CITY COUNCIL COMMITTEE OF THE WHOLE: 5:30 PM

a. Good of the Order
b. 2017 Budget – general discussion
c. 2016 Budget – Q4 Amendment

WRITTEN REPORTS:

- October Sales Tax Report
- Hearing Examiner Contract Amendment
- 2017 On-Call Contracts

CITY OF DUVALL
COUNCIL MEETING AGENDA
November 1, 2016
7:00 PM
Riverview Educational Service Center – 15510 – 1st Ave NE

Call to Order

Flag Salute

Roll Call

I. Additions or Corrections to the Agenda:

II. Adoption of the Council Agenda:

III. Consent Agenda:

Items listed below will be enacted by one motion. If separate discussion is desired on an item, that item may be removed from the Consent Agenda and placed on the regular Agenda at the request of a Councilmember.

1. Council Minutes and Committee of the Whole Minutes for October 18, 2016;
2. Payroll for October 16 – 31, 2016, in the amount of $_____
(to be provided)
3. Claims in the amount of $_____
(to be provided)
4. (AB16-66) Approve Hearing Examiner Rules of Procedure amended October 3, 2016.

IV. Comments from the Audience:

V. Scheduled Items:

1. Mayor:

2. Council:

3. City Administrator

4. Main Street Project Update

5. Duvall Cultural Commission Update

VI. Presentation: *None*

VII. Public Hearing: Final Public Hearing on the City of Duvall 2017 Budget

VIII. New Business:

1. (AB16-68) Ordinance – Technology Fee.
discussion – M. Morton

2. (AB16-69) Ordinance – DMC 9 Update
discussion – B. Benson

3. (AB16-70) Resolution - North Hill Final Plat
discussion – B. Benson

IX. Unfinished Business:

1. (AB16-60) Ordinance - Ad Valorem Property Tax Levy for 2017
discussion – D. Rohla

2. (AB16-61) Ordinance – Cable Television Utility Tax
discussion – D. Rohla

3. (AB16-62) Ordinance – Water, Sewer, Stormwater Utility Tax
discussion – D. Rohla

4. (AB16-63) Adopt Ordinance extending the duration of the cable television franchise held by WAVE DIVISION I, LLC.
discussion/decision – M. Morton

5. (AB16-65) Adopt Ordinance repealing and replacing Title 10.01.110 "Washington State Energy Code Adopted", and Title 10.12.050 "Application to Plats" of the Duvall Municipal Code.
decision – B. Benson

6. (AB16-67) Approve and authorize the City Administrator to sign Economic Development Partnership Agreement between City of Duvall and Port of Seattle.
decision – M. Morton/W. Ibershof

X. Executive Session: *None*

XI. Adjournment

CITY OF DUVALL
CITY COUNCIL
COMMITTEE OF THE WHOLE MINUTES
October 18, 2016 – 5:00 p.m.
Riverview Educational Service Center – 15510 – 1st Ave NE

Mayor Pro Tem Brudnicki called the meeting to order at 5:00 p.m.

Council present: Amy Ockerlander, Jason Walker, Dianne Brudnicki, Leroy Collinwood, Scott Thomas, Veronika Williams, Becky Nixon

Staff present: Matthew Morton, Dean Rohla, Lara Thomas, Boyd Benson, Jodi Wycoff

a. Good of the Order
Matthew Morton, City Administrator, said that per Council's request at the retreat, the Committee of the Whole (COW) meetings in November and December will be held in one of the Professional Learning rooms adjacent to the Boardroom at the Riverview Educational Service Center. After the trial period, Council can decide if they'd like to continue using the rooms for COW meetings.

Councilmember Becky Nixon asked that term limits for Mayor and Councilmembers be added to the January retreat agenda as a discussion item.

b. 2017 Budget – department presentations:
Public Works
Boyd Benson, Interim Public Works Director, gave a presentation on the proposed 2017 Public Works budget which includes building, engineering, maintenance and wastewater treatment departments as well as water, sewer, stormwater, parks and streets funds. The overall budget for Public Works has increased mostly due to one-time expenditures for large projects like Main Street and Big Rock Ball Park. Mr. Benson also reviewed the items that were not funded in 2017 including McCormick Park Riverbank/Master Plan, capital replacement funds for water and wastewater, pavement overlay and repair and a Maintenance 1 position. Mr. Benson answered questions from Council regarding the pavement overlay program and the proposed purchase of a new dump truck.

Planning Department
Lara Thomas, Planning Director, gave a presentation on the proposed 2017 Planning Department budget. The overall Planning budget decreased by approximately 9% from the 2016 budget. Salaries and wages increased slightly to reflect the Administrative Assistant working on the King County Metro Community Van program which is paid for by King County. There are no new programs proposed and there are some carryovers from the 2016 budget to complete projects that started this year. Ms. Thomas then reviewed items that were not funded including the Parks, Trails and Open Space (PTOS) plan, Design Guidelines and Landscape Standards. Council discussed the importance of funding the PTOS plan and reviewing the Park Impact Fee and asked that this discussion be continued during the next budget discussion.

Adjournment
The Committee of the Whole adjourned at 6:58 p.m.

Written Reports – *the following written reports distributed in the Committee of the Whole packet:*

- North Hill Final Plat
- Stormwater Regulation Code Updates, DMC Chapter 9
- Q3 Financial Report
- Quarterly Investment Report

ATTEST:

_____ _____

Dianne Brudnicki, Mayor Pro Tem Jodi Wycoff, City Clerk

CITY OF DUVALL
COUNCIL MEETING
October 18, 2016
7:00 P.M. – Riverview Educational Service Center
15510 – 1st Ave NE

Committee of the Whole: 5:00 P.M.

The City Council Meeting was called to order by Mayor Pro Tem Brudnicki at 7:02 P.M.

Roll Call: Dianne Brudnicki, Amy Ockerlander, Jason Walker, Leroy Collinwood, Scott Thomas, Veronika Williams, Becky Nixon

Staff Present: Matthew Morton, Boyd Benson, Lara Thomas, Dean Rohla, Jodi Wycoff

I. Additions or Corrections to the Agenda:
Under Consent Agenda add: Payroll for 10/05/16 in the amount of $144,672.95, Payroll for 10/20/16 in the amount of $88,248.56 and Claims in the amount of $364,461.20; Under Scheduled Items add: Councilmember Ockerlander; and Under Public Hearings revise Public Hearing 1 to read: Public Hearing to receive input on Revenue Sources for the 2017 Budget, including consideration of possible increases in Property Tax Revenue.

II. Adoption of Council Agenda:
It was moved and seconded (Ockerlander-Nixon) to adopt the 10/18/16 Council Agenda. The motion carried (7 ayes).

III. Approval of Consent Agenda:
It was moved and seconded (Ockerlander-Walker) to approve the consent agenda which included approving the City Council minutes and Committee of the Whole minutes of 10/04/16; Payroll for 10/05/16 Checks #24764-24773 in the amount of $144,672.95 including EFTs in the amount of $35,793.74 and Payroll for 10/20/16 Check #24782 in the amount of $88,248.56 including EFTs in the amount of $85,413.97; Claims Checks #24783-24866 and #24774-24781 in the amount of $364,461.20 including EFTs in the amount of $8,162.70. The motion carried (7 ayes).

IV. Comments from the Audience:
There were no comments from the audience.

V. Scheduled Items:
1. Mayor: *No report*

2. Council:
Councilmember Amy Ockerlander said that Sound Cities Association (SCA) Public Issues Committee passed the Legislative Agenda at their last meeting and it is now going to the SCA Board for review. Councilmember Ockerlander reported on the Eastside Transportation Partnership meeting which included a presentation by Washington Department of

Transportation. Councilmember Ockerlander answered questions from Council regarding that presentation.

3. City Administrator:
Matthew Morton, City Administrator, said that he attended a debriefing on the recent incident at Cedarcrest High School and was impressed with the partnership between Duvall Police and Riverview School District. Mr. Morton said that although the big windstorm never manifested, the City was involved in preparations working with the Fire District which was good practice for when we do have a big weather event. Mr. Morton said that staff will bring the Parks, Trails and Open Space budget discussion to the October 25th budget workshop for further discussion. Lastly, Mr. Morton thanked Duvall resident and volunteer Helen Hoenig for all of her hard work to beautify City Hall. Ms. Hoenig has planted trees and shrubs around City Hall recently.

4. Main Street Project Update
Boyd Benson, Interim Public Works Director, gave the latest update on the Main Street Project including current and upcoming construction activities, forthcoming expenditures and change orders and public outreach that the Public Works Department is working on. Mr. Benson said that the there was an accident at the project site and although it was minor and the person involved is fine, they did have a follow up safety meeting to go over the incident and make necessary corrections so it will not happen again. Lastly, Mr. Benson said that they expect curb and gutter installation along a portion of the project to begin in mid-November.

5. King County Fire District 45
Fire Chief David Burke said that October is Fire Prevention Month and gave a brief history of how and why Fire Prevention Month was started. Chief Burke reported on the call numbers for September and said that they had a working residential structure fire recently. Chief Burke said that preparation for the windstorm that never happened showed how well fire, police and other neighboring agencies work together. Lastly, Chief Burke thanked Council for inviting him to speak at their recent retreat.

VI. <u>Presentation:</u> ***None***

VII. <u>Public Hearing 1:</u> Public Hearing to receive input on Revenue Sources for the 2017 Budget, including consideration of possible increases in Property Tax Revenue.

7:29 PM: The Public Hearing was opened.

Dean Rohla, Finance Director, gave a presentation showing revenue sources for the 2017 budget cycle.

There were no public comments.

7:46 PM: The Public Hearing was closed.

<u>Public Hearing 2:</u> **1st Public Hearing on the City of Duvall 2017 Budget.**

7:46 PM: The Public Hearing was opened.

Dean Rohla, Finance Director, gave a presentation showing an overview of the 2017 budget.

There were no public comments.

The following public comment letters were submitted before the meeting and included in the packet: Sno Valley Senior Center requesting $5,000 for their programs.

7:53 PM: The Public Hearing was closed.

VIII. <u>New Business:</u>

1. (AB16-60) Ordinance – Ad Valorem Property Tax Levy for 2017
Dean Rohla, Finance Director, reviewed the draft ordinance and packet documents. This item will be on the next agenda for further discussion.

2. (AB16-61) Ordinance – Cable TV Utility Tax
Dean Rohla, Finance Director, reviewed the draft ordinance and packet documents. Mr. Rohla then answered questions from Council. This item will be on the next agenda for further discussion.

3. (AB16-62) Ordinance – Water, Sewer, Stormwater Utility Tax
Dean Rohla, Finance Director, reviewed the draft ordinance and packet documents. Mr. Rohla answered questions from Council. This item will be on the next agenda for further discussion.

4. (AB16-63) Ordinance – Franchise Extension with WAVE Division Holdings
Matthew Morton, City Administrator said that the most recent franchise agreement has expired and they will begin negotiating a new agreement early next year. WAVE has been doing infrastructure improvements in the area and has asked for this one-year franchise extension so they can continue the work during agreement negotiations.

5. (AB16-64) Contract – WWTP Laboratory Restoration
Boyd Benson, Interim Public Works Director, explained that there was recently a water heater leak at the Wastewater Treatment Plant (WWTP) laboratory that unfortunately went undetected because it occurred over a weekend. The water damage was more extensive than originally thought and it caused damage to the underlayment in the lab which now requires replacement. Insurance will cover the costs minus the deductible. Mr. Benson said that Public Works is going out for bid soon and will bring back a contract for approval in the near future.

6. (AB16-65) Ordinance – Building Code Updates – DMC Chapter 10
Boyd Benson, Interim Public Works Director, reviewed the proposed updates to the Building Code and answered questions from Council. This item will be on the next agenda for approval.

7. (AB16-66) Hearing Examiner Rules of Procedure
Lara Thomas, Planning Director, explained that John Galt, Duvall's Hearing Examiner, updates his rules of procedure periodically and pointed out the list of amendments in this update. Ms. Thomas answered questions from Council. There was Council consensus to put this item on the consent agenda for approval on the next agenda.

8. (AB16-67) Economic Development Partnership Agreement with Port of Seattle
Matthew Morton, City Administrator, said that this agreement outlines the partnership for the economic development grant funds that Duvall applied for from the Port of Seattle. This item will be on the next agenda for approval.

IX. Unfinished Business:

1. (AB16-58) Approve Resolution #16-19 clarifying completion of the 2015 update of the Comprehensive Plan and Development Regulations as required by the Growth Management Act.
It was moved and seconded (Nixon-Williams) approve Resolution #16-19 clarifying completion of the 2015 update of the Comprehensive Plan and Development Regulations as required by the Growth Management Act. The motion carried (7 ayes).

2. (AB16-59) Approve Resolution #16-20 supporting the implementation of recommendations developed by the Snoqualmie Fish, Farm, Flood Advisory Committee.
It was moved and seconded (Ockerlander-Williams) approve Resolution #16-20 supporting the implementation of recommendations developed by the Snoqualmie Fish, Farm, Flood Advisory Committee. The motion carried (7 ayes).

X. Executive Session: ***None***

XI. Adjournment:
It was moved and seconded (Williams-Nixon) to adjourn the meeting. The meeting adjourned at 8:35 P.M.

Signed_____
Dianne Brudnicki, Mayor Pro Tem

Attest_____
Jodi Wycoff, City Clerk

Duvall City Council

AGENDA BILL SUMMARY

Meeting Date: 11/01/16 AB #16-66

Item Type: Introduction: __ Discussion/Staff Direction: __ Action Item: _X_

Attorney Review: No

Subject: **Hearing Examiner Rules of Procedure**

Budget Impact and Source of Funds: Not Applicable

Contact Person/Department: Lara Thomas, Planning Director, Planning Department

EXECUTIVE SUMMARY:

This is an update to the City of Duvall Hearing Examiner Rules of Procedure. Duvall Municipal Code Section 2.30.190 authorizes the Hearing Examiner to adopt rules for the conduct of hearings and for any mediation process. Any changes to these rules must be reviewed by the City Council. The Hearing Examiner's Rules of Procedure were last updated in April of 2011.

COUNCIL PROCESS:

- Council Decision under **Consent Agenda**

HISTORY:

- City of Duvall Hearing Examiner Rules of Procedure were last updated in April 2011.
- Council discussion under New Business at 10/18/16 meeting.

RECOMMENDED ACTION:

Per Council direction, this item is on the consent agenda to:

Approve Hearing Examiner Rules of Procedure amended October 3, 2016.

ATTACHMENTS:

- Updated Hearing Examiner Rules of Procedure (Amended Oct 3, 2016)

CITY of DUVALL

HEARING EXAMINER

RULES OF PROCEDURE

issued pursuant to Section 2.30.190(A)

of the Duvall Municipal Code (DMC)

and

Chapter 34.05 RCW, Administrative Procedure Act
Amended October 3, 2016

_____
John E. Galt, Hearing Examiner
Voice/FAX: (425) 259-3144
E-mail: jegalt755@gmail.com

Approved by the City Council as required by DMC 2.30.190(A)
_____, 2016

TABLE OF CONTENTS

PART 100: GENERAL RULES

104 Purpose

108 Definitions

116 Expeditious Proceedings

120 *Ex Parte* Communication

124 Acceptability of Electronic Communications

128 Potential Conflict of Interest Cases

132 Special Hearing Dates

136 Fees for Staff Services

140 Code Enforcement Proceedings

144 Time Periods

PART 200: PREHEARING PROCEDURES

202 Appeals – Transmittal to Examiner

204 Motions/Requests

208 Prehearing Conferences

212 View Trip

216 Applicant Submittal Deadlines - Project Permit Applications

220 Initial Exhibits and Exhibit List - Project Permit Applications

224 Pre-filing of Evidence by Principal Parties – Open Record Hearing Appeal Cases

225 Pre-filing of Evidence by Principal Parties – Open Record Hearing Appeal Cases – Shortened Version

226 Pre-filing of Evidence by Principal Parties – Closed Record Hearing Appeal Cases

228 Summary Dismissal – Appeals

PART 300: CONDUCT OF HEARINGS

304 Format – Open Record Hearings

306 Format – Closed Record Appeal Hearings

308 Clerk

312 Rights of Parties

316 Evidence

320 Optional Written Closing Statement Process

324 Examiner's Power to Maintain Order During Hearing

PART 400: POSTPONEMENT OF HEARINGS

404 Postponement Due to Examiner Unavailability

408 Postponement Before Hearing - Project Permit Applications

412 Postponement Before Hearing - Open Record Appeals

416 Continuation or Postponement at Hearing

420 Extension of Continuation/Postponement Dates

PART 500: RECONSIDERATION AND CLERICAL CORRECTIONS

504 Reconsideration

508 Clerical Corrections

PART 600: MISCELLANEOUS PROVISIONS

604 Summary Orders on Remand

608 Case Record - Content

612 Case Record - Disposition

616 Recusal of Examiner

620 Withdrawal of Applications/Appeals

AMENDMENTS

Date	Rule	Nature of Amendment
April 1, 2008	144	Added
	224	Substantial changes throughout
April, 2011	128	Minor grammatical change
	132	Minor punctuation change
	216(b)	Minor grammatical change
	224(b)(3)	Cross-copying of City exhibits to other principal parties now required
	304(g)	Acceptable types of recording equipment broadened
	316(b)	Minor grammatical change
	608(b)	Acceptable types of recording equipment broadened
	612	Responsibility for retention of official case record clarified
Oct. 3, 2016	Cover	Updates Examiner's e-mail address
	108(f)	Moves portion of content to RoP 144
	124(c)	Establishes cut-off for admission of e-mail evidence
	144	Consolidates RoP 108(f) and 144
	202	Added; transmittal of appeals to Examiner
	220(d)	Minor revision
	224	Changes exhibit numbering protocol
	225	Added; creates optional shortened discovery process
`	226	Added; creates procedures for closed record appeal hearings
	228(f)	Minor revision: allows e-mail transmission
	306	Added; creates procedures for closed record appeal hearings
	504(b)	Allows for e-mail transmission of reconsideration requests

PART 100

GENERAL RULES

104 Purpose

These rules supplement, not replace, the provisions of municipal code and state law. In case of conflict between these rules and any provision of municipal code or state law, the code or law provision prevails.

These rules address most normal circumstances which might arise when dealing with Examiner proceedings. The possibility exists that a situation may arise which has not been foreseen and which does not lend itself to full, literal compliance with these rules. Therefore, the Examiner reserves the right to exercise reasonable and necessary flexibility and discretion when applying these rules to extraordinary circumstances.

108 Definitions

The following definitions shall apply throughout these rules unless context or subject matter clearly indicates that another meaning is required:

a) "Administrative appeal" means any appeal from a City Staff action for which jurisdiction is assigned to the Examiner under City code.

b) "Agency" as used in Chapter 34.05 RCW means the City of Duvall.

c) "Appellant" means the person, organization, or authorized representative appealing an administrative decision to the Examiner pursuant to City code or appealing the Examiner's decision to a higher authority, depending upon the context.

d) "Applicant" means the person, organization, or authorized representative seeking City approval of one or more permits over which the Examiner has jurisdiction.

e) "Council" means the City Council of Duvall.

f) "Day(s)" means calendar days unless specifically stated otherwise herein or in City code.

g) "Examiner" means the Land Use and Enforcement Hearing Examiner and any Examiners *Pro Tem* appointed by the Council.

h) "*Ex parte*" means communication with the Examiner by one party outside the presence of other parties.

i) "Presiding officer" as used in Chapter 34.05 RCW means the Duvall Enforcement Hearing Examiner.

j) "Principal parties" means and is limited to the applicant(s), the appellant(s), and the respondent(s) to any given application/appeal.

k) "Project permit application" means an application for a City permit or approval requiring a pre-decision hearing by the Examiner, such as a rezone, preliminary subdivision, conditional use permit, variance, etc.

l) "Staff" or "City Staff" means City of Duvall employees and contract employees who work for the City department(s) having responsibility for processing project permit applications, code enforcement, and other matters which fall within the Examiner's jurisdiction.

116 Expeditious Proceedings

It is the policy of the Examiner that, to the extent practicable and consistent with requirements of law, public hearings shall be conducted expeditiously. In the conduct of such proceedings the Examiner and all persons testifying shall make every effort at each stage of a proceeding to avoid delay.

120 *Ex Parte* Communication

a) Proceedings before the Examiner are subject to requirements of due process which restrict *ex parte* communication. (See Rule 108(h) for the definition of *ex parte*.)

b) The Examiner may communicate *ex parte* with City Staff and others on procedural matters as required to perform their duties in accordance with these rules.

c) If an *ex parte* communication other than allowed by subsection (b) is made to or by the Examiner, the Examiner shall publicly disclose such communication at the outset of the open record hearing. Where a hard copy of the communication is available, the Examiner shall enter it into the record of the proceeding.

124 Acceptability of Electronic Communications

a) FAX and E-mail may be used in communicating with the Examiner. The sender of such a communication has the obligation to insure receipt. All such communications are subject to the *ex parte* communication restrictions of Rule 120.

b) E-mail filing of applications, requests for reconsideration, and appeals is NOT permitted unless expressly authorized by City code or rule.

c) Correspondence related to Examiner cases may not be submitted to the City by E-mail unless expressly authorized by City code or rule. If so authorized, the sender shall be solely responsible to ensure that E-mail correspondence is actually received by the appropriate Staff person and entered into the appropriate application/appeal file. E-mail not physically entered into a hearing record before the Examiner closes that record shall not be considered part of the record and will not be considered by the Examiner.

