information submitted is true and correct. I certify that I will comply with all applicable City of Federal Way regulations pertaining to the Right of Way vacation process. I understand that a Right of Way vacation does not remove the owner's responsibility for compliance with local, state, or federal laws and understand it is my responsibility to obtain all other required permits prior to the commencement of work.*

*I further agree to hold harmless the City of Federal Way as to any claim (including costs, expenses, and attorneys' fees incurred in the investigation and defense of such claim), which may be made by any person, including the undersigned, and filed against the city, but only where such claim arises out of the reliance of the city, including its officers and employees, upon the accuracy of the information supplied to the city by the petitioner.*

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

# CITY OF FEDERAL WAY RIGHT OF WAY VACATION APPLICATION FORM

## PROJECT INFORMATION

Project Name: \_\_\_\_\_

Short Name of Right of Way to be vacated: \_\_\_\_\_

## CONTACT INFORMATION

Company Name: \_\_\_\_\_

Individual Point of Contact: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Address: \_\_\_\_\_

## GENERAL INFORMATION

Street Name requested to be vacated: \_\_\_\_\_

Nearest intersection on each side of requested vacation:

(1) \_\_\_\_\_

(2) \_\_\_\_\_

Centerline length of requested vacation: \_\_\_\_\_ feet

Number of total adjacent property owners between identified intersections: \_\_\_\_\_

Number of adjacent property owners who signed in favor of petition: \_\_\_\_\_

## REQUIRED ATTACHMENTS

Submit five (5) hard copies and an electronic copy of each of the following:

- |  |  |
|--|--|
| <input type="checkbox"/> Completed, notarized, petition forms        | <input type="checkbox"/> Historic Sites or Buildings Information               |
| <input type="checkbox"/> Written description of proposed project     | <input type="checkbox"/> Community Engagement Plan                             |
| <input type="checkbox"/> Project plans and renderings                | <input type="checkbox"/> Public Trust Analysis                                 |
| <input type="checkbox"/> Site Information                            | <input type="checkbox"/> Public Benefit Analysis                               |
| <input type="checkbox"/> Project Information and contact information | <input type="checkbox"/> Environmental Review Information                      |
| <input type="checkbox"/> Land Use Information                        | <input type="checkbox"/> Alterations from previous application (if applicable) |
| <input type="checkbox"/> Transportation Information                  | <input type="checkbox"/> Filing Fee  |
| <input type="checkbox"/> Utilities Information                       |  |

*(Signature Page Follows)*

## PROJECT INFORMATION

Project Name: \_\_\_\_\_

Short Name of Right of Way to be vacated: \_\_\_\_\_

*I certify under penalty of perjury that I am the property owner. I certify that to the best of my knowledge, the information submitted is true and correct. I certify that I will comply with all applicable City of Federal Way regulations pertaining to the Right of Way vacation process. I understand that a Right of Way vacation does not remove the owner's responsibility for compliance with local, state, or federal laws and understand it is my responsibility to obtain all other required permits prior to the commencement of work.*

*I further agree to hold harmless the City of Federal Way as to any claim (including costs, expenses, and attorneys' fees incurred in the investigation and defense of such claim), which may be made by any person, including the undersigned, and filed against the city, but only where such claim arises out of the reliance of the city, including its officers and employees, upon the accuracy of the information supplied to the city by the petitioner.*

_____ Signature	_____ Typed Name	_____ Title	_____ Date
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STATE OF WASHINGTON     )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

On this day personally appeared before me \_\_\_\_\_, to me known to be the \_\_\_\_\_ of \_\_\_\_\_ that executed the foregoing instrument, and acknowledged the said instrument to be the free and voluntary act and deed of said corporation/ limited liability company, for the uses and purposes therein mentioned, and on oath stated that he/she was authorized to execute said instrument and that the seal affixed, if any, is the corporate seal of said corporation.

GIVEN my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
\_\_\_\_\_  
(typed/printed name of notary)  
Notary Public in and for the State of Washington.  
My commission expires \_\_\_\_\_



# CITY OF FEDERAL WAY RIGHT OF WAY VACATION SAMPLE PETITION FORM

Address:

*The City has received a request from \_\_\_\_\_ to vacate a Right of Way in association with \_\_\_\_\_ project. City Code and State Law governs the process for vacation of a Right of Way and requires a petition of adjacent property owners with support of 2/3s for the vacation process to proceed. If a petition does not receive support from 2/3s of the adjacent property owners the vacation process does not continue.*

Street Name requested to be vacated:

(1)

(2)

Number of total adjacent property owners:

☐ DO support vacation of the above Right of Way

☐ DO NOT support vacation of the above Right of Way

Signature	Typed Name	Title	Date
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Signature	Typed Name	Title	Date
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STATE OF WASHINGTON )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

GIVEN my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Notary's signature \_\_\_\_\_

Notary's printed name \_\_\_\_\_

Notary Public in and for the State of Washington.