128 Potential Conflict of Interest Cases.

If an application/appeal is received by the City that City Staff reasonably believes may present a conflict of interest or appearance of fairness issue to the Examiner, the Staff shall, prior to assigning a hearing date and time to the application/appeal, explain their concern to the Examiner. If the Examiner concurs, the Examiner shall recuse himself from hearing the case. (See Rule 616.) The Mayor and Council shall be informed of the situation so that an Examiner *Pro Tem* may be appointed.

132 Special Hearing Dates

If an application/appeal is received, which, in the Staff's opinion, is likely to be of significant interest to a large number of citizens, Staff may request a special hearing date and time from the Examiner. The Examiner shall have final authority to set the date, time and place for all such special hearings.

136 Fees for Staff Services.
Nothing in these Rules affects Staff's authority to charge and collect fees for services as otherwise authorized by law, code, or adopted City policy.

140 Code Enforcement Proceedings
Code enforcement proceedings under Chapters 2.22 and 2.24 DMC are subject to the requirements and procedures in Part IV of Chapter 34.05 RCW. [DMC 2.22.080] Many sections within Part IV allow agencies to adopt local rules to tailor the procedures to local circumstances. These Rules serve that purpose.

144 Time Periods
Unless otherwise regulated by law or municipal code: In counting days in a time period, the day a triggering action occurs is not counted; the time period ends at the municipality's regular close of business on the last day of the time period. Unless otherwise regulated by law or municipal code, if the last day of the period would fall on a Saturday, Sunday, legal municipal holiday, or other municipal non-business day, the time period ends at the close of business on the next municipal work day.

PART 200

PREHEARING PROCEDURES

202 Appeals – Transmittal to Examiner
When the City receives an administrative appeal which falls within the Examiner's jurisdiction, it shall transmit a copy of the appeal package as submitted by the appellant together with a copy of the decision being appealed, if not included within the appeal package, to the Examiner by E-mail or FAX within two business days of its receipt by the City.

204 Motions/Requests

a) Filing Any person wishing to file a prehearing motion/request (such as a request for a prehearing conference, for establishment of special hearing procedures, *etc*.) shall submit it in writing to the City and concurrently to all principal parties to the case. The City shall FAX or E-mail the motion to the Examiner. If a motion is filed less than 20 days before the scheduled open record hearing date, there may not be sufficient time to allow written responses and prepare written rulings. In such circumstances, the Examiner may elect to rule on the motion at the open record hearing; strict adherence to the procedures set forth in the following subsections may not occur.

b) Response Any principal party and/or the Staff may file with the Examiner a written response to a filed motion not later than 10 days after the date that the motion was filed. Responses will be considered by the Examiner if and only if received prior to issuance of a dispositive order ruling on the motion.

c) Ruling The Examiner will rule on each motion by issuance of a written order or orally at the open record hearing. Multiple motions may be consolidated for purposes of order issuance where efficiency would be served and where the rights of the parties would not be prejudiced.

d) Distribution Written orders issued prior to the scheduled open record hearing will be mailed or FAXed to each party of record where time allows, distributed at the open record hearing, or announced at the open record hearing. Oral rulings made during an open record hearing will be memorialized within the written decision on the application/appeal.

208 Prehearing Conferences

a) General The Examiner has sole discretion to convene prehearing conferences. Prehearing conferences may be convened to resolve procedural matters and/or to discuss settlement. A prehearing conference shall be scheduled at a time and place of greatest convenience to its participants. Prehearing conferences will not be recorded, but the Examiner may issue a post-conference Order to memorialize agreements reached during the conference.

b) Project Permit Applications Prehearing conferences will not normally be convened in project permit application cases. However, where a case is of major community interest, is expected to generate extraordinary amounts of participation, and scheduling issues may be paramount to an expeditious proceeding, the Examiner may elect to convene a prehearing conference. At least seven days written notice of the date, time, and place of the conference will be given to known interested persons.

c) Administrative Appeals Any principal party may request that the Examiner convene a prehearing conference in an administrative appeal. The Examiner may also call a conference on his own initiative. At least seven days written notice of the date, time, and place of the conference will be given to principal parties (unless the parties waive such notice). Attendance at the conference by other persons will be allowed; however, participation by others will not normally be permitted.

212 View Trip

a) The Examiner may inspect the site prior or subsequent to the hearing. Failure to inspect the site will not render the Examiner's decision void.

b) When a view trip has been taken, the Examiner will so state at the hearing and/or in the written decision.

c) The view trip will be taken out of the presence of any interested party wherever feasible. Where accompaniment by an interested party is necessary to fully view the property, no substantive discussion may occur during the view trip.

216 Applicant Submittal Deadlines - Project Permit Applications

a) Applicant submittals made less than 15 days prior to a scheduled hearing shall not be considered at the hearing unless the Examiner finds that the due process rights of the parties and proper Staff review will not be adversely affected. Any such submittal(s) will otherwise be afforded hearing consideration only if the hearing is postponed to a date sufficiently far in the future to allow proper review of the submittal(s) by Staff and public. Any such postponement shall normally be for not less than three

weeks. When a case is postponed or continued under this rule, the Examiner may establish a deadline prior to the continued hearing for further applicant submittals.

b) "Submittals" as used herein includes without limitation original and revised applications, site development plans, preliminary plat maps, concomitant agreements, impact mitigation offers, preliminary drainage plans, environmental checklists, technical and/or scientific evidence, *etc.* The term "submittals" does not include written applicant argument or plan changes that respond to Staff positions and/or late-arriving agency review comments, nor written statements describing and arguing for the application/appeal as already submitted.

220 Initial Exhibits and Exhibit List - Project Permit Applications

a) The Staff shall select from the documents within the application file all those which it believes in its professional judgment will have probative value in the open record hearing process and/or which will be necessary for preparation of a properly and fully considered decision. The original or a clear and complete copy of the application, documentation of application completeness, current site plan(s), documentation of compliance with the procedural requirements of the State Environmental Policy Act (SEPA), required public notices, any documents specifically requested by the Applicant to be included as an Exhibit, and all substantive letters from citizens regarding the application shall be included.

b) The Staff shall mark each document selected under Rule 220(a) with a consecutive exhibit number. These marked documents shall constitute pre-filed exhibits.

c) The Staff shall prepare a listing of the pre-filed exhibits. The listing and the original (or if the original cannot be provided for exhibit purposes, one clear copy) of each of the pre-filed exhibits shall be available at City Hall for public review at the same time that the required Staff Report becomes available.

d) The Staff shall mail or deliver a copy of the listing and each pre-filed exhibit to the Examiner at the same time that the required Staff Report becomes available.

224 Pre-filing of Evidence by Principal Parties – Open Record Hearing Appeal cases

a) The intent of the following rules is to insure that all documents and arguments to be relied upon by any of the principal parties in an open record appeal hearing before the Examiner are available for review by all other principal parties prior to the open record hearing, thus preventing "surprise" at the hearing and facilitating efficiency. These rules will be interpreted by the Examiner to facilitate that purpose. Requirements of this Rule may be modified through the prehearing conference process. (See Rule 208.)

b) Pre-filing submittals shall be made at City Hall.

1) Each principal party shall number its own pre-filing submittals for identification purposes using the following number ranges:

Principal Party	*Exhibit Number Range*
Respondent	1 – 999
Appellant	1001 – 1999
Applicant (when other than the Appellant)	2001 - 2999

The Examiner will assign additional number ranges when an appeal involves additional principal parties. Numbering will begin with the lowest number in the assigned series and proceed in whole number increments.

An exhibit number shall be assigned to individual documents, not to each page in a document. If a document contains sub-parts or attachments which are not uniquely identified within the document, you must identify each sub-part with a suffix composed of a decimal point followed by either an integer, an upper case letter, or a lower case letter. For example, subparts of Exhibit 1005 would be 1005.1, 1005.2, etc., 1005.A, 1005.B, etc., or 1005.a, 1005.b, etc.

Briefs and hearing memoranda are to be assigned exhibit numbers like any other pre-filed document. Enclosures or attachments to briefs/memoranda are permissible; enclosures or attachments shall be labeled as described above.

Pages in documents should be numbered. If the original document does not have page numbers, please use a "Bates" number stamp or something similar to number each page.

Remember that the purpose of this Rule is simply to facilitate easy reference to each document and to each page within a document by all hearing participants. Please keep that purpose in mind as you prepare your documents for pre-filing.

2) Each principal party shall include a list of its exhibits with its submittal. The list shall not be assigned a pre-filed exhibit number as exhibit lists are normally not entered into the record as exhibits.

3) Each principal party, including the City, shall cross-copy its pre-filing to the other principal parties.

4) Each principal party, including the City, shall send or cause to be delivered a copy of its exhibit list and pre-filed exhibits to the Examiner at the same time those documents are filed with the City. The Examiner's business mailing address is 927 Grand Avenue, Everett, WA 98201-1305.

c) The Examiner will assign pre-filed exhibit numbers within the range 9001 - 9999 to administrative documents which will be entered into the hearing record. Those documents will be made available at City Hall.

d) Not less than 14 days prior to the scheduled hearing, the respondent department shall assemble and file the original or a clear and complete copy of all items within the application/appeal file which it believes in its professional judgment will have probative value in the open record hearing process and/or which will be necessary for preparation of a properly and fully considered decision. The original application and/or appeal, documentation of application completeness, current site plan(s), documentation of compliance with the procedural requirements of the State Environmental Policy Act (SEPA), required public notices, any documents specifically requested by the Applicant to be included as an Exhibit, and all substantive letters from citizens regarding the application/appeal shall be included. (Duplication of items filed under Rule 224(c) is strongly discouraged.)

e) Not less than seven days prior to the scheduled hearing, each appellant shall assemble and file one copy of all documents or exhibits, including any pre-hearing brief and/or memorandum, which that party intends to submit. (Duplication of items filed under Rule 224(c) and (d) is strongly discouraged.)

f) Not less than seven days prior to the scheduled hearing, the parties shall assemble and file a list of persons the party expects to call as witnesses, and the following information for each person (excluding City staff) the party expects to call as an expert witness: name, resume, the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion. The witness information also shall not be assigned a pre-filed exhibit number as the Examiner does not anticipate that witness lists need to be entered into the record as exhibits.

g) Preparation and submittal of the "department report" by City staff is regulated by DMC 2.54.110(C).

h) Principal Parties have a duty under the following circumstances to supplement at the earliest possible opportunity their submittals made under subsections (d) - (f):

1) Whenever an additional expert witness is identified whose participation in the proceedings could not reasonably have been foreseen before the close of the exhibit pre-filing period, the information required by Rule 224(f)shall be provided.

2) Whenever a party obtains information upon the basis of which (A) the party knows that the material submitted was incorrect when submitted, or (B) the party knows that the material submitted, though believed correct when submitted, is no longer correct and the circumstances are such that failure to amend the submittal would constitute knowing concealment of information central to the issues in the appeal.

Exhibit supplements required by this Rule shall be marked, filed, cross-copied to the parties, and provided to the Examiner as required by Rule 224(b).

i) Documents, materials, studies, analyses, *etc.* not disclosed through the exhibit pre-filing process, other than those offered in response/rebuttal, will not be considered in adjudicating the appeal except by agreement of the other principal parties or at the Examiner's discretion in extraordinary circumstances.

225 <u>Pre-filing of Evidence by Principal Parties – Open Record Hearing Appeal cases – Shortened Version</u>

a) Some appeal cases are not likely to involve large volumes of exhibits. In those cases, the Examiner may elect to utilize a shortened exhibit pre-filing procedure. The Examiner will notify all principal parties whenever the shortened procedure contained in this Rule will be used.

b) All the requirements of Rule 224 shall apply in the shortened pre-filing process except that the deadline for the respondent to pre-file its exhibits under Rule 224(d) shall be seven (7) days before the hearing instead of 14 days before the hearing.

226 <u>Pre-filing of Evidence by Principal Parties – Closed Record Hearing Appeal cases</u>

a) Evidence in a closed record appeal is limited to that which was before the administrative decision maker before the administrative decision was rendered; submission of new evidence by an appellant is not allowed.

b) All the requirements of Rule 224 shall apply in a closed record appeal case except that:

1) Rule 224(e) does not apply.

2) Parties wishing to submit prehearing briefs/memoranda shall do so not less than seven (7) days before the hearing date. The Examiner will assign administrative exhibit numbers to all prehearing briefs/memoranda.

228 Summary Dismissal – Appeals

a) The Examiner may summarily dismiss an appeal in whole or in part on the motion of a principal party or on the Examiner's own motion if the Examiner concludes that: The appeal was untimely filed, fails to state a claim for which the Examiner has jurisdiction to grant relief, is without merit on its face, is frivolous, or has been brought merely to secure delay; and/or the appellant lacks standing to appeal.

b) Summary dismissal may be requested by a principal party by filing a Motion pursuant to Rule 204 or may be initiated by the Examiner.

c) The Examiner will allow the principal parties a reasonable time in which to submit written responses to a Motion for or Proposed Order of Summary Dismissal.

d) An Order summarily dismissing the entirety of an appeal (or all appeals where more than one has been filed and consolidated for processing) constitutes the Examiner's final decision on the appeal/appeals and is subject to reconsideration/appeal in accordance with City code and these Rules. In all other situations, the Order is interlocutory and not subject to reconsideration or appeal until the Examiner issues the final decision on the remaining appeal/appeals.

e) When the Respondent Department withdraws or vacates the decision or action being appealed, the appeal becomes moot and shall automatically be dismissed. (Withdrawal of an appeal by the appellant is addressed in Rule 620.)

f) The Examiner shall e-mail, FAX, or mail summary dismissal orders to the principal parties.

PART 300

CONDUCT OF HEARINGS

304 Format – Open Record Hearings

a) The format for an open record hearing will be of an informal nature yet designed in such a way that the evidence and facts relevant to a particular proceeding will be readily and efficiently available to the Examiner. An open record hearing will normally include, but need not be limited to, the following elements: a brief prefatory statement of procedures and introduction of pre-filed exhibits by the Examiner; a presentation by the applicant/appellant which shall include an explanation of the request, explanation of relevant visual aids (maps or plans), and a discussion of the reasons why the application/appeal should be approved/granted; testimony of any public agencies, including the Staff; testimony by the public; and opportunity for rebuttal.

b) All testimony will be taken under oath or affirmation administered by the Examiner. Any potential witness who declines to be sworn in shall be barred from testifying, except that attorneys who will not be offering testimony will not be required to be sworn in.

c) The Examiner may ask questions of any witness, including agency and Staff, at any time during their testimony to seek clarification or elaboration of testimony being given. Further, the Examiner may request submittal of additional information to better make a complete and accurate evaluation of the issues.

d) The Examiner may indicate, at the outset of the hearing, that she/he has studied the materials relating to the case and has preliminarily determined that there seem to be certain central issues which need to be addressed. The Examiner may request that these issues be addressed in testimony to be offered.

e) The normal sequence of hearing proceedings shall be as follows:

Project Permit Hearings	Combined Project Permit and Appeal Hearings	Enforcement Appeal Hearings	All Other Appeal Hearings
Introduction by Hearing Examiner	Introduction by Hearing Examiner	Introduction by Hearing Examiner	Introduction by Hearing Examiner
Direct Testimony & Evidence Applicant City Staff General Public	Direct Testimony & Evidence Applicant - on the merits Appellant- on the appeal & merits Respondent (Agency)- on the appeal & merits General Public	Direct Testimony & Evidence Respondent (Agency) Appellant General Public	Direct Testimony & Evidence Appellant Respondent (Agency) General Public
Rebuttal Testimony & Evidence Applicant City Staff General Public	Rebuttal Testimony & Evidence Applicant Appellant Respondent (Agency) General Public	Rebuttal Testimony & Evidence Respondent (Agency) Appellant General Public	Rebuttal Testimony & Evidence Appellant Respondent (Agency) General Public
Closing Statements (Optional) City Staff Applicant	Closing Statements (Optional) Applicant Respondent (Agency) Appellant	Closing Statements (optional) Appellant Respondent (Agency)	Closing Statements (Optional) Respondent (Agency) Appellant

f) The Examiner reserves the right to abbreviate the normal sequence of events at a hearing when it appears that no one's rights would be infringed upon by such abbreviation and that detailed exposition of the facts is not necessary to the Examiner's understanding of the case. The Examiner also reserves the right to vary from the normal sequence of events in order to ensure due process and/or for convenience or efficiency.

g) Each public hearing will be recorded in analog or digital format or taken by a certified court reporter to preserve a verbatim record of the proceedings. Where necessary to acquire a good-quality recording, all parties wishing to offer verbal testimony may be required to speak into a microphone provided for that purpose. All hearing participants shall preface their remarks with their full name and the spelling of their last name. Hearing recordings will be retained by the City as required by state law/rule. Hearing recordings may be destroyed, erased, deleted, or otherwise disposed of at the City's convenience after the end of the retention period.

306 Format – Closed Record Hearings

The format for closed record appeal hearings is similar to that for open record hearings with one major exception: Parties are allowed to present only argument, not new evidence or testimony. Unless otherwise specified by the Examiner, presentation of argument in closed record appeal hearings shall follow the sequence for "All Other Appeal Hearings" under Rule 304(e) except that there can be no testimony or evidence submitted. Argument will not be taken under oath or affirmation. In all other respects, the provisions of Rule 304 will apply.

308 Clerk

The City shall provide a clerk during hearings. It shall be the responsibility of the clerk to maintain the register of parties of record, to mark exhibits, to keep a list of exhibits and witnesses, and to perform such other ministerial duties as may be assigned by the Examiner.

312 Rights of Parties

a) General. Every hearing participant shall have all rights essential to a fair hearing. The Examiner may impose reasonable limitations on the number of witnesses heard and on the nature and length of their testimony. Where time limits are imposed, time is not cumulative and may not be given or traded to any other party. Testimony shall be concise and non-repetitious.

b) Cross-Examination

1) Cross-examination generally is not necessary to the Examiner's fact-finding process. However, where the hearing assumes distinctly adversarial proportions, some or all of the parties are represented by counsel, expert witnesses are called, and/or complex, technical, and disputed factors are involved, the Examiner may allow cross-examination.

2) The Examiner will allow cross-examination by principal parties of expert witnesses (which term includes public agency staff) and of principal party witnesses in accordance with these guidelines. Only one person representing each principal party may cross examine any given witness. (This Rule does not prevent different persons representing one party from cross examining different witnesses. It only prohibits more than one person representing a given party from cross examining a single witness.) Cross-examination after any re-direct testimony shall be limited strictly to the subject(s) of the re-direct testimony.

3) Within the above guidelines, the allowance and scope of cross-examination is within the discretion of the Examiner.

316 Evidence

a) Burden of Proof The applicant/appellant shall have the burden of proof as to material factual issues except: in code enforcement proceedings where the City has the burden of proving the violation; and except where applicable City code provisions or state law provide otherwise.

b) Admissibility The hearing generally will not be conducted according to technical rules relating to evidence and procedure. Any relevant evidence shall be admitted if it is the type that possesses probative value commonly accepted by reasonably prudent people in the conduct of their affairs. Irrelevant, immaterial, unreliable, or unduly repetitious evidence may be excluded. The rules of privilege shall be effective to the extent recognized by law.

c) Pre-filed Exhibits The Examiner shall enter Exhibits pre-filed in accordance with Rules 220 and 224 into the record at the outset of the open record hearing.

d) Formal Submittal of Evidence Hearing participants may submit documentary evidence to the record during their direct and rebuttal portions of the open record hearing (subject to the restrictions of Rules 216 and 224). A copy of each item offered for submission by a principal party shall be provided by the offering party to all other principal parties (unless previously disclosed through the pre-filing process under Rule 224 in appeal cases). Such evidence will be marked as exhibits when accepted for entry by the Examiner.

e) Handling of E-mail, Facsimile Transmittals, and Hand Deliveries to the City Neither the City nor the Examiner shall be responsible for ensuring that E-mail, facsimile transmittals, and post- and hand-delivered documents received after 8:00 a.m. on the day of hearing are entered into the hearing record. Persons submitting such documents are responsible for ensuring such entry. The originator of an E-mail or facsimile transmittal is solely responsible for insuring that the transmittal was successfully and timely received by the City/Examiner.

f) Receipt and Retention All documentary or other physical evidence submitted shall be sequentially numbered as exhibits and retained by the City as a part of the official case record, except City codes, laws, comprehensive plans or other readily available public documents. Materials which the offering party is not willing to have become City property will not be accepted as evidence except, at the discretion of the Examiner, in unusual circumstances.

g) Oversize, Mounted, and Three Dimensional Models Reduced scale/size copies and/or copies which can easily be folded for storage in a legal sized file folder are preferred whenever oversized and mounted documents are used for display purposes at hearing. Three dimensional models may not be used in presentations unless the offering party has color photographs of the model to offer as evidence.

h) Copies Documentary evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original.

i) Official Notice The Examiner may take official notice of judicially cognizable facts and in addition may take notice of general, technical, or scientific facts within her/his specialized knowledge. When

any decision of the Examiner rests in whole or in part upon the taking of official notice of a material fact not appearing in evidence of record, the Examiner shall so state in her/his decision. Appellate court decisions and adopted state and local laws, ordinances, motions, policies, plans, and other similar documents in the public domain may be referenced, cited, quoted, and relied upon.

j) Evidence received subsequent to the hearing No documentary material submitted after the close of the open record hearing will be considered by the Examiner unless, at such hearing, the Examiner granted additional time to submit such material and stated on the record that the hearing record was left open for such receipt.

k) Updating of Exhibit List The City shall be responsible for updating the initial exhibit list to include all additional materials admitted during the hearing process.

320 Optional Written Closing Statement Process

a) A written closing statement process may be established by the Examiner upon the request of one or more of the principal parties. Establishment of such a process may be dependent upon execution by the applicant (or appellant where there is no underlying applicant) of a waiver of decision time line to provide for the time required for the submittal of written closing statements.

b) Any principal party may request establishment of a written closing statement process. Any such request must be made prior to the close of the open record hearing. The written closing statement submittal schedule shall be established either at a prehearing conference or before the close of the open record hearing.

c) When employed, the written closing statement process shall take the place of the oral closing statement portion of the open record hearing. (See Rule 304(e).)

d) Written closing statements shall be submitted in the same order as oral closing statements would have been offered. (See Rule 304(e).) The first written closing statement will be due one week after the close of the hearing; the remaining statements will be due at one week intervals thereafter. All written closing statements will be entered as exhibits in the hearing record. No new evidence may be presented in a closing statement. The hearing record shall close upon receipt of the last closing statement or upon expiration of the period for submittal of closing statements, whichever occurs first.

e) No principal party shall be compelled to produce a written closing statement. Non-submittal of a written closing statement before the established deadline shall not be held against the party which did not submit the statement. The running of a time period without submittal of the expected closing statement(s) shall constitute a waiver of the right to submit a statement by the principal party who fails to submit the statement.

f) Special procedures and timing may be established where to do so would serve the interests and preserve the due process rights of the parties.

324 Examiner's Power to Maintain Order During Hearing

a) The Examiner shall have the power to maintain order and decorum during the conduct of all hearings before her/him. The Examiner may remove or have removed from the hearing room any person whose conduct is interrupting the hearing.

b) In the event that any person or persons interrupt any hearing before the Examiner such that it becomes impossible to conduct an orderly hearing and order cannot be restored by removal of the individuals interrupting the hearing, the following steps may be taken:

1) The Examiner may order the hearing room cleared and continue in session; or,

2) The Examiner may adjourn the hearing and reconvene the hearing at another location.

c) Whenever the Examiner deems it necessary to reconvene a hearing in a new location because of interruptions preventing an orderly hearing at the regular hearing room location:

1) Final disposition may only be taken on matters appearing on the agenda at the time the disturbance arose leading to an adjournment.

2) The Examiner may establish a procedure for re-admitting any persons not responsible for the disturbing of the orderly conduct of the hearing.

d) If necessary, law enforcement officers may be summoned by the Examiner to carry out any of the provisions of this Rule and to maintain law and order.

PART 400

POSTPONEMENT OF HEARINGS

404 Postponement Due to Examiner Unavailability

If the Examiner cannot be present for a previously scheduled hearing due to illness or other unforeseen event, the Staff may reschedule such hearing for another date. Where the Examiner's absence can be foreseen some days in advance, the Staff shall make a reasonable attempt to notify applicants/appellants and all others who received notice of the hearing of the new date, time, and place of the hearing. The Staff shall post a cancellation notice on the day of the scheduled hearing on the hearing room door. Where the absence becomes known only at the last minute, such posting alone will suffice for notice of the schedule change.

408 Postponement Before Hearing - Project Permit Applications

a) Only the applicant may request postponement. Postponement requests made before the scheduled hearing has been convened must be filed in writing with the City. The City shall promptly FAX or E-mail the request to the Examiner.

b) Once a project permit application hearing has been scheduled and public notice has been given, the Examiner will grant a postponement request only if the Staff has adequate time and resources (and is willing) to send timely cancellation notices to all persons who were sent the initial hearing notice. A cancellation notice is “timely” only if mailed three or more days prior to the date of the scheduled open record hearing. If timely cancellation notices are not sent, the Examiner will convene the hearing.

c) Postponement will not be granted where to do so would violate any state or City procedural time lines, such as deadlines for bringing a matter to hearing or issuing a decision, unless the applicant agrees in writing to waive such time lines.

412 Postponement Before Hearing - Open Record Appeals

a) Only the appellant and/or respondent may request postponement. Postponement requests made before the scheduled hearing has been convened must be filed in writing with the City. The City shall promptly FAX or E-mail the request to the Examiner.

b) The Examiner will grant a postponement request in combined project permit application and appellate proceedings filed jointly by the principal parties only if the Staff has adequate time and resources (and is willing) to send timely cancellation notices to all persons who were sent the initial hearing notice. A cancellation notice is "timely" only if mailed three or more days prior to the date of the scheduled open record hearing. A new hearing date and time will be set in consultation with the parties. If timely cancellation notices are not sent, the Examiner will convene the hearing.

c) The Examiner will grant postponement requests filed jointly by the principal parties in all other appellate proceedings.

d) The Examiner will not grant *ex parte* postponement requests filed other than jointly except in extraordinary circumstances.

e) Postponement will not be granted where to do so would violate any state or City procedural time lines, such as deadlines for bringing a matter to hearing or issuing a decision, unless the applicant (or appellant where there is no underlying applicant) agrees in writing to waive such time lines.

416 Continuation or Postponement at Hearing

a) The Examiner may continue or postpone proceedings for any good cause she/he deems reasonable and appropriate within the time limits imposed by relevant ordinances. If the Examiner determines at a hearing that there is good cause to continue or postpone such proceeding and specifies the date, time, and place on the record, no further notice is required.

b) Continuation/postponement will not be granted where to do so would violate any state or City procedural time lines, such as deadlines for bringing a matter to hearing or issuing a decision, unless the applicant (or appellant where there is no underlying applicant) agrees in writing or orally on the record to waive such time lines. In all cases subject to a 90-day or 120-day decision time limit, continuances/postponements shall be made to the soonest available date and time of hearing room and Examiner availability and shall in no case extend beyond Day 75 of the 90-day time limit or Day 105 of the 120-day time limit, whichever applies, unless such waiver is granted.

420 Extension of Continuation/Postponement Dates

a) When an open record hearing has been continued or postponed to a date and time certain, the Examiner may administratively cancel the established hearing date and further continue or postpone the hearing as follows:

1) The request must be made in writing by the applicant/appellant, must be received by the City not less than 30 days prior to the established hearing date, and must state why a further delay is desired.

2) The Staff must assure the Examiner that it has adequate time and resources (and is willing) to send timely cancellation notices to all persons who were sent the initial hearing notice and to all parties of record. A cancellation notice is "timely" only if mailed three or more days prior to the date of the scheduled open record hearing.

3) The Examiner will grant or deny the request in writing based upon consideration of the public interest impacts of the request. A copy of the Examiner's action will be sent to the applicant/appellant and to the Staff.

4) The Staff shall send cancellation notices to all parties of record. The cancellation notice shall: state the reason therefor; indicate in what fashion, if at all, the hearing will be reconvened; and be approved by the Examiner prior to its publication and distribution.

b) When an open record hearing has been continued or postponed indefinitely subject to a "Not Later Than" (NLT) date, the Examiner may administratively grant extensions of the NLT date as follows:

1) The request must be made in writing by the applicant/appellant and must state why a further delay is desired.

2) The request must be received by the Examiner: not less than 30 days prior to the NLT date; and prior to the distribution of notice of the date, time and place for the continued/postponed hearing.

3) The Examiner will grant or deny the request in writing based upon consideration of the public interest impacts of the request. A copy of the Examiner's action will be sent to the applicant/appellant and to the Staff.

PART 500

RECONSIDERATION AND CLERICAL CORRECTIONS

504 Reconsideration

a) Reconsideration requests shall conform with the requirements of DMC 2.30.240. Untimely filed requests will not be considered. A request for reconsideration filed by the applicant/appellant shall be considered an extension of time mutually agreed for the purposes of timely permit processing.

b) The City shall E-mail or FAX Requests for reconsideration to the Examiner within one business day of filing

c) Whenever possible, the Examiner shall not act on a request for reconsideration until the time period for filling such requests has ended and shall consolidate multiple requests for action.

d) The Examiner's action following reconsideration is not subject to further requests for reconsideration.

508 Clerical Corrections

The Examiner may correct obvious clerical errors in decisions on his/her own initiative or in response to a request from a party of record. Clerical corrections are limited to those clearly identifiable from the public

record. Issuance of a clerical correction has no effect upon any time limit provided under code or these Rules.

PART 600

MISCELLANEOUS PROVISIONS

604 Summary Orders on Remand

a) When an Examiner decision has been remanded in whole or in part by an appellate body, and when the remand order either does not require or bars the taking of additional testimony or evidence, and/or when the Examiner believes that the record provides an adequate basis to rule on the remanded issue(s), then the Examiner shall issue a written summary order without further hearing.

b) Summary orders shall be sent to all persons who received the original decision.

c) Summary orders shall have the same legal effect as did the original decision except as to any code-established limits on appeal.

608 Case Record - Content

The official case record of a hearing conducted by the Examiner shall consist of:

a) A written case record including all documentary written materials and other exhibits submitted for consideration by the Examiner and the Examiner's decision(s), together with the register of parties of record and the list of exhibits and witnesses maintained by the clerk.

b) An analog or digital recording of the open record hearing. Where a qualified court reporter retained by the City reports the hearing, the reporter's transcript of proceedings shall constitute the official transcript of the oral proceedings.

612 Case Record - Disposition

The integrity of all materials which have become a part of the case record shall be maintained. The City is responsible for retention of the official case record as required by law.

616 Recusal of Examiner

a) When the Examiner deems her/himself disqualified to preside in a particular proceeding, she/he shall withdraw by notice on the record as soon as the need for recusal becomes known/apparent to the Examiner.

b) Any person may request recusal of the Examiner in a particular case. Such a request shall be raised as soon as the basis for disqualification is known to the person and shall state the grounds for the request with as much specificity as possible.

c) The Examiner's decision on a recusal request shall be documented in writing and placed in the relevant case file (preferably as a marked exhibit whenever possible) or delivered orally during the open record hearing.

d) If, after considering the merits of a recusal request, the Examiner determines not to recuse her/himself, the raising of such request shall in no way be considered by the Examiner in rendering a decision on the substantive case at hand.

620 Withdrawal of Applications/Appeals

a) Withdrawal of an application/appeal shall be made by the applicant/appellant in writing, except as provided herein, and shall be accepted in the following manner:

1) Withdrawal Prior to Publication of Public Hearing Notice The applicant/appellant shall notify the Staff, which shall place the withdrawal in the official case file. No further action by the City is necessary.

2) Withdrawal after Issuance of Public Hearing Notice but prior to Open Record Hearing The applicant/appellant shall notify the City which shall place the withdrawal in the official case file. The City shall forthwith notify the Examiner of the withdrawal. Where sufficient time and resources are available, a copy of the withdrawal may be mailed by the City to all persons to whom the notice of hearing was mailed. The scheduled hearing shall be automatically canceled.

3) Withdrawal at the Open Record Hearing The Examiner shall orally accept withdrawals made during the open record hearing. Withdrawal shall be documented by issuance of a written order which shall be placed in the official case file.

4) Withdrawal after the Open Record Hearing but Prior to Decision Issuance The applicant/appellant shall notify the City which shall place the withdrawal in the case file. The City shall forthwith notify the Examiner of the withdrawal. The City shall mail a copy of the withdrawal to all parties of record.

b) No appeal from a withdrawal is authorized. Withdrawal terminates City consideration of the application/appeal.

Duvall City Council

AGENDA BILL SUMMARY

Meeting Date: 11/01/16 AB #16-68

Item Type: Introduction: _X_ Discussion/Staff Direction: _X_ Action Item: ___

Attorney Review: under final draft review

Subject: **Ordinance – Technology Fee**

Budget Impact and Source of Funds: NA____

Contact Person/Department: Matthew Morton, Administration

EXECUTIVE SUMMARY:

City Staff has recommended to the City Council that as part of the 2017 Budget (and beyond), we consider the real costs of service delivery with respects to Information Services and Technology. As such, staff is proposing a 5% Information Technology Surcharge on most permits, fees and applications to offset the actual cost of service delivery and the costs of continued service improvement.

COUNCIL PROCESS: Ordinances/Resolutions

- Council Discussion under **New Business**

HISTORY:

- Discussed at various City Council Budget meetings
- Presented formally as part of the 2017 Budget
- Presented and discussed at the October 25, 2016 Budget COW

RECOMMENDED ACTION:

Schedule this Ordinance for a Public Hearing, and direct staff to advertise such, to take final council action at the November 15th Council Meeting.

ATTACHMENTS:

- Draft Ordinance with attached schedule of current permits, fees and charges that apply to the 5% technology fee.

CITY OF DUVALL
WASHINGTON

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF DUVALL, WASHINGTON, IMPOSING A 5% INFORMATION TECHNOLOGY SYSTEMS SURCHARGE TO BE APPLIED TO APPLICATION FEES, PERMT FEES AND CERTAIN CHARGES FOR SERVICE.

WHEREAS, the City of Duvall recognizes that in the 21st Century every permit and application, without exception, requires an information technology component for the efficient delivery of services to the public; and

WHEREAS, the information technology component has many facets including, but not limited to hardware, software, digital subscriptions, software licensing and digital retention system development; and

WHEREAS, the City of Duvall does not maintain any of its Information Technology systems in house; but contracts for services through the City of Snoqualmie, Washington, a Municipal Corporation; and

WHEREAS, the City of Duvall is committed to the continuous improvement of its information technology systems; including hardware, software, digital subscriptions, software licensing and digital retention system development to continually improve and provide more efficient service delivery to the public; and

WHEREAS, information technology systems have specific life cycle costs and specific useful lifecycle estimates, at the conclusion of which information technology systems must be upgraded, replaced, or renewed to ensure continued modern, reliable, dependable and efficient service delivery; and

WHEREAS, the City wishes to adopt an information technology systems surcharge to offset the cost of providing significant customer service improvements;

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

Section 1. Information Technology Systems Surcharge. An information technology systems surcharge shall be set at 5% of the applicable application or permit fee.

Section 2. Applicability. The 5% Information Technology Systems Surcharge will be added to the attached list of applications, permits, fees and charges, as they exist now or may be amended in the future:

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

Section 4. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF _____, 2016.

CITY OF DUVALL

_____
Mayor Will Ibershof

Approved as to form:

ATTEST/AUTHENTICATED:

_____
Rachel B. Turpin, City Attorney

_____
Jodi Wycoff, City Clerk

Passed by the City Council:
Ordinance No.
Date of Publication:

	Amount	Adopted by:	Date
LAND USE APPLICATION DEPOSITS/FEES			
Pre-Application Meeting	$100.00	Res. 12-15	*2013*
Appeal of Land Use Decision	$250.00	Res. 12-15	*2013*
Variance - Single Family House	$500.00	Res. 12-15	*2013*
Temporary Use Permit	$100.00	Res. 12-15	*2013*
Street Vacation	$500.00	Res. 12-15	*2013*
Type I Permits	$250.00	Res. 12-15	*2013*
Type II Permits	$750.00	Res. 12-15	*2013*
Type III and Type IV Land Use Permits			
Site <5,000 square feet	$2,500.00	Res. 12-15	*2013*
Site 5,001 square feet < 1 acre	$5,000.00	Res. 12-15	*2013*
Site, >1 acre	$5,000.00	Res. 12-15	*2012*
Type V Permits	$500.00	Res. 12-15	*2013*
Type VI Permits	$1,000.00	Res. 12-15	*2013*

City of Duvall	Amount	Adopted by:	Date
SITE PLAN REVIEW DEPOSIT - NONRESIDENTIAL			
Site <5,000 square feet	$1,000.00	Res. 05-17	*2005*
Site 5,001 square feet < 1 acre	$2,500.00	Res. 05-17	*2005*
Site > 1 acre	$5,000.00	Res. 05-17	*2005*
City of Duvall	**Amount**	**Adopted by:**	**Date**
SITE PLAN RESIDENTIAL REVIEW DEPOSIT			
Short Plat	$1,000.00	Res. 05-17	*2005*
Long Plat	$5,000.00	Res. 05-17	*2005*
CONNECTION FEES/USE PERMITS			
ROW Use Permit (101.00.322.40.00.00)	$240.31		
Street use permit (ROW) - Deposit	$50.00	Res. 97-04	*1997*
Water application fee	$100.00	Res. 04-21	*2004*
Sewer permits			
a. Residential	$50.00	Res. 97-04	*1997*
b. Commercial	$100.00	Res. 97-04	*1997*
c. Industrial	$150.00	Res. 97-04	*1997*
RV permits			
a. Short term residential	$75.00	Res. 97-04	*1997*
b. Short term Non residential	$125.00	Res. 97-04	*1997*
Sign Permit – w/ valuation less then $1000 (hourly)	$77.13		
Wall sign/Monument Sign more then $1000 valuation	Use BP Fee Table 1A		

All impact fees, land use fees, and charges are subject to change without notice.
This list may not include all fees.
It is the applicant's responsibility to contact the City of Duvall to ensure fees are still in effect.

Temporary Sign Retrieval Fine:			
First offense	Warning	Res. 12-15	*2013*
Second offence	$30.00	Res. 12-15	*2013*
Third offence and each offence thereafter	$50.00	Res. 12-15	*2013*
Roof	$139.72	+$4.50 Bldg	
Mobile Home Setup/Moving Permit	$139.72		
Septic 2 hr. min.	$152.14		

***Project Permit Applications*—Action Type**					
TYPE I 5% of Total Fee	**TYPE II 5% of Total Fee**	**TYPE III 5% of Total Fee**	**TYPE IV 5% of Total Fee**	**TYPE V 5% of Total Fee**	**TYPE VI 5% of Total Fee**
Boundary line adjustments	Building permits—SEPA required	Conditional use permits	Rezones	Final plats	UDR text amendments
Minor exterior remodels, no building *permit* required		Shoreline conditional use permits			Annexations[2]
Building permits—no SEPA required	Other construction permits—SEPA required	Shoreline substantial development permits			Area-wide zoning map amendments
Other construction permits—no SEPA required	Sensitive areas permits	Shoreline variances			Comprehensive plan amendments
Wireless facilities on existing structure—Camouflaged					
Final site plan permits	Site plans, parks, less than 1/2 acre in new area	Preliminary short subdivisions			Development agreements
		Site plans/master development plan greater than 1/2 acre[5]			Pre-annexation zoning[3]

All impact fees, land use fees, and charges are subject to change without notice.
This list may not include all fees.
It is the applicant's responsibility to contact the City of Duvall to ensure fees are still in effect.

		Preliminary long subdivisions			
Administrative interpretations	Infill development of duplexes and town home	Variances			
Shoreline exemptions		Vacations or alterations—Subdivisions			
		Reasonable use exceptions			

Table 1

SQUARE FOOT CONSTRUCTION COSTS[a,b,c,d]

Group (2012 International Building Code)		Type of Construction						Sprinkled		
		1A	1B	2A	2B	3A	3B	4	5A	5B
A-1	Assembly, theaters, with stage	229.03	221.51	216.10	207.06	194.68	189.07	200.10	177.95	171.21
A-1	Assembly, theaters, without stage	209.87	202.35	196.94	187.90	175.62	170.01	180.94	158.89	152.15
A-2	Assembly, nightclubs	177.89	172.85	168.07	161.49	151.98	147.78	155.80	137.68	132.99
A-2	Assembly, restaurants, bars, banquet halls	176.89	171.85	166.07	160.49	149.98	146.78	154.80	135.68	131.99
A-3	Assembly, churches	211.95	204.43	199.02	189.98	177.95	172.34	183.02	161.22	154.48
A-3	Assembly, general, community halls, libraries, museums	176.88	169.36	162.95	154.91	141.73	137.12	147.95	125.00	119.26
A-4	Assembly, arenas	208.87	201.35	194.94	186.90	173.62	169.01	179.94	156.89	151.15
B	Business	182.89	176.17	170.32	161.88	147.55	142.00	155.49	129.49	123.76
E	Educational	192.29	185.47	180.15	172.12	160.72	152.55	166.18	140.46	136.18
F-1	Factory and industrial, moderate hazard	108.98	103.99	97.83	94.17	84.37	80.56	90.16	69.50	65.44
F-2	Factory and industrial, low hazard	107.98	102.99	97.83	93.17	84.37	79.56	89.16	69.50	64.44
H-1	High Hazard, explosives	102.01	97.02	91.86	87.20	78.60	73.79	83.19	63.73	0.00
H234	High Hazard	102.01	97.02	91.86	87.20	78.60	73.79	83.19	63.73	58.67
H-5	HPM	182.89	176.17	170.32	161.88	147.55	142.00	155.49	129.49	123.76
I-1	Institutional, supervised environment	182.53	175.88	170.97	162.73	150.55	146.48	162.73	135.02	130.72
I-2	Institutional, hospitals	308.50	301.79	295.93	287.50	272.14	0.00	281.10	254.09	0.00
I-2	Institutional, nursing homes	213.56	206.85	200.99	192.56	179.22	0.00	186.16	161.17	0.00
I-3	Institutional, restrained	208.37	201.66	195.80	187.37	174.54	167.98	180.97	156.48	148.74
I-4	Institutional, day care facilities	182.53	175.88	170.97	162.73	150.55	146.48	162.73	135.02	130.72
M	Mercantile	132.61	127.57	121.79	116.21	106.35	103.15	110.52	92.05	88.36
R-1	Residential, hotels	184.11	177.46	172.55	164.31	152.38	148.31	164.31	136.85	132.55
R-2	Residential, multiple family	154.38	147.73	142.82	134.58	123.25	119.18	134.58	107.72	103.42
R-3	Residential, one- and two-family	143.93	139.97	136.51	132.83	127.95	124.61	130.57	119.73	112.65
R-4	Residential, care/assisted living facilities	182.53	175.88	170.97	162.73	150.55	146.48	162.73	135.02	130.72
S-1	Storage, moderate hazard	101.01	96.02	89.86	86.20	76.60	72.79	82.19	61.73	57.67
S-2	Storage, low hazard	100.01	95.02	89.86	85.20	76.60	71.79	81.19	61.73	56.67
U	Utility, miscellaneous	77.82	73.48	69.04	65.52	59.23	55.31	62.58	46.83	44.63

a. Private Garages use Utility, miscellaneous
b. Unfinished basements (all use group) = $15.00
c. For shell only building deduct 20 percent

All impact fees, land use fees, and charges are subject to change without notice.
This list may not include all fees.
It is the applicant's responsibility to contact the City of Duvall to ensure fees are still in effect.

d. N.P. = not permit

Remodel/addition refer to means catalog price $25.00 sq.ft.