My commission expires \_\_\_\_\_

[illegible]

GIVEN my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

[illegible]

GIVEN my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

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COUNCIL MEETING DATE: N/A

ITEM #: \_\_\_\_\_

**CITY OF FEDERAL WAY  
CITY COUNCIL  
AGENDA BILL**

**SUBJECT: PROGRESS UPDATE ON SOUND TRANSIT PROJECTS IN FEDERAL WAY**

**POLICY QUESTION:** None.

**COMMITTEE:** Land Use and Transportation Committee

**MEETING DATE:** July 6, 2020

**CATEGORY:**

☐

Consent

☐

Ordinance

☐

Public Hearing

☐

City Council Business

☐

Resolution

☒

Other

**STAFF REPORT BY:** Ryan Medlen, Sound Transit Liaison 

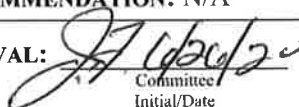
**DEPT:** Public Works

**Attachments:** Staff Report

**Options Considered:** N/A

**MAYOR'S RECOMMENDATION:** N/A


**MAYOR APPROVAL:**

  
Committee  
Initial/Date

N/A

Council  
Initial/Date

**DIRECTOR APPROVAL:**

  
Initial/Date

**COMMITTEE RECOMMENDATION:** N/A

Mark Koppang, Committee Chair

Martin Moore, Committee Member

Hoang Tran, Committee Member

**PROPOSED COUNCIL MOTION:** N/A

*(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)*

**COUNCIL ACTION:**

☐

APPROVED

☐

DENIED

☐

TABLED/DEFERRED/NO ACTION

☐

MOVED TO SECOND READING (ordinances only)

REVISED – 2/2020

**COUNCIL BILL #**

First reading



Enactment reading

**ORDINANCE #**

**RESOLUTION #**

**CITY OF FEDERAL WAY  
M E M O R A N D U M**

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**DATE:** July 6, 2020  
**TO:** Land Use & Transportation Committee  
**VIA:** Jim Ferrell, Mayor  
**FROM:** EJ Walsh, P.E., Public Works Director   
Ryan Medlen, Sound Transit Liaison   
**SUBJECT:** Progress Update on Sound Transit Projects in Federal Way

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**FINANCIAL IMPACTS:**

None.

**BACKGROUND INFORMATION:**

Staff will provide a progress update on the Sound Transit projects in the City of Federal Way.

# CITY OF FEDERAL WAY

## CITY COUNCIL

### AGENDA BILL

**SUBJECT: UPDATES ON AVATION NOISE AND HEALTH ISSUES**

**POLICY QUESTION:** None

**COMMITTEE:** Land Use and Transportation

**MEETING DATE:**

July 6, 2020

**CATEGORY:**

☐ Consent

☐ Ordinance

☐ Public Hearing

☐ City Council Business

☐ Resolution

X Other

**STAFF REPORT BY:** Bill Vadino, Policy Advisor



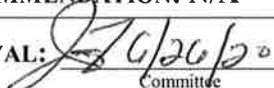
**DEPT:** Mayor's Office

**Attachments:** Staff Report

**Options Considered:** N/A

**MAYOR'S RECOMMENDATION:** N/A

**MAYOR APPROVAL:**

  
Committee  
Initial/Date

  
Council  
Initial/Date

**DIRECTOR APPROVAL:**

N/A  
Initial/Date

**COMMITTEE RECOMMENDATION:** N/A

Mark Koppang, Committee Chair

Martin Moore, Committee Member

Hoang Tran, Committee Member

**PROPOSED COUNCIL MOTION:** N/A

(BELOW TO BE COMPLETED BY CITY CLERK'S OFFICE)

**COUNCIL ACTION:**

☐ APPROVED

☐ DENIED

☐ TABLED/DEFERRED/NO ACTION

☐ MOVED TO SECOND READING (ordinances only)

REVISED – 12/2017

**COUNCIL BILL #**

First reading


Enactment reading

**ORDINANCE #**

**RESOLUTION #**

## CITY OF FEDERAL WAY M E M O R A N D U M

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**DATE:** July 6, 2020  
**TO:** Land Use & Transportation Committee (LUTC)  
**VIA:** Jim Ferrell, Mayor  
**FROM:** Bill Vadino, Policy Advisor   
**SUBJECT:** *Report on progress with airport issues*

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### **BACKGROUND:**

The following are the latest updates for the LUTC on airport issues:

- State Representative Pellicciotti's HB 1947 passed the State Legislature. It will expand the dimensions of noise impact areas for the purpose of alleviating and abating the impact of aircraft noise on areas surrounding an airport to include the City of Federal Way. Air traffic mitigation will still be determined by the FAA and Port of Seattle as resources allow. This bill assures that state law will no longer block all of Federal Way from consideration by these local and federal government agencies in the future.
- The process of review by the cities of Burien, Des Moines and Federal Way that are considering ending the suspension of involvement in StART (The Seattle-Tacoma Airport Stakeholder Advisory Round Table) continues. Feedback from those cities and Federal Way stakeholders will be shared at the May LUTC meeting for forwarding to council. This has been delayed by COVID-19.
- The first draft of the Commerce Department's study on the impacts of Sea-Tac Airport is being reviewed by the stakeholders committee. The release has been delayed by COVID-19. A virtual event will be scheduled to share the report with the community in the near future.
- The Port Commission is reviewing the "Century Agenda" and residents and the Mayor supported the proposed decrease in cargo and international flight expansion is welcome.
- Councilmember Lydia Assefa Dawson has been appointed as the Community Co-Chair for the Highline Forum.