Table 3A

BUILDING PERMIT FEES

TOTAL VALUATION[1]	FEE
$1.00 to $500.00	$37.34
$501.00 to $2,000.00	$37.34 for the first $500.00 plus $4.79 for each additional $100.00, or fraction thereof, to and including $2,000.00
$2,001.00 to $25,000.00	$108.71 for the first $2,000.00 plus $21.99 for each additional $1,000.00, or fraction thereof, to and including $25,000.00
$25,001.00 to $50,000.00	$626.19 for the first $25,000.00 plus $16.10 for each additional $1,000.00, or fraction thereof, to and including $50,000.00
$50,001.00 to $100,000.00	$1008.17 for the first $50,000.00 plus $10.99 for each additional $1,000.00, or fraction thereof, to and including $100,000.00
$100,001.00 to $500,000.00	$1,561.95 for the first $100,000.00 plus $8.83 for each additional $1,000.00, or fraction thereof, to and including $500,000.00
$500,001.00 to $1,000,000.00	$5,080.00 for the first $500,000.00 plus $7.55 for each additional $1,000.00, or fraction thereof, to and including $1,000,000.00
$1,000,001.00 and up	$8,815.66 for the first $1,000,000.00 plus $5.89 for each additional $1,000.00, or fraction thereof
Other Inspections and fees:	
1. Inspections outside of normal business hours……	$77.13 per hour[2]
(Minimum charge – two hours)	$77.13 per hour[2]
2. Re-inspection fee……	$77.13 per hour[2]
(Minimum charge – one hour)	
3. Inspections for which no fee is specifically indicated…….	65% of the permit fee
(Minimum charge – one hour)	$77.13 per hour[2]
4. Plan review fee……	Actual Costs[3]
5. Additional plan review required by changes, additions or…… revisions to plans (minimum charge – one hour)	

All impact fees, land use fees, and charges are subject to change without notice.
This list may not include all fees.
It is the applicant's responsibility to contact the City of Duvall to ensure fees are still in effect.

6. For use of outside consultants for plan checking or inspections…….

[1] Value shall be determined by utilizing the most current edition of square foot construction costs published by the International Code Council. For remodel, tenant improvements and work not listed above the actual value of the work as defined by the International Code may be used.

[2] Or the total hourly cost to the jurisdiction, including supervision, overhead, equipment, hourly wages and benefits of the employee(s) involved.

[3] Actual costs include administrative and overhead costs.

Table 3C

MECHANICAL PERMIT FEES

The fees established in this table apply to installation, alteration, relocation, addition, replacement, repair removal, or inspection of mechanical systems that require a permit pursuant to Duvall Municipal Code (DMC) Chapter 10.

Permit Issuance	**Unit Fee**
1. For issuing each mechanical permit (including separate issuance under combination permits)	$39.28
2. For issuing each supplemental mechanical permit for which the original permit has not expired, been canceled, or finale	$13.08

Unit Fee Schedule (Note: The following do not include permit-issuing fee.)

1. <u>Furnaces</u>	
For the installation of each furnace, heater or burner including ducts and vents attached thereto, up to and including 100,000 BTU's	$23.27
For the installation of each furnace, heater or burner including ducts and vents attached thereto, over 100,000 BTU's	$28.61
For the installation or relocation of each floor furnace, including vent	$23.27
For the installation or relocation of each suspended heater, recessed wall heater or floor mounted unit heater	$23.27
2. <u>Appliance Vents</u>	
For the installation, relocation or replacement of each appliance vent not included in an appliance permit	$11.47
3. <u>Repairs or Additions</u>	
For repair, alteration or addition to each piece of heating and cooling equipment including controls	$21.28
4. <u>Boilers, Compressors and Absorption Systems</u>	
For installation or relocation of each boiler or compressor to and including 3 horsepower, or each absorption system to and including 100,000 Btu/h	$23.27
For installation or relocation of each boiler or compressor over 3 horsepower to and including 15 horsepower, or each absorption system over 100,000 Btu/h to and including 500,000 Btu/h	$43.06
For installation or relocation of each boiler or compressor over 15 horsepower to and including 30 horsepower, or each absorption system over 500,000 Btu/h to and including 1,000,000 Btu/h	$58.59

For installation or relocation of each boiler or compressor over 30 horsepower to and including 50 horsepower, or each absorption system over 1,000,000 Btu/h to and including 1,750,000 Btu/h	$87.17
For installation or relocation of each boiler or compressor over 50 horsepower, or each absorption system over 1,750,000 Btu/h	$145.65
5. <u>Air Handlers</u>	
For each air-handling unit to and including 10,000 cubic feet per minute (cfm), including ducts attached thereto **Note:** This fee does not apply to an air-handling unit which is a portion of a factory-assembled appliance, cooling unit for which a permit is required elsewhere in the International Mechanical Code.	$16.69
For each air-handling unit over 10,000 cfm	$28.51
6. <u>Evaporative Coolers</u>	
For each evaporative cooler other than portable type	$16.69
7. <u>Ventilation and Exhaust</u>	
For each ventilation fan connected to a single duct	$11.47
For each ventilation system which is not a portion of any heating or air-conditioning equipment authorized by a permit	$16.69
For installation of each hood which is served by mechanical exhaust, including the ducts for such hood	$16.69
8. <u>Incinerators</u>	
For the installation or relocation of each domestic-type incinerator	$28.51
For the installation or relocation of each industrial-type incinerator	$125.43
9. <u>Miscellaneous</u>	
For each appliance or piece of equipment regulated by the International Mechanical Code but not classed in other appliance categories or for which no other fee is listed in the table (i.e.: fireplaces, wood stoves, miscellaneous non-portable appliances)	$16.69
<u>Other Inspections and Fees</u>	
1. Inspections outside of normal business hours, per hour (minimum charge - two hours)	$77.13[1]
2. Re-inspection fees assessed per inspection	$77.13[1]
3. Inspections for which no fee is specifically indicated, per hour (minimum charge – one-half hour)	$77.13[1]
4. Additional plan review required by changes, additions or revisions to plans for which an initial review has been completed (minimum charge – one-half hour	$77.13[1]

[1] Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employee(s) involved.

Table 3D

<u>PLUMBING PERMIT FEES</u>

The fees established in this table apply to installation, alteration, relocation, addition, replacement, repair removal, or inspection of plumbing systems that require a permit pursuant to Duvall Municipal Code (DMC) Chapter 10.

Permit Issuance	**Unit Fee**
1. For issuing each permit	$39.28
2. For issuing each supplemental plumbing permit for which the original permit has not expired, been canceled, or finale	$13.08

Unit Fee Schedule (Note: The following do not include permit-issuing fee.)

1. <u>Fixtures and Vents</u>	
For each plumbing fixture or trap or set of fixtures on one trap (including water, drainage piping and backflow protection thereof)	$13.08
For repair or alteration of drainage or vent piping, each fixture	$6.57
2. <u>Sewers, Disposal Systems and Interceptors</u>	
For each building sewer and each trailer park sewer	$26.19
For each industrial waste pretreatment interceptor, including its trap and vent, excepting kitchen-type grease interceptors functioning as fixture traps	$13.08
Rainwater systems – per drain (inside building)	$13.08
3. <u>Water Piping and Water Heaters</u>	
For installation, alteration, or repair of water piping or water-treating equipment, or both, each	$6.57
For each water heater including vent (for vent only, see Table 3)	$32.77
4. <u>Gas Piping Systems</u>	
For each gas piping system of one to five outlets	$13.08
For each additional outlet over five, each	$2.60
<u>Medical Gas System</u>	
For each medical gas piping system one to five outlets	$32.77
For each additional outlet over five, each	$ 6.57
5. <u>Lawn Sprinklers, Vacuum Breakers & Backflow Prevention Devices</u>	$19.65
For each lawn sprinkler system on any one meter, including backflow protection devices thereof	
For atmospheric-type vacuum breakers or backflow protection devices not included in item 1:	
1 to 5 devices	$19.65
Over 5 devices, each	$ 3.92
For each backflow-protection device other than atmospheric-type vacuum breakers:	
2 inches (50.8 mm) and smaller	$19.65
Over 2 inches (50.8 mm)	$39.28
6. <u>Swimming Pool</u>	
For each swimming pool or spa	
Public pool	$144.15
Public spa	$ 95.47
Private pool	$ 95.47
Private spa	$ 86.85
7. <u>Miscellaneous</u>	
For each appliance or piece of equipment regulated by the Uniform Plumbing Code but not classed in other appliance categories, or for which no other fee is listed in this table	$13.08

All impact fees, land use fees, and charges are subject to change without notice.
This list may not include all fees.
It is the applicant's responsibility to contact the City of Duvall to ensure fees are still in effect.

Other Inspections and Fees	
1. Inspections outside of normal business hours, per hour (minimum charge -two hours)	$77.13[1]
2. Reinspection fees assessed per inspection	$77.13[1]
3. Inspections for which no fee is specifically indicated, per hour (minimum charge – one-half hour)	$77.13[1]
4. Additional plan review required by changes, additions or revisions to plans for which an initial review has been completed (minimum charge– one-half hour	$77.13[1]

[1] Or the total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages and fringe benefits of the employees involved.

Table 4

GENERAL FEE SCHEDULE

1. Building permit plan review fee	An amount equal to 65% of the building permit fee determined in Table 1-A
2. Plumbing permit plan review fee	An amount equal to 25% of the building permit fee determined in Table 3A
3. Mechanical permit plan review fee	An amount equal to 25% of the building permit fee determined in Table 3A
4. Additional plan review required by amended construction documents due to changes, additions or revisions	$77.13/hr
5. Review fee to evaluate alternate materials, design and methods of construction and equipment	$77.13/hr or an amount equal to the consultant charges for services, whichever is greater
6. Consultant review fee	$77.13/hr or an amount equal to the consultant charges for services, whichever is greater
7. Inspections outside of normal business hours	$77.13/hr (minimum charge – two hours)
8. Re-inspection fee	$77.13 for each re-inspection
9. Inspections for which no fee is specifically indicated	$77.13/hr (minimum one hour charge)
10. Permit renewal fee	Equal to ½ of the original permit fee
11. Special investigation fee for work commencing before permit issuance	An amount equal to the building permit
12. Special investigation fee for issuance of a stop work order	$77.13/hour per person involved in the issuance of a stop work order, evaluation of the condition, and monitoring activities relating to a stop work order

All impact fees, land use fees, and charges are subject to change without notice.
This list may not include all fees.
It is the applicant's responsibility to contact the City of Duvall to ensure fees are still in effect.

Demolition Permit • Removal of primary building • Removal of accessory building/structure	 $163.73 $ 65.48
Minimum housing or license care inspection	$154.26
House move into Duvall pre-inspection	$154.26 (minimum charge – two hours)
Change of occupancy requiring an inspection	$154.26 (minimum charge – two hours)
Investigation fee stop work order	An amount equal to the permit fee

Sign Permit • Wall Signs less than $1000 valuation • Wall Signs more than $1000 valuation • Freestanding/Monument Signs • Banners/A-Frame/Monument Inserts	 $77.13 Use Building Permit Fee Table 1A Use Building Permit Fee Table 1A $38.57

All impact fees, land use fees, and charges are subject to change without notice.
This list may not include all fees.
It is the applicant's responsibility to contact the City of Duvall to ensure fees are still in effect.

Duvall City Council

AGENDA BILL SUMMARY

Meeting Date: 11/01/16 AB #16-69

Item Type: Introduction: ___ Discussion/Staff Direction: _X_ Action Item: ___

Attorney Review: ___

Subject: **Repeal and Replace Title 9.06 "Storm Drainage Utility" of Duvall Municipal Code Chapter 9.**

Budget Impact and Source of Funds: NA

Contact Person/Department: Boyd E. Benson, Public Works Department

EXECUTIVE SUMMARY:

Revisions to Chapter 9.06 Stormwater Code are required by December 31, 2016 to provide continued compliance with the City's Western Washington Phase II Municipal Stormwater Permit for the National Pollutant Discharge and Elimination System (Phase II NPDES Permit). These revisions are intended to make Low Impact Development (LID) the primary and priority method of stormwater management.

COUNCIL PROCESS: Ordinances/Resolutions

- Council Discussion under **New Business**

HISTORY:

- Written report in October 18, 2016 Committee of the Whole packet including draft code revisions.

RECOMMENDED ACTION:

No action is requested at this time; however, at a future meeting, Council will be asked to:

Adopt Ordinance Repealing and Replacing Title 9.06 "Storm Drainage Utility" of Duvall Municipal Code Chapter 9.

ATTACHMENTS:

- Updated Staff report
- Draft Ordinance
- Exhibit A - strike and delete version of DMC Chapter 9.06.

Department of Public Works Staff Report

To: Duvall City Council

From: Boyd E. Benson, Public Works

Date: ~~October 13, 2016~~ Updated October 27, 2016 (*updated information underlined in italics*)

Subject: 2016 Stormwater Code Chapter 9.06 Updates

INTRODUCTION

This Staff Report summarizes proposed Duvall Municipal Code (DMC) Chapter 9.06 Stormwater Code revisions. These revisions are required by December 31, 2016 to provide continued compliance with the City's Western Washington Phase II Municipal Stormwater Permit for the National Pollutant Discharge and Elimination System (Phase II NPDES Permit).

The Permit first became effective in 2007 and was modified on January 16, 2015. The City completed DMC revisions in 2011 to address NPDES permit requirements that promote Low Impact Development (LID), incentivize maintenance at privately-owned commercial facilities, and other measures to improve stormwater quality.

NEW PERMIT REQUIREMENTS

The City has an active Stormwater Management Program (SWMP) administered by the Public Works Department. The SWMP is documented within the annual SWMP report. The SWMP complies with all aspects of the NPDES permit. New requirements by December 31, 2016 include:

1. Update stormwater code to revised NPDES Permit Technical Appendix Standards; review, revise, make effective development codes to make LID the preferred approach (NPDES Permit Section C.4.a-f, Control Runoff from New Development):
    a. City Staff commenced compliance with the NPDES Permit Technical Appendix Standards in 2014, prior to the 2016 compliance date.
    b. Technical Appendix Standards include requiring LID measures OR meting detention requirements and outlet flow control that are greater than basic requirements and significantly increase stormwater facility volume.
    c. City Staff have adding text to codify standards to make LID the preferred approach (see Draft Revisions, Attachment A). This approach includes formal adoption of the 2016 King County Surface Water Design Manual (2016 KCSWDM) and NPDES Technical Appendices.

d. Other cities in the Puget Sound Region are in the process of completing similar updates. Based on review of other draft updates, several cities are completing extensive revisions of development standards, landscape standards, and tree protection standards. The City had previously completed similar revisions and plans in the past including:

i. Reduced road widths, clustering of driveways, reduced pollution-generating impervious surface within the Public Works Development Design Standards.

ii. Stormwater and Environmental goals and policies within the Comprehensive Plan Update adopted in 2016.

iii. Stormwater goals, policies, and approaches within the Watershed Plan adopted in 2015.

2. Revise Operation and Maintenance standards to comply with revised manual/ code standards (NPDES Permit Section C.5, Municipal Pollution Prevention, Operation and Maintenance):

a. Operations and Maintenance standards have previously been updated as part of the City's Stormwater Management Plan (SWMP) Update as documented within the 2014 and 2015 SWMP reports.

b. City Staff are in the process of adding proposed text to DMC 9.06 to codify standards that include adoption of the Operation and Maintenance Standards of the 2016 KCSWDM and applicable and NPDES Technical Appendices requirements.

Future considerations and revisions to the City's stormwater regulations and the 2016-2017 Storm and Surface Water Plan update are planned. In addition, staff have discussed possible additional stormwater and/or development consideration that could include:

1. Density credit to incentivize clustering of homes and reduce overall site disturbance. *This means tightly clustering lots to decrease the amount of disturbance and maximize soil and vegetation retention.*

2. Evaluation/update of development regulations that could include Floor Area Ratios (FARs) and impervious surface allowances.

3. Net density as opposed to gross density.

4. Open space credit for "naturalized ponds" provided that the facility *includes amenities such as appropriate landscaping, visual corridors, habitat, paths, or* other amenities.

5. Restricting or de-incentivizing the use of detention vaults/filters to promote LID options. This could include facility evaluation and selection requirements and restrictions developed as part of the 2016-2017 Storm and Surface Water Plan update and/or disallowing open space credit above City-owned vault facilities. *This would require future codification of revisions to DMC Chapter 9 (Stormwater) and DMC 14 (Unified Development Regulations).*

6. Increased allowances for LID measures within sensitive area, habitat corridors, and other areas to remain otherwise undisturbed ~~provided that values and functions are maintained or improved and appropriate tree/plant mitigation is completed.~~ *In certain circumstances*

7. *Increased direct discharge exemption allowances: direct discharge (water quality only, removes detention requirement) is allowed under certain circumstances within ¼ mile of the floodplain. Increase this exemption to ½ mile provided that all stormwater is treated with LID such as bioretention without the use of vaults or filters.*

PROPOSED DMC 9.06 REVISIONS (all information below updated October 27, 2016)

Proposed DMC Chapter 9.06 revisions, as provided within a written report to City Council on October 18, 2016, are presented in Attachment A. City Council comment since that time include:

9.06.010.1: Utilize Low Impact Development (LID), where feasible, to approximate pre-developed (forested) hydrologic conditions including discharge quality, amount, rate, and location.

- Comment/discussion/possible revision: "LID shall be the primary and priority method of stormwater management with conventional technologies allowed only as warranted (and as required to be shown as necessary) to protect public health, safety, and welfare without any other alternative."
- Staff recommended revisions "LID shall be the preferred and commonly-used approach for site development and stormwater management. Non-LID measures, such as vaults and filters, shall be allowed only with an administrative engineering departure or variance demonstrating that full use of LID is not possible with respect to site constraints or development regulation considerations."

9.06.060.C: City assumption of maintenance. Currently, the City assumes maintenance of residential only (non-commercial) stormwater facilities.

- Comment/discussion/possible revision: City should only take responsibility if feasible under rate structure.
- Staff agrees with the intent of comment and rate structure and facility charges will be updated as part of the 2016-2017 Storm and Surface Water Plan update. Staff recommends that language be revised to state that "City will only take responsibility for residential, stand-alone facilities upon approval. Maintenance of LID measures including, but not limited to, bioretention and other facilities located outside of the roadway shall be the responsibility of the owner or owner association".

9.06.125.B: Rate Policy.

- Comment/discussion/possible revision: should rate be variable per plat to cover plat-specific demands/costs?

Additional future DMC revisions are planned in 2017 as part of the 2016-2017 Storm and Surface Water Plan Update

CITY OF DUVALL
WASHINGTON

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUVALL, WASHINGTON, REPEALING AND REPLACING TITLE 9.06 "STORM DRAINAGE UTILITY" OF THE DUVALL MUNICIPAL CODE.

WHEREAS, updates to the City of Duvall Municipal Code are required to comply with National Pollution Discharge Elimination System (NPDES) Phase II permit requirements; and

WHEREAS, the NPDES Phase II permit requires adoption of stormwater code to make Low Impact Development the preferred and commonly-used approach for site development and stormwater management; and

WHEREAS, NPDES Phase II permit requires adoption of the minimum requirements, thresholds, and definitions in Appendix 1 of the NPDES Phase II permit; and

WHEREAS, the NPDES Phase II permit requires adoption of stormwater maintenance standards that are as protective, or more protective, than those specified in Chapter 4 of Volume V of the Stormwater Management Manual for Western Washington; and

WHEREAS, City Staff have completed a thorough review of Duvall Municipal Code and have identified revisions to Title 9.06 "Storm Drainage Utility" to ensure compliance with the aforementioned NPDES requirements; and

WHEREAS, the City Council desires to repeal and replace Title 9.06 "Storm Drainage Utility" to comply with the aforementioned NPDES requirements;

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

Section 1. Title 9.06 "Storm Drainage Utility" is hereby repealed and replaced with the updated version of Title 9.06, as set forth in the attached Exhibit A.

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

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF _____, 2016.

CITY OF DUVALL

_____
Will Ibershof, Mayor

Approved as to form:

_____
Rachel B. Turpin, City Attorney

ATTEST/AUTHENTICATED:

_____
Jodi Wycoff, City Clerk

Passed by the City Council:
Ordinance No.
Date of Publication:

EXHIBIT A, DRAFT CHAPTER 9.06 STORM DRAINAGE UTILITY REVISIONS

Chapter 9.06 - STORM DRAINAGE UTILITY*

Chapter 9.06 was revised in Ord. No. 1098, § 1, adopted Aug. 26, 2010. Chapter 9.06 was adopted in Ord. No. 730, adopted in 1994; Ord. No. 739, adopted in 1994; Ord. No. 751, adopted in 1995; Ord. No. 837, adopted in 1997; Ord. No. 852, § 1 adopted in 1997; Ord. No. 853, § 1, adopted in 1997; Ord. No. 1044, § 2, adopted in 2007; and Ord. No. 1090, § 1, adopted Aug. 13, 2009, unless otherwise noted, and replaced the prior 9.06 which was adopted in Ord. No. 298, adopted in 1981.

Sections:

9.06.010 - Purpose.

The City Council finds that this Chapter is necessary to promote sound development policies and construction procedures which respect and preserve the City's watercourses; to minimize water quality degradation and control of sedimentation of creeks, streams, ponds, lakes, and other water bodies; to protect the life, health, and property of the general public; to preserve and enhance the suitability of waters for contact recreation and fish habitat; to preserve and enhance the aesthetic quality of the waters; to maintain and protect valuable groundwater quantities, locations, and flow patterns; to ensure the safety of City roads and rights-of-way; to comply with federal and state requirements; and to decrease drainage-related ages to public and private property. It is the purpose of this chapter to achieve the following:

1. Utilize Low Impact Development (LID), where feasible, to approximate pre-developed (forested) hydrologic conditions including discharge quality, amount, rate, and location.

2. Minimize degradation of stormwater quality.

3. Minimize impacts associated with increased runoff including erosion, sedimentation, and downstream impacts to property, facilities, and sensitive areas.

4. Limit impacts associated with development and redevelopment by retaining trees, native vegetation, and soil while limiting overall site disturbance as possible.

~~1.~~5. Design, construct, and maintain stormwater infrastructure using efficient, cost-effective and sustainable approaches.

(Ord. No. 1098, § 1, 8-26-2010)

9.06.020 - Definitions.

~~"AKART" means All Known, Available, and Reasonable methods of prevention, control, and Treatment. See also the State Water Pollution Control Act, sections 90.48.010 RCW and 90.48.520 RCW.~~

~~"Best Management Practices (BMPs)" means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to~~

~~stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.~~

~~"Biofiltration Facility" means the simultaneous processes of filtration, infiltration, absorption, and biological uptake of pollutants in stormwater that take place when runoff flows over and through vegetated treatment facilities.~~

~~"City Engineer" means the city engineer, public works director, or a designee of the city engineer or public works director, who shall administer this chapter and shall be referred to as the city engineer.~~

~~"Clean Water Act" means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.~~

~~"Computations" means calculations, including coefficients and other pertinent data, made to determine the rates of flow for stormwater plans, with units given in cubic feet per second.~~

~~"Current conditions" means the state, status, or conditions (land use, impervious surfaces, topography, soils, and surface water flows) present on the subject property at the time the analysis is conducted.~~

~~"Design storm" means a rainfall (or other precipitation) event or pattern of events for use in analyzing and designing drainage facilities, specifying both the return period in years and the duration in hours.~~

~~"Detention Facilities" means facilities designed to hold runoff while gradually releasing it at a predetermined maximum rate.~~

~~"Developed Conditions" means the state, status, or condition of the subject property at the time the proposed project has been completed, which may include existing buildings, impervious areas, and topography as is.~~

"Developer" means the individual(s), firm, government agency, or corporation applying for the permits or approvals of projects subject to this chapter.

"Development" means any artificial change to property, including but not limited to, building of structures, mining, dredging, filling, all land-disturbing activities, clearing, grading, landscaping, paving, excavation, or drilling operations, and any activity that requires a permit or approval, including but not limited to a building permit, clearing and grading permit, shoreline substantial development permit, conditional use permit, unclassified use permit, zoning variance or reclassification, planned unit development, subdivision, master plan development, building site plan, or right-of-way use permit.

~~"Developmental Coverage" means all developed surface areas within the subject property including but not limited to rooftops, driveways, carports, accessory buildings, parking areas, and any other impervious surfaces. During construction, "developmental coverage" includes the above in addition to the full extent of any alteration of previously occurring soils, slopes, or vegetation due to grading, temporary storage, or other short-term causes.~~

"Drainage Area" means area draining to a location not bounded by property lines.

~~"Drainage Facility" means the system of collecting, conveying, and storing surface and stormwater runoff. Drainage facilities shall include, but not be limited to, all surface and stormwater runoff conveyance and containment facilities, including streams, pipelines, channels, ditches, swamps, lakes, wetlands, closed depressions, infiltration facilities, retention/detention facilities, erosion/sedimentation control facilities, and other drainage structures and appurtenances, both natural and man-made.~~

~~"Drainage site" means a geographical area that serves a common or combined use including but not limited to shopping malls and strips, condominiums, apartment complexes, office parks, and housing tracts. A site may include one or more parcels and/or include one or more buildings. See also "Development."~~

~~"Drainage system" see "Drainage Facility."~~

"Engineer" means the City of Duvall Engineer.

"Environmentally Sensitive Areas" means those areas defined as environmentally sensitive in DMC Chapters ~~12.20~~14.42 ~~through 12.22~~ as now existing or hereafter amended.

~~"Equivalent Area" means the tributary area tributary to the receiving water body equal to or less than the shortest straight-line distance from the receiving water body (or regional facility) to the furthest point of the proposed project.~~

~~"Groundwater" means water in a saturated zone or stratum beneath the surface of the land or below a surface water body.~~

~~"Hazardous Materials" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.~~

~~"Hyperchlorinated" means water that contains more than 10 mg/Liter chlorine.~~

"Illicit Discharge" means any direct or indirect non-stormwater discharge to the stormwater drainage system, except as exempted in section of the chapter titled "Allowed Discharges" and "Conditional Discharges".

"Illicit Connections" means any manmade conveyance that is connected to a stormwater drainage system without a permit excluding roof drains or other similar type connections. Examples include sanitary sewer connections, floor drains, channels, pipelines, conduits, inlets, or outlets that are connected directly to the stormwater drainage system.

~~"Impervious Areas" means that hard surface area which either prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include,~~

~~but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled, macadam or other surfaces which similarly impede the natural infiltration of surface and stormwater runoff. Open, uncovered retention/detention facilities shall not be considered as impervious surfaces for the purposes of this Chapter. (See also "New Impervious Surface.")~~

~~"Industrial Activity" means activities subject to NPDES Industrial Permits as defined in 40 CFR, Section 122.26 (b)(14).~~

"King County Manual" refers to King County Surface Water Design Manual.

"Land-disturbing Activities" means any activity that disturbs or alters land surface including clearing and grading.

~~"Large Parcel Stormwater Plan (LPSP)" means a plan to implement BMPs to control pollution generated during land-disturbing activity pursuant to § 9.06.050.~~

~~"Lowest Floor" means the lowest enclosed area (including basement) of a structure. An area used solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that the enclosed area meets all of the structural requirements of the flood hazard standards.~~

"Low Impact Development" or "LID" is a stormwater and land use management strategy that strives to mimic pre-disturbance hydrologic processes by emphasizing conservation, the use of on-site natural features, site planning, and distributed stormwater management practices that are integrated into project design.

"National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit" means a permit issued by Washington Department of Ecology under authority delegated pursuant to 33 USC § 1342(b) (Clean Water Act) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

~~"Natural Location" of drainage systems refers to the location of those channels, swales, and other natural conveyance systems as defined by the first documented topographic contours existing for the subject property, either from maps, or photographs, or such other means as appropriate.~~

~~"New Development" means the following activities: land-disturbing activities; structural development, including construction, installation, or expansion of building or other structures; installation of impervious surfaces, and subdivisions.~~

~~"New Impervious Surface" means any impervious surface proposed by a project that will increase the runoff curve number of that surface for existing site conditions (e.g. gravel to asphalt). See "Impervious Areas."~~

~~"Non-Stormwater Discharge" means any discharge to the stormwater drainage system that is not composed entirely of stormwater.~~

~~"Permanent Stormwater Quality Control Plan (PSQCP)" means a plan which includes permanent BMPs for the control of pollution from stormwater runoff after construction and/or land-disturbing activity has been completed.~~

~~"Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.~~

~~"Planned Unit Development" refers to residential developments which are planned and/or developed in several stages but submitted together for approvals, and which typically consist of clusters of structures interspersed with areas of common open spaces.~~

"Planner" means City of Duvall Planning Director or designee.

"Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

~~"Predeveloped" means the land cover or land use existing as of the effective date of this ordinance.~~

~~"Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.~~

"Private Drainage System" means drainage systems located on private property and designed to discharge directly as through pipes, channels, etc., or indirectly as sheet flow, subsurface flow, etc., into the City's drainage system.

"Public Drainage System" means that portion of the drainage system of the City located on public right-of-way or other property owned by the City, and those portion of private drainage systems assumed by the City.

"Receiving Waters" means bodies of water or surface water systems receiving water from upstream manmade (or natural) systems. For the purpose of this document "receiving waters" are the Snoqualmie River.

~~"Redevelopment" means the creation and/or addition of impervious surfaces, structural development including construction, installation, or expansion of a building or other structure, and/or replacement of impervious surface that is not part of a routine maintenance activity, and land-disturbing activities associated with structural or impervious redevelopment on an already developed site.~~

~~"Retention/detention facility (R/D)" means a type of drainage facility designed either to hold water for a considerable length of time and then release it by evaporation, plant transpiration and/or infiltration into the ground; or to hold surface and stormwater runoff for short periods of time and then release it to the surface and stormwater management system.~~

~~"Small Parcel Stormwater Plan (SPSP)" means a plan to implement BMPs to control pollution generated during land clearing activity pursuant to § 9.06.040.~~

"Stormwater" means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, channels or pipes into a defined surface water channel, or a constructed infiltration facility.

~~"Stormwater Drainage System" means constructed and natural features which function together as a system to collect, convey, channel, hold, inhibit, retain, detain, divert, treat or filter stormwater.~~

~~"Stormwater Plan" means a plan approved by the City of Duvall for the purpose of controlling the quantity and quality of stormwater from the subject property, consisting of a TIR and site improvement plans.~~

"Stormwater Pollution Prevention Plan" or "SWPPP" means a document which describes the best management practices and activities to be implemented by a person to identify sources of pollution or contamination at premises and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

~~"Subject Property" means the tract of land which is the subject of the permit and/or approved action, as defined by the full legal description of all parcels involved in the proposed development.~~

"Technical Information Report (TIR)" means a comprehensive supplemental report containing all technical information and analysis necessary to develop a stormwater plan. This report should contain all calculations, conceptual design analysis, LID reports and studies required and used to construct a complete stormwater plan based on sound engineering practices and careful geotechnical and hydrological design.

~~"Undeveloped Conditions" means the state, status, or condition of the subject property prior to any development of the property that has occurred, which may include trees, pastures, meadows, or native features.~~

~~"Uncontaminated" means water that has not come into contact with illicit discharges.~~

(Ord. No. 1098, § 1, 8-26-2010)

9.06.030 - Incorporation of King County Surface Water Design manual and NPDES Permit Requirements.

The ~~current~~ 2016 edition of the King County Surface Water Design Manual, including any subsequent amendments thereto, and as amended by Sections 1 through 6 of Appendix 1 of the NPDES Permit, is hereby adopted by reference and is hereinafter referred to as the "Manual." All new development and

redevelopment activities shall be subject to the applicable thresholds and requirements within the Manual and Sections 1 through 6 of Appendix 1 of the NPDES Permit.

(Ord. No. 1098, § 1, 8-26-2010)

9.06.035 - Illicit discharge detection and elimination.

A. Purpose. The purpose of this chapter is to provide for the health, safety, and general welfare of the citizens of Duvall, Washington through the regulation of non-stormwater discharges to the stormwater drainage system to the maximum extent practicable as required by federal and state law. This chapter establishes guidelines for Illicit Discharge Detection and Elimination (IDDE) and methods for controlling the introduction of pollutants into the stormwater drainage system in order to comply with requirements of the ~~National Pollutant Discharge Elimination System (~~NPDES~~) Phase II~~ Permit ~~process~~. The objectives of this chapter are:

1. To regulate the contribution of pollutants to the stormwater drainage system by stormwater discharges by any person.
2. To prohibit illicit connections and illicit discharges to the stormwater drainage systems.
3. To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

B. Applicability. This chapter shall apply to all water entering the stormwater drainage system generated on any developed and undeveloped lands lying within the city of Duvall. The city engineer is authorized to adopt written procedures for the purpose of carrying out the provisions of this chapter.

C. Responsibility for Administration.

1. The city engineer is directed and authorized to develop an inspection program for illicit discharge and illicit connection investigation in the city of Duvall.
2. Inspection Authority. The city engineer is authorized to implement the inspection program for the investigation of suspected illicit discharges and illicit connections.
3. Enforcement Authority. The city engineer shall enforce the requirements of this chapter.

D. Discharge Prohibitions.

1. Prohibition of illicit discharges.
   a. No person shall throw, drain, or otherwise discharge, cause or allow others under its control to throw, drain or otherwise discharge directly or indirectly into the stormwater drainage system and/or surface and groundwaters any materials other than stormwater.
   b. Examples of prohibited contaminants include but are not limited to the following:
      - trash or debris;
      - construction materials;
      - petroleum products including but not limited to oil, gasoline, grease, fuel oil and heating oil;
      - antifreeze and other automotive products;
      - metals in either particulate or dissolved form;
      - flammable or explosive materials;

- radioactive material;
- batteries;
- acids, alkalis, or bases;
- paints, stains, resins, lacquers, or varnishes;
- degreasers and/or solvents; drain cleaners;
- pesticides, herbicides, or fertilizers;
- steam cleaning wastes;
- soaps, detergents, or ammonia;
- swimming pool or spa filter backwash;
- chlorine, bromine, or other disinfectants;
- heated water;
- domestic animal wastes;
- sewage;
- recreational vehicle waste;
- animal carcasses;
- food wastes;
- bark and other fibrous materials;
- lawn clippings, leaves, or branches;
- silt, sediment, concrete, cement or gravel;
- dyes;
- chemicals not normally found in uncontaminated water;
- any other process-associated discharge except as otherwise allowed in this section;
- and any hazardous material or waste not listed above.

2. Prohibition of illicit discharges.

   a. The construction, use, maintenance, or continued existence of illicit connections to the stormwater drainage system is prohibited.

   b. This prohibition expressly includes, without limitation, illicit connections made in the past.

c. A person is considered to be in violation of this chapter if the person connects a line conveying sewage to the stormwater drainage system, or allows such a connection to continue.

E. Allowable Discharges. The following types of discharges shall not be considered illicit discharges for the purposes of this chapter unless the city engineer determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Diverted stream flows.
2. Rising groundwaters.
3. Uncontaminated groundwater infiltration - as defined in 40 CFR 35.2005(20).
4. Uncontaminated pumped groundwater.
5. Foundation drains.
6. Air conditioning condensation.
7. Irrigation water from agricultural sources that is commingled with urban stormwater.
8. Springs.
9. Water from crawl space pumps.
10. Footing drains.
11. Flows from riparian habitats and wetlands.
12. Discharges from emergency fire fighting activities.

F. Conditional Discharges. The following types of discharges shall not be considered illicit discharges for the purposes of this chapter if they meet the stated conditions, or unless the city engineer determines that the type of discharge, whether singly or in combination with others, is causing or is likely to cause pollution of surface water or groundwater:

1. Potable water, including water from water line flushing, hyperchlorinated water line flushing, fire hydrant system flushing, and pipeline hydrostatic test water. Planned discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted to a level within the range of 6.5 and 8.5, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system;

2. Lawn watering and other irrigation runoff are permitted but shall be minimized;

3. De-chlorinated swimming pool discharges. These discharges shall be de-chlorinated to a concentration of 0.1 ppm or less, pH-adjusted to a level within the range of 6.5 and 8.5, if necessary and in volumes and velocities controlled to prevent re-suspension of sediments in the stormwater system;

4. ~~Street and sidewalk wash water,~~ W~~w~~ater used to control dust, and routine external building wash down that does not use detergents are permitted if the amount of ~~street~~ wash and dust control water used is minimized. ~~At active construction sites, street sweeping must be performed prior to washing the street~~;

5. Non-stormwater discharges covered by another NPDES permit, provided, that the discharger is in full compliance with all requirements of the permit, waiver, or order and other applicable laws and regulations; and provided, that written approval has been granted from the city engineer for any discharge to the stormwater drainage system;

6. Other non-stormwater discharges. The discharges shall be in compliance with the requirements of a stormwater pollution prevention plan (SWPPP) reviewed and approved by the city~~, which addresses control of such discharges by applying AKART to prevent contaminants from entering surface or groundwater~~.

G. Enforcement. Compliance with the requirements of this code shall be mandatory under the authority of the city engineer as established in Chapter 9.06.070 of the DMC. The general penalties and remedies established in Chapter 9.06.130 of the DMC for such violations shall apply to any violation of this code.

H. Severability. If any provision of this chapter or its application to any person, entity, or circumstance is held invalid, the remainder of this chapter or the application of the provision to other persons, entities, or circumstances shall not be affected.

(Ord. No. 1098, § 1, 8-26-2010)

~~9.06.040 - Requirements for small parcels.~~

~~A. Applicability. The requirements of this section shall apply to new development as follows:~~

~~1) individual, detached, single-family residences and duplexes; 2) creation or addition of less than 2,000 square feet of impervious area; or 3) grading, clearing, or land-disturbing activities of less than 7,000 square feet. Provided, however, that small parcel development not requiring machinery for construction or excavation and that are not subject to SEPA, shall be exempt from this section and that Drainage Review is not required by the criteria in the King County Surface Water Design manual~~

~~B. Compliance. Compliance shall be demonstrated through the implementation of an approved Stormwater Plan prepared by a registered professional engineer. The City Engineer may waive the requirement for preparation by an engineer if he determines that the expertise of a professional engineer is not required for preparation of the plan.~~

~~C. Minimum Requirements for Small Parcels.~~

~~1. Construction vehicle access shall be limited to one route. The access point shall be stabilized with quarry rock and/or crushed rock to minimize the tracking of sediment onto public roads. Any sediment tracked onto public roads shall be removed by the end of the day.~~

~~2. All exposed soils shall be prevented from moving offsite or into natural or artificial drainage systems through suitable application of BMPs, including, but not limited to, sod or other vegetation, plastic covering, mulching, or application of ground base on areas to be paved. All BMPs shall be selected, designed and maintained in accordance with the Manual.~~

~~3. Adjacent properties shall be protected from sediment deposition by appropriate use of vegetative buffer strips, sediment barrier or filters, dikes, berms, or mulching, or by a combination of these measures and other appropriate BMPs.~~

~~4. All erosion and sediment control BMPs shall be inspected and maintained regularly, to ensure continued performance of their intended function.~~

~~5. As required by the Engineer, other appropriate BMPs to mitigate the effects of increased runoff shall be applied.~~

~~(Ord. No. 1098, § 1, 8-26-2010)~~

~~9.06.050 - Requirements for large parcels.~~

~~A. Applicability. The requirements of this section shall apply to new development as follows:~~

~~1) creation or addition of more than 2,000 square feet of impervious area; and/or 2) land-disturbing activity of 7,000 square feet or greater; and/or as required or exempted by criteria in the King County Surface Water Design manual. Provided, however, that new development falling under this section only because it includes the creation or addition of less than 2,000 square feet of new impervious surface area, and land-disturbing activity of less than 7,000 square feet, shall comply with the requirements of § 9.06.040 and requirements [subsections] 2. through 11. of subsection (c) herein.~~

~~Where redevelopment greater than 2,000 square feet occurs, the requirements of this section shall apply to that portion of the site that is being redeveloped, and source control BMPs shall be applied to the entire site, including adjoining parcels if they are part of the project. Provided, however, that at the discretion of the City Engineer, redevelopment activities which have physical site constraints that significantly hamper retrofitting of the site and that are judged to have no significant impact to stormwater quality, may be exempted in whole or part from the provisions of this section. For sites where the need for additional stormwater control measures have been identified through a basin plan, the watershed ranking process under Chapter 400-12 WAC, or through Growth Management Act Planning, additional stormwater control measures shall be required unless a variance is granted.~~

~~B. Compliance. Compliance shall be demonstrated through the implementation of an approved Stormwater Plan prepared by a registered professional engineer. The Plan shall consist of a Technical Information Report (TIR) and a Site Improvement Plan, as appropriate.~~

~~C. Minimum Requirements for Large Parcels.~~

~~1. A Large Parcel Stormwater Plan shall be prepared showing how the following requirements will be accomplished:~~

~~a. Stabilization and sediment trapping. All exposed and unworked soils shall be stabilized according to a timetable established by the Engineer using suitable application to BMPs. Prior to leaving the site, stormwater runoff shall pass through a sediment pond or sediment trap, or other appropriate BMPs.~~

~~b. Delineate clearing and easement limits. In the field, mark clearing limits, and/or any easements, setbacks, sensitive/critical areas and their buffers, trees, and drainage courses.~~

~~c. Protect adjacent properties. Properties adjacent to the project site shall be protected from sediment deposition.~~

~~d. Timing and stabilization of sediment trapping measures. Sediment ponds and traps, perimeter dikes, sediment barriers, and other BMPs intended to trap sediment onsite shall be constructed as a first step in grading. These BMPs shall be functional before land-disturbing activities take place. Earthen structures such as dams, dikes, and diversions shall be seeded and mulched in accordance with the Erosion and Sediment Control Requirements in this section.~~

~~e. Cut and fill slopes. Cut and fill slopes shall be designed and constructed in a manner that will minimize erosion. In addition, slopes shall be stabilized in accordance with Erosion and Sediment Control requirements in this section.~~

~~f. Controlling offsite erosion. Properties and waterways downstream from development sites shall be protected from erosion due to increases in the volumes, velocity, and peak flow rate of stormwater runoff from the project site.~~

~~g. Stabilization of temporary conveyance systems. All temporary onsite conveyance channels shall be designed, constructed, and stabilized to prevent erosion from the expected velocity of flow from a two-year, 24-hour frequency storm for the developed condition. Stabilization adequate to prevent erosion of outlets, adjacent stream banks, slopes and downstream reaches shall be provided at the outlets of conveyance systems.~~

~~h. Storm drain inlet protection. All storm drain inlets made operable during construction shall be protected so that stormwater runoff shall not enter the conveyance system without first being filtered or otherwise treated to remove sediment.~~

~~i. Underground utility construction. The construction of underground utilities shall be subject to the following:~~

~~i. No more than five hundred (500) feet of trench shall be opened at one time. The trenches shall be closed up at the end of the day.~~

~~ii. Where consistent with safety and space considerations, excavated material shall be placed on the uphill side of trenches.~~

~~iii. Trench and foundation dewatering devices shall discharge into a sediment trap or sediment pond, where practicable. For dewatering from well points producing non-sediment-laden water, sediment ponds or traps are not required.~~

~~j. Construction access routes. Wherever construction vehicle access routes intersect paved roads, provisions must be made to minimize the transport of sediment (mud and dirt) on the paved road. If sediment is transported onto a road surface, the roads shall be cleaned thoroughly at the end of the day. Sediment shall be removed from roads by shoveling or sweeping and be transported to a controlled sediment disposal area. Street washing shall be allowed only after sediment is removed in this manner.~~

~~k. Removal of temporary BMPs. All temporary erosion and sediment control BMPs shall be removed within thirty (30) days after final site stabilization is achieved or after the temporary BMPs are no longer needed. Trapped sediment shall be removed or stabilized on site. Disturbed soil areas resulting from removal shall be permanently stabilized.~~

~~l. Dewatering construction sites. Dewatering devices shall discharge into a sediment trap or sediment pond. For dewatering from well points producing non-sediment-laden water, sediment ponds or traps are not required.~~

~~m. Control of pollutants. Illicit discharges other than sediment that occur on site during construction shall be handled and disposed of in a manner than does not cause contact with stormwater or surface waters.~~

~~n. Maintenance. All temporary and permanent erosion and sediment control BMPs shall be maintained and repaired as needed to assure continued performance of their intended function. All maintenance and repair shall be conducted in accordance with the Manual.~~

~~o. Financial liability. Performance bonding, or other appropriate instrument, may be required for all projects to ensure compliance with the approved erosion and sediment control plan.~~

~~2. Unless otherwise directed by the Engineer, natural drainage patterns shall be maintained, and discharged from the site shall occur at the natural location, to the maximum extent practicable.~~

~~3. Source control BMPs shall be applied to all projects to the maximum extent practicable. Source control BMPs shall be selected, designed, and maintained according to the Manual.~~

~~4. All projects shall provide treatment of stormwater. Treatment BMPs shall be sized to capture and treat the water quality design storm, defined as the two-year 24-hour return period storm. For Duvall, this is 2.1 inches of rain in a 24-hour period. The first priority for treatment shall be to infiltrate as much as possible of the water quality design storm, only if site conditions are appropriate and groundwater quality will not be impaired. Direct discharge of untreated stormwater to groundwater is prohibited except for roof drains. All treatment BMPs shall be selected, designed and maintained according to the Manual. Stormwater treatment BMPs shall not be built within sensitive area buffers, except for necessary conveyance to systems to transport runoff to receiving waters as approved by the Engineer.~~

~~5. Stream Bank Erosion Control—Detention.~~

~~a. This subsection applies only to situations where stormwater runoff is discharged directly or indirectly to a stream, and must be met in addition to meeting the requirements of subsection (4).~~

~~b. Stormwater discharges leaving a site shall be detained by designing a pond that will limit the peak rate of runoff from individual development sites to the predeveloped condition peak runoff rate for the two-year, 24-hour, and ten-year 24-hour design storms. Upon sizing the pond according to this criteria, a 30 percent increase in storage volume must be added at each depth. The post developed runoff for the 100-year, 24-hour storm event shall be routed through the conveyance system and the runoff control facilities to evaluate any significant adverse impacts downstream. For Duvall, the ten-year and 100-year, 24-hour design storms are 3.0 and 3.9 inches of rain in 24 hours, respectively. As the first priority, stream bank erosion control BMPs shall utilize infiltration to the fullest extent practicable, only if site conditions are appropriate and groundwater quality is protected. These control BMPs shall be selected, designed, and maintained in accordance with the Manual.~~

~~c. Stormwater systems that discharge directly or indirectly to a stream may also be subject to Hydraulic Project Approval and the requirements of the State Department of Fish and Wildlife. If a Department of Fish and Wildlife HPA is required then the stricter of the runoff control design standards (those of the Manual or the Dept. of Fish and Wildlife) will apply.~~

~~d. Stormwater treatment BMPs shall not be built within vegetated buffers, except for necessary conveyance systems as approved by the Engineer.~~

~~e. A future adopted City Stormwater Management Plan may establish additional detention requirements that supersede the requirements contained within this section.~~

~~6. Wetlands.~~

~~a. Where stormwater discharges to a wetland, in addition to the requirements of subsection (4), the following apply:~~

~~i. Prior to discharge to wetlands, stormwater will be treated with all reasonable best management practices for water quality protection.~~

~~ii. Discharges to wetlands shall maintain water level fluctuations similar to those which would be present under natural conditions.~~

~~iii. The developer shall obtain all necessary state and federal wetlands permits prior to commencing any work on the site.~~

~~iv. Stormwater treatment BMPs shall not be built within natural vegetated sensitive area buffers, except for necessary conveyance systems as approved by the Engineer.~~

~~v. In order for constructed wetlands to be considered treatment systems, they must be constructed on sites that are not wetlands and they must be managed for stormwater treatment. If these systems are not managed and maintained in accordance with an approved manual for a period exceeding three years these systems may no longer be considered constructed wetlands. Discharges from constructed wetlands to waters of the state (including discharged to natural wetlands) are regulated under Chapter 90.48 RCW, Chapter 173-201 WAC, Chapter 173. 200 WAC, and DMC Chapters 12.20 – 12.22.~~

~~7. Where the Engineer determines that the minimum requirement do not provide adequate protection for water quality sensitive area, whether on site or within the drainage basin, more stringent controls shall be required to protect water quality. Stormwater treatment BMPs shall not be built within natural vegetated sensitive area buffers except for necessary conveyance systems as approved by the Engineer.~~

~~8. All development projects shall conduct a Level 1 analysis of offsite water quantity impacts resulting from the project and shall mitigate these impacts. The analysis shall extend a minimum of one-fourth of a mile downstream from the project, or to the extent that is required by the Engineer. The existing or potential impacts to be evaluated and mitigated shall include, but not be limited to:~~

~~a. excessive sedimentation and deposition;~~

~~b. stream bank and stream bed erosion;~~

~~c. discharges to groundwater contributing to recharge zone;~~

~~d. violations of water quality standards;~~

~~e. spills and discharges of illicit discharges;~~

~~f. nadequate stormwater conveyance system capacities;~~

~~g. excessive stormwater velocities;~~

~~h. existing problems;~~

~~i. fish habitat and fish passage.~~

~~9. An operation and maintenance schedule shall be provided for all proposed stormwater facilities and BMPs, and the party (or parties) responsible for maintenance and operation shall be identified.~~

~~10. Performance bonding and/or other appropriate corporate financial instruments may be required for all projects to ensure compliance with these standards.~~

~~11. Adopted and implemented watershed-based plans may be used to modify any or all of the minimum requirements of this section 9.06.050(c), provided that the level of protection for surface or ground water achieved by the basin plan will equal or exceed that which would be achieved by the minimum requirements in the absence of a basin plan. Basin plans shall evaluate and include, as necessary, retrofitting of BMPs for existing development and/or redevelopment in order to achieve watershed-wide pollutant reduction goals. Standards developed from basin plans shall not modify any of the requirements until the basin plan is formally adopted and fully implemented by local government. Basin plans shall be developed according to an approved manual.~~

~~(Ord. No. 1098, § 1, 8-26-2010)~~

9.06.060 - Operation and maintenance requirements.

A. Maintenance Required. All stormwater facilities shall be maintained in accordance with this Chapter, ~~and~~ the Manual as amended with s~~. S~~ystematic, routine preventative maintenance ~~is preferred~~.

B. Minimum Standards. The following are the minimum standards for the maintenance of stormwater facilities:

1. It shall be the duty of the owner to maintain, repair and restore, at the owner's expense, all private stormwater systems located on the owner's property. Maintenance shall be performed in accordance with the minimum requirements of this C~~c~~hapter and in accordance with any maintenance schedule adopted during the plan review process for constructing the facilities.

2. No person shall cause or permit any drainage system located on the owner's property to be obstructed, filled, graded, or used for disposal of debris.

3. Minimum requirements for the maintenance of stormwater facilities shall include, but not be limited to, the following:

a. annual inspection, maintenance, and reporting in accordance with city, state, and federal standards;

b. removing brush, vegetation, debris and other blockage;

c. removing sediment, silts, sands and gravels;

d. removing oils, grease, tars and other pollutants;

e. repairing and replacing damaged facilities as required; and

f. all other activities necessary to ensure the facilities are operating as designed.

4. Vegetated stormwater facilities, such as grassed swales and biofilters, shall be inspected semi-annually and mowed or replanted as necessary.

5. Disposal of waste from maintenance activities shall be conducted in accordance with the Minimum Functional Standards for Solid Waste Handling, Chapter 173-304 WAC; guidelines published by the Washington State Department of Ecology for disposal of waste materials from storm water maintenance activities; and where appropriate, the Dangerous Waste Regulations, Chapter 173-303 WAC.

C. City Maintenance. The City may assume the operation and maintenance responsibility of retention/detention or other drainage treatment/abatement facilities according to City policy after the expiration of the two-year operation and maintenance period if:

1. All of the requirements of this chapter have been fully complied with;

2. The facilities have been inspected and approved by the Engineer after two years of operation;

3. All necessary easements entitling the City to properly operate and maintain the facility have been conveyed to the City and recorded with the King County Department of Records.

(Ord. No. 1098, § 1, 8-26-2010)

9.06.070 - Authority of the city engineer.

The City Engineer shall have the authority to enforce this Chapter. The City Engineer is directed and authorized to develop an inspection program for stormwater facilities in the City of Duvall. Persons or occupants of the site shall allow the Engineer or his designee access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, and record examinations. The Engineer shall have the authority to issue a developer and/or property owner an order to maintain or repair a component of the stormwater facility or BMP to bring it in compliance with this chapter, and/or other applicable City regulations. The order shall include: 1) A description of the specific nature, extent and time of the violation and the damage or potential damage that reasonably might occur; 2) a notice that the violations or potential violations cease and desist and, in appropriate cases, the specific corrective actions to be take; 3) a reasonable time to comply, as determined by the City Engineer depending upon the circumstances; and 4) a penalty for non-compliance as outlined in section 9.06.130.

(Ord. No. 1098, § 1, 8-26-2010)

9.06.080 - Inspections.

A. Construction Inspections. The holder of any permit that requires a drainage plan shall arrange with the Engineer or Utilities Superintendent for scheduling the following inspections:

(1) Initial Inspection—Whenever work on the grading, excavations, or fill is ready to commence.

(2) Rough Grading—Whenever all rough grading has been completed.

(3) Bury Inspection—Prior to burial of any underground drainage structure.

(4) Finish Grading—When all work including installation of all drainage structures and other protective devices has been completed.

(5) Planting—When erosion control planting shows active growth.

(6) The site may be inspected for compliance with requirements upon receiving such notice, the Engineer or Utilities Superintendent shall inspect the work and shall either approve the same or notify the applicant in what respects there has been failure to comply with the requirements of this ordinance. Any portion of the work which does not comply shall be promptly corrected by the applicant. In addition, the City may make unscheduled site inspections to ensure compliance with any permit, approval, or bond reduction or release.

B. Maintenance and Investigatory Inspections.

1.Authority and Procedure. Whenever implementing the provisions of the inspection program or whenever there is cause to believe that a violation of this chapter has been or is being committed, the City, City Engineer, or City inspector (Inspector)~~inspector~~ is authorized to inspect during regular working hours and at other reasonable times all stormwater drainage systems within the City to determine compliance with the terms of this chapter. Prior to making any inspections, the I~~i~~nspector shall present identification credentials, state the reason for the inspection, and request entry. If the property or any building or structure on the property is unoccupied, the I~~i~~nspector shall first make a reasonable effort to locate the owner or other person(s) having charge or control of the property or portions of the property and request entry. If after reasonable effort, the I~~i~~nspector is unable to locate the owner or other person(s) having charge or control of the property, and has reason to believe the condition of the stormwater drainage system creates an imminent hazard to persons or property, the I~~i~~nspector may enter. Unless entry is consented to by the owner, person or persons in control of the property, by some person authorized by the owner, or unless conditions are reasonably believed to exist which create an imminent hazard to persons or property, the I~~i~~nspector shall obtain a search warrant prior to the entry, as authorized by the laws of the State of Washington. Provided, however, that the I~~i~~nspector may inspect the stormwater drainage system without obtaining a search warrant if the inspection can be conducted while remaining on public property or other property when permission to enter said property has been obtained.

2. Inspection Schedule. The Engineer shall establish a master inspection and maintenance schedule to inspect appropriate stormwater facilities~~ that are not owned by the City~~. Inspections and inspection reports shall be annual. Critical stormwater facilities may require a more frequent inspection schedule.

3. Inspection and Maintenance Records. Existing stormwater facilities shall be added to the master inspection and maintenance schedule. Records of new stormwater facilities shall include the following:

a. As-built plans and locations.

b. Findings of fact from any exemption granted by local government.

c. Operation and maintenance requirements and records of inspection, maintenance actions, and frequencies.

d. Engineering reports, as appropriate.

(Ord. No. 1098, § 1, 8-26-2010)

9.06.090 - Exemptions.

A. Stormwater facilities owned and maintained by the Washington State Department of Transportation in state highway rights-of-way which are regulated by and meet the requirements of Chapter 173-270 WAS, the Puget Sound Highway Runoff Program, are exempted from the requirements of this chapter.

~~B. Stormwater facilities located in City of Duvall rights-of-way shall be maintained by the city and are exempted from the requirements of this chapter.~~

(Ord. No. 1098, § 1, 8-26-2010)

~~9.06.100 - Variances.~~

~~A. A person requesting a variance from the standards of this chapter shall file an application with the City Engineer setting forth the location of the development, the owner of the property, the nature of the variance request, and the reason for the variance. A filing fee of $300.00, unless otherwise established by resolution of the City Council, shall accompany the application. The filing fee shall be applied to all the costs and expenses incurred by the City in processing the application. In the event the filing fee is inadequate the City shall bill any additional costs to the applicant which shall be paid within 30 days and prior to the granting of any variance herein.~~

~~B. In considering an application for variance, the City Engineer shall consider the following factors:~~

~~1. Whether or not the variance would have an adverse effect upon the goals and policies of the City as outlined in this chapter.~~

~~2. Whether or not the proposed variance is consistent with the City's Comprehensive Plan.~~

~~3. Whether or not there would be adverse effects upon adjoining properties or neighboring properties.~~

~~4. Any positive benefits to the City resulting from the proposed variance.~~

~~5. That such variance is necessary because of special circumstances relating to the subject property to provide it with the use, rights, and privileges permitted other properties in the vicinity and in the zone in which the subject property is located.~~

~~6. The capacity of downstream facilities, the acceptability of receiving bodies of water; possibility or adverse effects or retention, utilization of regional retention facilities, and capability of maintaining the system.~~

~~C. The City Engineer may place any conditions on the variance denied necessary to achieve the goals of this chapter.~~

~~D. Upon reaching a decision, the City Engineer shall notify the applicant, the City Council, and the Mayor. The notice shall be in writing.~~

~~E. The applicant, any aggrieved party, any member of the City Council, or the Mayor, may appeal a decision of the City Engineer to grant or deny a variance to the full City Council. A notice of appeal must be filed with the City Clerk within 10 days of the issuance of the City Engineer's decision. The City Council shall consider the appeal within 30 days and may affirm, reverse, or modify the decision of the City Engineer in accordance with the standards set forth herein.~~

~~(Ord. No. 1098, § 1, 8-26-2010)~~

~~9.06.110 - Bonds and liability insurance.~~

~~The City is authorized to require persons constructing retention/detention facilities to post with the City surety and cash bonds as determined necessary by the Engineer. Where such persons have previously posted or are required to post, other such bonds with the City, either on the facility itself or on other construction related to the facility, such person may with the permission of the Engineer and to the extent allowable by law, combine all such bonds into a single bond provided that at no time shall the amount thus bonded be less than the total amount which would have been required in the form of separate bonds and~~

~~provided further that such a bond shall on its face clearly delineate those separate bonds which it is intended to replace.~~

~~(a) Construction Bond. Prior to commencing construction the person constructing the facility shall post a construction bond in an amount sufficient to cover the cost of conforming said construction with the approved drainage plans. After determination by the Engineer that all facilities are constructed in compliance with the approved plan, the construction bond may be released.~~

~~(b) Maintenance Bond. After satisfactory completion of the facilities and release of the construction bond by the City, the person constructing the facility shall commence a two-year period of satisfactory maintenance of the facility. A cash bond to be used at the discretion of the City to correct deficiencies in said maintenance affecting stormwater facility performance, public health, safety and welfare must be posted and maintained throughout the two-year maintenance period. The amount of the cash bond shall be determined by the City. In addition to the cash maintenance bond a surety bond to cover the cost of defects or failures of the facilities may be required by the City to be posted and maintained through the two-year maintenance period.~~

~~(c) Liability Bond. At the discretion of the Engineer the person constructing the facility shall maintain a liability policy in an amount as determined by the City but in no instance less than three hundred thousand dollars per individual, five hundred thousand dollars per occurrence and three hundred thousand property damage, which shall name the City of Duvall from any liability up to those amounts for any accident, negligence, failure of the facility, or any other liability whatsoever relating to the construction or maintenance of the facility. Said liability policy shall be maintained for the duration of the maintenance by the owner of the facility, provided than in the case of facilities assumed by the City of Duvall for maintenance said liability policy shall be terminated when said City maintenance responsibility commences.~~

~~(d) City Assumption of Maintenance. The City may assume the maintenance of retention/detention facilities after the expiration of the two-year maintenance period in connection with the subdivision of land if:~~

~~(1) All of the requirements of this chapter have been fully complied with;~~

~~(2) The facilities have been inspected and approved by the City after their second year of operation; and~~

~~(3) All necessary easements entitling the City to properly maintain the facility have been conveyed to the City.~~

~~(Ord. No. 1098, § 1, 8-26-2010)~~

9.06.120 - Fees.

~~A. Plan Checking Fees. The application shall be accompanied by a filing fee of two hundred fifty dollars ($250.00). The total fee for field and office checking by city personnel shall be the actual cost of the work at prevailing wage rates for personnel under the supervision of a registered professional engineer and any other cost that the city may incur in checking the drainage plan. Wage rates shall be made available to the developer upon request prior to submission of the application. The balance of the application fee, if any shall be paid prior to its approval by the city. If the city's costs do not equal or exceed the application fee, the remainder of the fee will be returned to the applicant following approval by the city.~~

~~B. Field Inspection Fees. Before construction starts on any approved plans an inspection fee of two hundred fifty dollars ($250.00) shall be filed with the city. The total fee for field inspection by city personnel shall be the actual cost of the work at prevailing wage rates for personnel under the supervision~~

~~of a registered professional engineer and any other cost that the city may incur in inspecting for drainage improvements. Wage rates shall be made available to the developer upon request prior to submission of the application. The balance of the inspection fee, if any shall be paid to the project's final acceptance by the city. If the city's costs do not equal or exceed the inspection fee paid, the remainder of the fee will be returned to the applicant following acceptance by the city.~~

A~~C~~. Storm Drainage Construction Fund. There is established a storm drainage construction fund into which shall be paid all acreage charges collected under this chapter, together with contributions made by the city from other sources. This fund shall be used to pay the cost and expense of constructing and installing general facilities for storm drainage and flood control.

B~~D~~. Acreage Charge.

1. No building permit shall be issued on any property within the city unless the owner pays to the city an acreage charge ~~of one thousand dollars ($1,000.00) per acre or fraction thereof. The acreage charge shall increase to one thousand one hundred dollars ($1,100.00) beginning with applications received on or after January 1, 1998; to one thousand two hundred dollars ($1,200.00) beginning with applications received on or after January 1, 1999; to one thousand three hundred dollars ($1,300.00) beginning with applications received on or after January 1, 2000; and to one thousand four hundred dollars ($1,400.00) beginning with applications received on or after January 1, 2001~~. Minor construction of accessory buildings, fences, and the like, and remodeling of existing structures shall not trigger payment of this charge. This charge shall constitute a proportionate share of the property's contribution to the capital costs of storm drainage and flood control throughout the city. This capital improvement charge for storm drainage and flood control shall be collected only once for any property; provided, however, that this limitation shall not affect any other charges the city may assess relative to storm drainage, flood control, or other matters. All properties assessed at the time of subdivision approval shall not be required to pay a second charge for each individual lot at the time a building permit is requested.

2. No short or long subdivision shall receive final approval by the planning commission or city council until the owner pays to the city an acreage charge ~~of one thousand dollars ($1,000.00) per acre or fraction thereof. The acreage charge shall increase to one thousand one hundred dollars ($1,100.00) beginning with applications received on or after January 1, 1998; to one thousand two hundred dollars ($1,200.00) beginning with applications received on or after January 1, 1999; to one thousand three hundred dollars ($1,300.00) beginning with applications received on or after January 1, 2000; and to one thousand four hundred dollars ($1,400.00) beginning with applications received on or after January 1, 2001~~. This charge shall constitute a proportionate share of the property's contribution to the capital costs of storm drainage and flood control throughout the city. Such fee shall only be collected once from any property; provided, however, that this limitation shall not affect any other charges the city may assess relative to storm drainage, flood control, or other matters.

3. ~~Subsequent~~ S~~s~~torm drainage utility acreage charges shall be set by resolution of the city council.

(Ord. No. 1152, § 1, 6-27-2013; Ord. No. 1098, § 1, 8-26-2010)

9.06.125 - Service charges.

A. Definitions. The following words when used herein shall have the following meanings unless the context clearly indicates otherwise:

1. "City" means the City of Duvall, Washington.

Formatted: Strikethrough

2. "Developed" means the state, status, or condition of the subject property at the time the proposed project has been completed, which may include existing buildings, impervious areas, and topography as is affected.

3. "Equivalent residential unit" means and is equal to three thousand (3,000) square feet of impervious area and is the measure of impervious area to be used by the utility in assessing service charges against each parcel of property.

4. "Impervious area" means that hard surface area which either prevents or retards the entry of water into the soil mantle and/or causes water to run off the surface in greater quantities or at an increased rate of flow from that present under natural conditions prior to development. Common impervious surfaces include, but are not limited to, roof tops, walkways, patios, driveways, parking lots or storage areas, concrete or asphalt paving, gravel roads, packed earthen materials, and oiled or compacted earthen materials or other surfaces which similarly impede the natural infiltration of surface and stormwater runoff. Open retention/detention facilities shall not be considered as impervious surfaces for the purposes of this section.

5. "Plan" means the storm drainage utility plan created by Ordinance No. 730 and codified in DMC Chapter 9.06.6.

6. "Service charge" means the monthly fee levied by the utility upon all developed real property within the boundary of the utility as authorized herein.

7. "System" means the entire system of storm drainage facilities within the utility, for the movement and retention of storm and surface waters, including both naturally occurring and manmade facilities.

8. "Undeveloped conditions" means the state, status, or condition of the subject property prior to any development of the property that has occurred, which may include trees, pastures, or native features.

9. "Utility" means the City of Duvall storm drainage utility created by Ordinance No. 730, which includes all properties within the entire existing City limits and all future additions thereto.

B. Rate Policy. It shall be the policy of the city that the rate structure to be applied in establishing the amount of service charges assessed against each parcel of developed real property within the boundaries of the utility shall be based upon the amount of impervious area contained within each parcel of property as measured by subsection C herein, except for those properties set forth in subsection F herein.

C. Classification of Property. The utility shall measure the impervious area of each parcel of developed real property within the boundaries of the utility to determine the number of equivalent residential units contained therein; three thousand (3,000) square feet of impervious area shall equal one equivalent residential unit. All detached single-family residences are deemed to contain one equivalent residential unit. For all other developed real properties, including mobile home parks, the utility shall determine the number of equivalent residential units contained thereon by dividing the number of square feet of impervious area on each property by three thousand (3,000); the total thus obtained will be rounded to the nearest whole number representing the equivalent residential units contained on such property. The equivalent residential unit measurement shall adhere to the following:

1. For non-single-family residential facilities constructed using Low Impact Development Components, each square foot of permeable surfacing shall be considered as half (½) of a square foot of impervious area. Areas eligible for this reduction include permeable pavement, green roofs, and other permeable surfaces as described in Chapter 5 of the King County Surface Water Design Manual.

2. Each developed parcel of property shall be deemed to contain a minimum of one equivalent residential unit.

D. Undeveloped Real Property. In accordance with the policy established in subsection B of this section, the service charge shall be determined by the amount of impervious area contained on each parcel of real property. Those properties remaining in an undeveloped condition are deemed not to make use of the services of the utility or of the facilities of the system beyond that use by such property in the natural state. Therefore, no service charge shall be imposed upon that real property within the boundaries of the utility which is undeveloped.

E. Service Charge Rates. In accordance with the rate structure established herein, there is levied upon all developed real property within the boundaries of the utility the following service charges which shall be collected as provided in subsection G of this section:

1. For all detached single-family residences (one equivalent residential unit) the monthly service charge shall be sixteen dollars ninety-two cents ($16.92) in 2011. The rate shall be adjusted each January based on the 12-month average (July—June) percent change of the preceding two years of Seattle-Tacoma-Bremerton CPI-U.

2. For all other developed property and mobile home parks within the boundaries of the utility, except as set forth in subsection F of this section, the monthly service charge shall be multiplied by the number of equivalent residential units determined by the utility to be contained in such parcel pursuant to subsection C of this section.

3. The charges and fees established by this section shall be reviewed annually in conjunction with the adoption of the City budget. Fees shall be set by the city council to enable the utility to meet all costs incurred. Subsequent Service Charge Rates shall be set by the city council by resolution.

4. Stormwater Facility Discount: For privately owned, non-single-family residential water quality and detention facilities owned and maintained at the expense of the property owner the Service Charge Rate will be reduced by twenty-five-percent (25%) provided all of the following conditions are met:

a. The facility was installed as part of a City of Duvall Development Permit.

b. All components of the flow control and/or water quality facility are maintained in accordance with the approved operations and maintenance plan submitted as part of the development process, City of Duvall standards, and Appendix A of the King County Surface Water Design Manual.

c. The property owner must complete annual required facility maintenance and reporting as verified by a City inspection. Reporting shall be completed by the property owner using City of Duvall reporting forms and shall be submitted to the City for review and approval by September 1 of each year.

d. The twenty-five-percent (25%) Service Charge Rate reduction will be valid for one year following City-approved maintenance and review of annual report. The twenty-five-percent (25%) Service Charge Rate reduction will be discontinued if the property owner does not correct stormwater facility deficiencies within 30 days of written notice from the City.

e. The Service Charge Rate reduction will be valid for one year following City-approved maintenance and review of annual report. The Service Charge Rate reduction will be discontinued if the property owner does not correct dispersion system deficiencies within 30 days of written notice from the City.

f. A "Declaration of Covenant and grant of Access Easement" is provided to grant the City of Duvall right of access to the property and facility for inspection purposes. The Declaration of Covenant must be recorded at the King County Office of Records.

g. This discount may not be combined with any other discount described in this chapter.

5. On-site Discharge Discount: For privately owned, non-single-family residential water quality and detention facilities owned and maintained at the expense of the property owner, the Service Charge Rate will be reduced provided all of the following conditions are met:

a. The dispersion system includes splash blocks, rock pads, dispersion trenches, infiltration, rainwater harvesting, or sheet flow in accordance with the King County Surface Water Design Manual.

b. All flow from the dispersion system is completely dispersed, absorbed, or discharged on-site or directly to an adjacent floodplain.

c. Flow from the facility does not enter into any off-site conveyance, water quality, flow control, or outfall components at any time.

d. The dispersion system was installed as part of a City of Duvall Development Permit.

e. All components of the dispersion system are maintained in accordance with the approved operations and maintenance plan submitted as part of the development process, City of Duvall standards, and Appendix A of the King County Surface Water Design Manual.

f. The property owner must complete annual required facility maintenance and reporting as verified by a City inspection. Reporting shall be completed by the property owner using City of Duvall reporting forms and shall be submitted to the City for review and approval by September 1 of each year.

g. The Service Charge Rate reduction will be valid for one year following City-approved maintenance and review of annual report. The Service Charge Rate reduction will be discontinued if the property owner does not correct dispersion system deficiencies within 30 days of written notice from the City.

h. A "Declaration of Covenant and grant of Access Easement" is provided to grant the City of Duvall right of access to the property and dispersion system for inspection purposes. The Declaration of Covenant must be recorded at the King County Office of Records.

i. Reductions shall be as follows:

Percentage of Total Impervious Area served by On-site Discharge System	Rate Discount
≥ 90%	50%
≥ 70% and <90%	40%
≥ 50% and <70%	30%
≥ 30% and >50%	20%
≥ 10% and <30%	10%
< 10%	0%

j. The On-site Discharge Discount will be based on a calculation completed by the City of Duvall based on information included in the stormwater report submitted for the project as part of a City of Duvall Development Permit. A new stormwater evaluation and development

permit will be required for any alteration to a previously permitted stormwater facility that results in a change to the percentage of Total Impervious Area served by On-Site Discharge System.

k. This discount may not be combined with any other discount described in this chapter.

F. Property Exempt from Service Charges. The following special categories of property are exempt from service charges:

1. City street rights-of-way, all of which are a part of the system pursuant to the plan;

2. State of Washington highway rights-of-way and King County road rights-of-way so long as the state of Washington and King County shall agree to maintain, construct and improve all drainage facilities contained within such rights-of-way as required by the utility in conformance with all utility standards for maintenance, construction and improvement hereafter established by the utility and so far as such maintenance, construction and improvements shall be achieved at no cost to the utility or to the City;

3. Municipal facilities.

G. Billing.

1. All properties within the Utility burden the System either directly from discharge of on-site stormwater to the utility or indirectly from overland flow or system impacts associated with vehicles accessing the property. The charges imposed by this chapter shall be billed against all properties within the utility in conjunction with the property's customary water, garbage, and sanitary sewer bill issued by the City. Such charges shall be due and payable as provided in DMC Section 9.04.100.

2. Charges for storm drainage services remaining unpaid at the close of business on the twentieth day of the month in which billed (or the close of the next regular business day if the twentieth should fall on a Saturday, Sunday, or a legal holiday) shall be considered delinquent and shall call for a delinquent charge of ten (10) percent of the total combined utility amount due. Any checks returned due to insufficient funds shall incur a penalty in an amount to be fixed from time to time by resolution of the city council. Said delinquent charges and penalties shall become a lien upon the real property so furnished as provided by Washington state law, and shall be enforced as a real property lien and shall be superior to all other liens and encumbrances whatsoever, except those for general taxes and local and special assessments, and concurrently enforced by discontinuing and shutting off City water services as provided herein and as provided by Washington state law. If the delinquent charges and penalties remain unpaid at the close of business on the fourteenth day of the succeeding month (or the close of the next regular business day if the fourteenth day of the month should fall on a Saturday, Sunday, or a legal holiday), a notice shall be mailed to the property owner setting forth the lien described-above and further informing the property owner ~~that water service will be discontinued and shut off following five working days from the date of the notice unless all delinquent charges and penalties are paid prior to the discontinuance of water service as provided herein. Water service will not be resumed until all delinquencies and penalties, together with a water turn-on fee of thirty-five dollars ($35.00), have been paid~~.

Commented [BB1]: Make consistent will billing system

3. It shall be the obligation of the owner of a building, property, or premises within the storm drainage utility service to provide to the City of Duvall a mailing address for the purpose of billing for storm drainage utility charges and for the notice above-described. No water service shall be provided to any premises unless such a billing address is provided.

4. Billings may be made in the name of a tenant or other occupants of the premises which are provided storm drainage utility services at the mailing address provided above, but such billings

shall not relieve the owner of the property from liability for the payment of the charges for furnishing of such storm drainage services nor in any way affect the lien rights of the City against the premises to which said storm drainage services are furnished. Failure to receive mail properly addressed to the mailing address provided above shall not be a valid defense for failure to pay the delinquent charges and penalties. Any change in the mailing address provided above must be properly filed in writing with the office of the city clerk before it will become effective.

5. In the event the City must bring legal action to collect storm drainage service charges and/or penalties, the City shall, in addition to such charges and penalties, recover its attorney's fees and other costs incurred in connection with such collection.

(Ord. No. 1118, § 1(Exh. A), 10-13-2011; Ord. No. 1098, § 1, 8-26-2010)

9.06.130 - Enforcement and penalty.

A. Criminal Penalty. Any person, firm, corporation or other entity who violates any of the provisions of this chapter, any lawful order issued by the City Engineer under this chapter, or any permit conditions established by this chapter, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not to exceed Five Hundred Dollars ($500.00) or by imprisonment in the county jail for a term not to exceed ninety (90) days or by both fine and imprisonment. Each separate day of violation shall be a separate crime. Any person, firm, corporation or other entity who violates any of the provisions of this chapter, any lawful order issued by the City Engineer under this chapter, or any permit conditions established by this chapter, shall repair, mitigate, or replace the violation at their cost. The individual, firm, corporation and/or other entity responsible for the violations shall be required to pay the entire City's repair, mitigation, or replacement cost incurred as a result of the violation.

B. Infraction. Any person, firm or corporation or other entity that violates any of the provisions of this chapter, any lawful order issued by the City Engineer under this chapter, or any permit conditions established by this chapter, shall also commit a civil infraction. Civil infractions under this section shall be processed as set forth in Chapter 2.24. It shall not be necessary for the code enforcement officer to issue a notice of violation prior to issuing a notice of civil infraction for violations of Chapter 9.06.

C. Civil Relief. The City shall also have the right to abate any violations of this chapter, or orders or conditions set forth pursuant to this chapter, by seeking injunctive relief in the King County Superior Court. The individual, firm, corporation and/or other entity responsible for the violations shall be required to pay all the City's legal costs including reasonable attorney's fees.

(Ord. No. 1098, § 1, 8-26-2010)

]**9.06.140 - Adoption of comprehensive plan.**

The 1997 Duvall stormwater management plan prepared by Gardner Consultants, Public Works Division of ESM, Inc., as amended by the 2015 City of Duvall Comprehensive Plan, is adopted as the official Duvall stormwater management plan ~~and is incorporated into the Duvall comprehensive plan~~. A copy of the plan has been filed with the office of the city clerk for examination by the public prior to adoption. A copy of the plan, as adopted in this section, shall be filed with the city clerk for use and examination by the public. The 1997 Duvall stormwater management plan shall be considered under DMC Section 14.30.070 in application of the State Environmental Policy Act. In the event of inconsistencies between the Plan, the City's adopted storm drainage manual, and the storm drainage ordinance, the more restrictive provision shall apply.

(Ord. No. 1098, § 1, 8-26-2010)

Duvall City Council

AGENDA BILL SUMMARY

Meeting Date: 08/16/16 AB #16-70

Item Type: Introduction: ___ Discussion/Staff Direction: _X_ Action Item: __

Attorney Review: ___

Subject: **Resolution – North Hill Final Plat**

Budget Impact and Source of Funds: Revenue of approximately $96,124 to Sewer Fund and $76,560 to Storm Drainage Fund

Contact Person/Department: Boyd Benson, Interim Public Works Director

EXECUTIVE SUMMARY:

The North Hill Subdivision is located north of the 286th Ave NE/NE 153rd Street intersection. The development includes a total of 112 new single-family residential lots, stormwater improvements, sewer improvements including a new pump station, water system improvements, park/trail/open space improvements, and associated right-of-way improvements and property dedication.

The City of Duvall Public Works and Planning Departments are currently completing final plat documentation review and revision. Infrastructure construction is substantially complete with the exception of pavement and sidewalk installation. All of the remaining final plat requirements will be completed or bonded for prior to request for City Council approval.

COUNCIL PROCESS: Ordinances/Resolutions

- Council Discussion under **New Business**

HISTORY:

- Written report in 10/18/16 Committee of the Whole packet.

RECOMMENDED ACTION:

No action is being requested at this time; however, at a future meeting, Council will be asked to:

Approve Resolution approving the Final Plat of the North Hill Subdivision, PPA13-001.

ATTACHMENTS:

- Draft Resolution
- Staff Report and Draft Final Plat Exhibit (See 10/18/16 Committee of the Whole packet.)

CITY OF DUVALL
WASHINGTON

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DUVALL, WASHINGTON, APPROVING THE NORTH HILL FINAL LONG PLAT, PPA13-001

WHEREAS, on July 16, 2009, the Hearing Examiner recommended approval of the North Hill Long Plat subject to specific conditions; and

WHEREAS, on February 3, 2014, the Hearing Examiner recommended approval of the North Hill Long Plat Amendment subject to specific conditions; and

WHEREAS, on XXXXX, XXXXX, 2016, the city received a proposed final plat map which meets the conditions of preliminary plat approval and platting requirements; and

WHEREAS, on XXXXX, XXXXX, 2016 the City Engineer finds that the Preliminary Plat conditions have been met or bonded for; and now recommends approval to the City Council; and

WHEREAS, the City Council has reviewed the plat and finds it conforms to the preliminary plat design and all applicable conditions and legal requirements;

NOW, Therefore, be it resolved by the City Council of the City of Duvall, Washington, as follows:

Section 1. The above-mentioned North Hill Final Long Plat is hereby approved as recommended by the City Engineer.

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

PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF _____, 2016.

CITY OF DUVALL

_____
Mayor Ibershof

Approved as to form:

ATTEST/AUTHENTICATED:

_____
Rachel Turpin, City Attorney

_____
Jodi Wycoff, City Clerk

Duvall City Council

AGENDA BILL SUMMARY

Meeting Date: 11/01/2016 AB #16-60

Item Type: Introduction: ___ Discussion/Staff Direction: _X_ Action Item: __

Attorney Review: ___

Subject: **Ordinance Fixing the amount of the Annual Ad Valorem Property Tax Levy for the Fiscal Year 2017.**

Budget Impact and Source of Funds: Increase in property taxes

Contact Person/Department: Dean Rohla, Finance Director

EXECUTIVE SUMMARY:

Per RCW 84.52.070, the County Council is required to certify the amount of the property taxes levied in King County and must receive our resolution by December 5, 2016. The 2017 Preliminary Budget was posted to our OneDrive and made available for Council and Staff review on September 30, 2016. Council and the City Clerk were presented with the Mayor's Preliminary Budget on October 4, 2016. The Preliminary Budget demonstrates the need for assessing the full one percent increase to property taxes. The City is limited to 1% increases over 2011 plus new construction and utilities. Historically, the City of Duvall has taken the full 1% increase and currently has no "banked capacity."

On October 18, 2016 and November 1, 2016 Council will conduct Public Hearings on consideration of possible increases in Property Tax Revenue. Tonight marks the second time we have discussed the need to assess the full 1% increase.

COUNCIL PROCESS: Ordinances/Resolutions

- Council discussion under **Unfinished Business**

HISTORY:

- **Public Hearing** on: Revenue sources for the 2017 Budget, including consideration of possible increases in Property Tax Revenue – **10/18/16**.
- Council discussion under new business at 10/18/16 meeting.

RECOMMENDED ACTION:

No action is requested at this time; however, at the 11/15/16 (after election) meeting Council will be asked to:

Adopt Ordinance fixing the amount of the Annual Ad Valorem Property Tax Levy for the Fiscal Year 2017.

ATTACHMENTS:

- Draft Ordinance
- Ordinance 2152 of the Metropolitan King County Council
- Preliminary Levy Limit Worksheet – 2017 Tax Roll

CITY OF DUVALL
WASHINGTON
ORDINANCE NO.

AN ORDINANCE OF THE CITY OF DUVALL, WASHINGTON, FIXING THE AMOUNT OF THE ANNUAL AD VALOREM PROPERTY TAX LEVY FOR THE FISCAL YEAR 2017.

WHEREAS, the City Council of the City of Duvall has met and considered its budget for the calendar year 2017; and

WHEREAS, the City Council of City of Duvall after hearing and after duly considering all relevant evidence and testimony presented, determined that the City of Duvall requires a regular levy in the amount of $1,392,488, which includes an increase in property tax revenue from the previous year, and amounts resulting from the addition of new construction and improvements to property and any increase in the value of state-assessed property, and amounts authorized by law, in order to discharge the expected expenses and obligations of the City and in its best interests;

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

Section 1. The regular property tax levy is hereby authorized for the 2017 levy. The total levy amount is $1,392,488. This levy is an increase of $24,763 and a percentage increase of 1.8% from the previous year, as well as any increase in value of state-assessed property.

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

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF _____, 2016.

CITY OF DUVALL

Approved as to form:

_____
Mayor Will Ibershof

_____
Rachel Turpin, City Attorney

ATTEST/AUTHENTICATED:

_____
Jodi Wycoff, City Clerk

Passed by the City Council:
Ordinance No.
Date of Publication:

Duvall City Council

AGENDA BILL SUMMARY

Meeting Date: 11/01/2016 AB #16-61

Item Type: Introduction: ___ Discussion/Staff Direction: _X__ Action Item: __

Attorney Review: NEEDED

Subject: Ordinance – Cable TV Utility Tax Increase.

Budget Impact and Source of Funds: 2% increase in 2017 cable television taxes estimated at $8,450 per 1% increase or $16,900 as proposed.

Contact Person/Department: Dean Rohla, Finance Director

EXECUTIVE SUMMARY:

Per RCW 35A.82.020, the City of Duvall is authorized to impose excise taxes on businesses. Utility taxes may be levied on the gross operating revenues earned by private utilities from operations within the boundaries of a city and by a city's own municipal utilities.

The Preliminary Budget is built on the need for increasing certain utility taxes. These increases include two percent (2%) increases to the tax rate on cable television as well as the water, sewer, and storm utilities. This proposal would raise the cable utility tax from 6% to 8%.

Tonight marks the third time we have discussed the need to increase this tax as it was discussed as part of the rollout of the 2017 Preliminary Budget and again in the Public Hearing on Revenue sources for the 2017 Preliminary Budget on 10/18/16.

COUNCIL PROCESS: Ordinances/Resolutions

- Council discussion under **Unfinished Business**

HISTORY:

- Cable utility tax increased from 1% to 6% February 1, 2015.
- Council discussion under New Business at 10/18/16 meeting.

RECOMMENDED ACTION:

No action is requested at this time; however, at the 11/15/16 meeting Council will be asked to:

Adopt Ordinance amending DMC 3.04.060 (A) to increase the utility tax on cable television to 8% and establish an effective date.

ATTACHMENTS:

- Draft Ordinance

CITY OF DUVALL
WASHINGTON
ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUVALL, WASHINGTON, AMENDING DUVALL MUNICIPAL CODE 3.04.060 (A) CABLE TV, REVISING THE UTILITY TAX RATE TO EIGHT PERCENT (8%); PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the Cable Communications Policy Act of 1984 provides specific authority to levy a utility tax on cable TV in addition to a franchise fee; and

WHEREAS, By Ordinance 941, the City of Duvall levied a utility tax on Cable TV of one percent (1%); and

WHEREAS, By Ordinance 1172, the City of Duvall increased the utility tax on Cable TV to six percent (6%); and

WHEREAS, the City of Duvall currently has an existing utility tax on water, sewer, and stormwater revenue of eight percent (8%); and

WHEREAS, the City of Duvall currently has an existing utility tax on telephone, electricity, natural gas, and solid waste revenue of six percent (6%); and

WHEREAS, the city council wishes to revise the Cable TV utility tax rate to be the same or similar as other city utility taxes;

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

Section 1. Duvall Municipal Code Section 3.04.060 Amended. Section 3.04.060 of the Duvall Municipal Code is hereby amended as follows:

3.04.060 (a) Cable TV,

Upon any cable TV business there shall be levied a tax equal to eight percent (8%) of the total gross operating revenues from the operation of such business within the city; however, there shall be no tax levied upon service fees charged for initially subscribing to the cable TV service

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of

this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication, with the revised rates to go into effect January 1, 2017.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF _____, 2016.

CITY OF DUVALL

_____
Mayor Will Ibershof

Approved as to form:

_____
Rachel Turpin, City Attorney

ATTEST/AUTHENTICATED:

_____
Jodi Wycoff, City Clerk

Passed by the City Council:
Ordinance No.
Date of Publication:

Duvall City Council

AGENDA BILL SUMMARY

Meeting Date: 11/01/2016 AB #16-62

Item Type: Introduction: ___ Discussion/Staff Direction: _X_ Action Item: __

Attorney Review: NEEDED

Subject: Ordinance – Water, Sewer, Stormwater Utility Tax Increase

Budget Impact and Source of Funds: 2% increase in 2017 water, sewer, and storm taxes estimated at $47,418 per 1% increase or $94,836 as proposed.

Contact Person/Department: Dean Rohla, Finance Director

EXECUTIVE SUMMARY:

Per RCW 35A.82.020, the City of Duvall is authorized to impose excise taxes on businesses. Utility taxes may be levied on the gross operating revenues earned by private utilities from operations within the boundaries of a city and by a city's own municipal utilities.

The 2017 Preliminary Budget is built on the need for increasing certain utility taxes. These increases include two percent (2%) increases to the tax rate on the water, sewer, and storm utilities as well as cable television. This proposal would raise the water, sewer, and storm utilities tax from 8% to 10%.

Tonight marks the third time we have discussed the need to increase this tax as it was discussed as part of the rollout of the 2017 Preliminary Budget and again in the Public Hearing on Revenue sources for the 2017 Preliminary Budget at the 10/18/16 meeting.

COUNCIL PROCESS: Ordinances/Resolutions

- Council discussion under **Unfinished Business**

HISTORY:

- Water, Sewer, and Stormwater utility tax increased from 6% to 8% January 1, 2015.
- Council discussion under New Business at 10/18/16 meeting.

RECOMMENDED ACTION:

No action is requested at this time; however, at the 11/15/16 meeting Council will be asked to:

Adopt Ordinance amending DMC 3.04.010 to increase the utility tax on water, sewer, and stormwater utilities to 10% and establish an effective date.

ATTACHMENTS:

- Draft Ordinance

CITY OF DUVALL
WASHINGTON
ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUVALL, WASHINGTON, AMENDING DUVALL MUNICIPAL CODE 3.04.010 WATER, SEWER AND STORMWATER, REVISING THE UTILITY TAX RATE TO TEN PERCENT (10%); PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, there are not adequate resources available in the general fund to fund existing programs; and

WHEREAS, the city seeks to diversify its revenue base to reinforce a sound fiscal structure; and

WHEREAS, the City of Duvall currently has an existing utility tax of eight percent (8%) on water, sewer, and storm revenue; and

WHEREAS, the city council wishes to help remedy the revenue shortfall by increasing the utility tax for the water, sewer, and storm utilities; and

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

Section 1. Duvall Municipal Code Section 3.04.010 Amended. Section 3.04.010 of the Duvall Municipal Code is hereby amended as follows:

3.04.010

A. There is levied upon and shall be collected from the city, a tax equal to ten percent (10%) of the total gross income derived from the furnishing of water by the city for domestic, business and/or industrial consumption through its municipal water system within and without the city.
B. There is levied upon and shall be collected from the City of Duvall, a tax equal to ten percent (10%) of the total gross income derived from the furnishing of sanitary sewer disposal services by the city through its municipal sewerage system within the city.
C. There is levied upon and shall be collected from the City of Duvall, a tax equal to ten percent (10%) of the total gross income derived from the furnishing of stormwater services by the City of Duvall for domestic, business, and/or industrial consumption through its municipal stormwater system within.

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

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication, with the revised rates to go into effect January 1, 2017.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF _____, 2016.

CITY OF DUVALL

_____
Mayor Will Ibershof

Approved as to form:

_____
Rachel Turpin, City Attorney

ATTEST/AUTHENTICATED:

_____
Jodi Wycoff, City Clerk

Passed by the City Council:
Ordinance No.
Date of Publication:

Duvall City Council

AGENDA BILL SUMMARY

Meeting Date: 11/01/16 AB #16-63

Item Type: Introduction: __ Discussion/Staff Direction: _X_ Action Item: _X_

Attorney Review: under review

Subject: **Ordinance – WAVE Division Franchise Agreement Extension**

Budget Impact and Source of Funds: NA

Contact Person/Department: Matthew Morton, Administration

EXECUTIVE SUMMARY:

The City entered in to a Franchise Agreement on March 23, 2006. The Agreement expired on April 2, 2013. WAVE has request an extension of the Agreement that will expire on December 31, 2017. This will allow the City and Wave to complete a new Agreement and so that there are no disruptions in service. WAVE is continuing to work on system improvements during this time.

COUNCIL PROCESS: Ordinances/Resolutions

- Council Discussion under **Unfinished Business**
- Council Decision under **Unfinished Business**

HISTORY:

- City entered into Franchise Agreement with Millennium Digital Media Systems, LLC on March 23, 2006.
- Franchise assigned from Millennium to WAVE by Ordinance 1120 October 27, 2011.
- The Agreement expired April 2, 2013.
- Council discussion under new business at 10/18/16 meeting

RECOMMENDED ACTION:

Adopt Ordinance extending the duration of the cable television franchise held by WAVE DIVISION I, LLC.

ATTACHMENTS:

- Ordinance

CITY OF DUVALL
WASHINGTON
ORDINANCE NO.

AN ORDINANCE EXTENDING THE DURATION OF THE CABLE TELEVISION FRANCHISE HELD BY WAVE DIVISION I, LLC

WHEREAS, pursuant to Ordinance No. 1028, dated March 23, 2006 (the "Franchise") and City Ordinance No. 1120, dated October 27, 2011, WaveDivision I, LLC ("Wave") holds a franchise from the City of Duvall ("City"), granting Wave the authority to own and operate a cable system within the City and to provide cable television and other lawful services on the terms stated therein (the "Franchise"); and

WHEREAS, the Franchise expired on April 2, 2013, the City and Wave have continued to operate under the terms and conditions of the Franchise since then, and are not aware of any defaults on the part of either party under the terms and conditions of the Franchise; and

WHEREAS, the City and Wave have begun renewal negotiations in accordance with Section 626(h) of Title VI of the Communications Act of 1934, as amended, and the parties continue to reserve all rights under Section 626 of Title VI of the Communications Act of 1934, as amended, and do not waive any rights related thereto; and

WHEREAS, the City and Wave believe that it is in their mutual interest, and in the public interest, to extend the term of the Franchise for an additional period of time so that cable service to the public will not be interrupted;

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

1. Extension of the Franchise Term. The term of the Franchise is extended until December 31, 2017.

2. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after publication.

3. No Other Amendments. Except as expressly modified by this Ordinance, all terms, conditions and provisions of the Franchise shall continue in full force and effect as set forth therein.

4. Severability. If any provision of this Ordinance is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable. This Ordinance shall be construed and enforced as if such illegal or otherwise unenforceable provision had never comprised a part hereof. The remaining provisions of this Ordinance shall remain in full force and effect and shall not be affected. Furthermore, in lieu of such illegal, invalid or unenforceable provision there shall be added automatically as part of this Ordinance a legal, valid

and enforceable provision as similar in terms and intent to such illegal, invalid or unenforceable provision as may be legally possible.

5. Notice and Procedural Requirements. The Franchise was made, passed and adopted in accordance with all applicable notice and procedure requirements under all laws applicable to the City, and with all applicable notice and procedure requirements, and do not conflict with the laws of the State of Washington or the laws, ordinances, resolutions and other regulations of the City, as presently in effect or as the same were in effect at the time the particular action was taken.

6. Conflicting Ordinances. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

IN WITNESS WHEREOF, this Ordinance is made, passed and adopted in accordance with the notice and procedure requirements of the laws of the State of Washington governing the activities of cities, and in accordance with the notice and procedure requirements prescribed by the City of Duvall, Washington.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF _____, 2016.

CITY OF DUVALL

Approved as to form:

_____
Mayor Will Ibershof

_____
Rachel Turpin, City Attorney

ATTEST/AUTHENTICATED:

_____
Jodi Wycoff, City Clerk

Passed by the City Council:
Ordinance No.
Date of Publication:

Duvall City Council

AGENDA BILL SUMMARY

Meeting Date: 11/01/16 AB #16-65

Item Type: Introduction: __ Discussion/Staff Direction: _X_ Action Item: _X_

Attorney Review: ___

Subject: **Repeal and Replace Title 10.01.110 "Washington State Energy Code Adopted" and Title 10.12.050 "Application to Plats" of Duvall Municipal Code Chapter 10.**

Budget Impact and Source of Funds: NA

Contact Person/Department: Boyd E. Benson, Public Works Department

EXECUTIVE SUMMARY:

City staff periodically updates Duvall Municipal Code (DMC) Chapter 10 to adopt the most current approved building codes. The 2015 International Building Code (IBC) was formally adopted by the City in June 2016 as required by the Washington State Building Code Act (RCW 19.27). The proposed action is to adopt additional DMC Chapter 10 revisions that include minor clarifications to Energy Code requirements and Clearing and Grading requirements.

COUNCIL PROCESS: Ordinances/Resolutions

- Council Discussion under **Unfinished Business**
- Council Decision under **Unfinished Business**

HISTORY:

- Council discussion under new business at 10/18/16 meeting
- Written report in 10/04/16 Committee of the Whole packet including draft code revisions
- DMC 10.01.020 replaced June 21, 2016 via Ordinance #1196

RECOMMENDED ACTION:

Adopt Ordinance repealing and replacing Title 10.01.110 "Washington State Energy Code Adopted", and Title 10.12.050 "Application to Plats" of the Duvall Municipal Code.

ATTACHMENTS:

- Ordinance
- Strike and delete version of Exhibit A - DMC Chapter 10 Title 10.01.110 and Title 10.12.050.

CITY OF DUVALL
WASHINGTON

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF DUVALL, WASHINGTON, REPEALING AND REPLACING TITLE 10.01.110 "WASHINGTON STATE ENERGY CODE ADOPTED" AND TITLE 10.12.050 "APPLICATION TO PLATS" OF THE DUVALL MUNICIPAL CODE.

WHEREAS, the City of Duvall periodically reviews and updates Title 10, Buildings and Construction, of the Duvall Municipal Code; and

WHEREAS, Building Department Staff have completed a thorough review of Title 10 and have identified minor revisions to Title 10.01.110 "Washington State Energy Code Adopted" and Title 10.12.050 "Application to Plats"; and

WHEREAS, the City Council desires to repeal and replace Title 10.01.110 "Washington State Energy Code Adopted" and Title 10.12.050 "Application to Plats";

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

Section 1. Title 10.01.110 "Washington State Energy Code Adopted" and Title 10.12.050 "Application to Plats" are hereby repealed and replaced with the updated version of Title 10.01.110 and Title 10.12.050, as set forth in the attached Exhibit A.

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

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE _____ DAY OF _____, 2016.

CITY OF DUVALL

_____
Will Ibershof, Mayor

Approved as to form:

_____
Rachel B. Turpin, City Attorney

ATTEST/AUTHENTICATED:

_____
Jodi Wycoff, City Clerk

Passed by the City Council:
Ordinance No.
Date of Publication:

EXHIBIT A

10.01.110 Washington State Energy Code adopted
The most recent edition of the Washington State Energy Code, as adopted by the State Building Code Council in Chapter 51-11R and 51-11C WAC, is adopted.

10.12.050 Application to Plats

This chapter shall apply to clearing and grading in plats and short plats in the city of Duvall. Grading and clearing activities for individual lots in plats and short plats shall be applied for unless the work is completed in conjunction with a building permit for the individual lots and the building permit grading is limited to building foundation area. Clearing and grading in conjunction with plats and short plats shall be subject to such additional restrictions and conditions as may be required by the city in the subdivision process. (Ord. 559, 1990)

EXHIBIT A (with track changes)

10.01.110 Washington State Energy Code adopted
The most recent edition of the Washington State Energy Code, as adopted by the State Building Code Council in Chapter 51-11R and 51-11C WAC, is adopted.

10.12.050 Application to Plats

This chapter shall apply to clearing and grading in plats and short plats in the city of Duvall. Grading and clearing ~~permits~~ activities for individual lots in plats and short plats shall be applied for ~~and issued in~~unless the work is completed in conjunction with a building permit~~s~~ for the individual lots ~~unless otherwise exempted after final plat approval~~and the building permit grading is limited to building foundation area. Clearing and grading in conjunction with plats and short plats shall be subject to such additional restrictions and conditions as may be required by the city in the subdivision process. (Ord. 559, 1990)

Duvall City Council

AGENDA BILL SUMMARY

Meeting Date: 11/01/2016 AB #16-67

Item Type: Introduction: __ Discussion/Staff Direction: _X_ Action Item: _X_

Attorney Review: __

Subject: **Economic Development Partnership Agreement – Port of Seattle**

Budget Impact and Source of Funds: $3,672.50 – General Fund

Contact Person/Department: Matthew Morton, City Administrator/Will Ibershof, Mayor

EXECUTIVE SUMMARY:

The Port of Seattle and the City of Duvall are entering an Economic Development Partnership Agreement. The program will provide economic development grants for economic development purposes. The program requires 50% match and funding is based on a per-capita model. The program grants will allow Duvall to pursue programs and projects that stimulate business development, job creation and community revitalization. The first grant was for a project that is valley wide (wayfinding signage, promotional brochures, consultant to focus on tourism, and staff to update Economic Development Plan – Exhibit A of Agreement). The matching dollars required for the project will come from the general fund.

COUNCIL PROCESS: Contracts/Agreements

- Council Decision under **Unfinished Business**

HISTORY:

- Introduced under Mayor's Report on 7/19/16.
- Discussion during Committee of the Whole meeting 8/02/16 and under new business during 10/18/16 Council meeting.

RECOMMENDED ACTION:

Approve and Authorize the City Administrator to sign an Economic Development Partnership Agreement between City of Duvall and Port of Seattle.

ATTACHMENTS:

- Partnership Agreement with Port of Seattle (contract# S-00318788)

ECONOMIC DEVELOPMENT PARTNERSHIP AGREEMENT
BETWEEN
THE PORT OF SEATTLE AND THE CITY OF DUVALL

This Economic Development Partnership Agreement (the "Agreement") is made and entered into as of November ____, 2016, by and between the Port of Seattle (the "Port") and the City of Duvall (the "City"), both municipal corporations of the State of Washington (each, a "Party" or, collectively, the "Parties").

RECITALS

WHEREAS, engaging in the promotion of economic development is a recognized Port purpose authorized under RCW 53.08.245; and

WHEREAS, RCW 35.21.703 similarly authorizes cities to engage in economic development programs; and

WHEREAS, RCW 53.08.240(2) permits the Port to contract with another municipality to perform such undertakings each is authorized to perform; and

WHEREAS, the Port Commission of the Port of Seattle established the Economic Development Partnership Program (the "Program"), to advance the Port's Century Agenda, promote a dramatic growth agenda, support the creation of middle class jobs and help address the lack of economic development funding for local projects; and

WHEREAS, grant funding across the region is very limited for cities that want to pursue economic development projects or initiatives, and cities in the State of Washington have very limited economic development tools; and

WHEREAS, the Program will provide 38 King County cities per capita funding to advance local economic development throughout the region, and requires a 50% local match by the cities that receive the grants; and

WHEREAS, the Program will help the Port advance regional economic vitality through focused partnerships with King County cities; and

WHEREAS, the Program will make grants to cities that pursue programs and projects that stimulate business development, job creation and community revitalization, such as small business development, industry retention and expansion, and other economic development projects that support new investment and job creation;

NOW, THEREFORE, the Parties agree as follows:

1. Purpose. The purpose of this Agreement is to establish a contractual arrangement under which the Port will contribute Program funds to the City in the amount set forth on Section 2, solely for the purpose of assisting the City in carrying out the local initiative and deliverables described in Exhibit A, attached and incorporated hereto by this reference (the "Project"). This Agreement shall be interpreted in furtherance of this purpose.

2. Responsibilities of the Port. The Port shall contribute Seven Thousand Three Hundred Forty-Five and No/100 Dollars ($7,345.00) (the "Grant Fund Amount") to assist the City in funding the Project. The Port shall disburse the Grant Fund Amount to the City on a monthly basis and no later than 30 days after receipt of an invoice detailing those Project deliverables completed in accordance with Exhibit A. Subject to the requirements of this Section and of Section 18 (where applicable), the Port shall make the final payment of the Grant Fund Amount to the City by no later than June 30, 2017, or upon the Port's receipt of the final report, whichever occurs later.

3. Responsibilities of the City.

3.1 The City shall contribute Three Thousand Six Hundred Seventy-Two Dollars and Fifty Cents ($3,672.50) towards the Project, an amount that is equivalent to at least fifty percent (50%) of the Grant Fund Amount (the "City Match").

3.2 The City may contract with local non-profits to complete the Project or elements of the Project; *provided*, that the Port shall not, under any circumstance, disburse the Grant Fund Amount to any of the City's contractors or subcontractors.

3.3 The City shall complete the Project deliverables set forth in Exhibit A by no later than May 31, 2017.

4. Term. This Agreement shall be become effective as of the date first set forth above, and shall terminate on May 31, 2017, unless earlier terminated under another provision of this Agreement.

5. Termination for Convenience. Either party may terminate this Agreement at any time for any reason, by giving the other party thirty (30) days' written notice. In the event the Port terminates this Agreement and the City has completed any portion of the Project by the time it receives the Port's notice of termination, the Port shall pay the City a percentage of the Grant Fund Amount that is proportional to the City's completed portion of the Project.

6. Termination for Default. Except in the case of delay or failure resulting from circumstances beyond the control and without the fault or negligence of the City, the Port shall be entitled, by written or oral notice to the City, to terminate Agreement for breach of any of the terms and to have all other rights against the City by reason of the City's breach as provided by law.

7. Waiver. Failure at any time of either Party to enforce any provision of this Agreement shall not constitute a waiver of such provision or prejudice the right of either Party to enforce such provision at any subsequent time. No term or condition of this Agreement shall be held to be waived, modified or deleted except by a written amendment signed by the Parties

8. Partial Invalidity. If any provision of this Agreement is or becomes void or unenforceable by force or operation of law, all other provisions hereof shall remain valid and enforceable.

9. Indemnification and Hold Harmless Agreement. The City shall defend, indemnify, and hold harmless the Port, its Commissioners, officers, employees, and agents (hereafter, collectively, the "Port") from all liability, claims, damages, losses, and expenses (including, but not limited to attorneys' and consultants' fees and other expenses of litigation or arbitration) arising out of or related to the fulfillment of this Agreement; *provided,* however, if and to the extent that this Agreement is construed to be relative to the construction, alteration, repair, addition to, subtraction from, improvement to, or maintenance of, any building, highway, road, railroad, excavation, or other structure, project, development, or improvement attached to real estate, including moving or demolition in connection therewith, and therefore subject to Section 4.24.115 of the Revised Code of Washington, it is agreed that where such liability, claim, damage, loss or expense arises from the concurrent negligence of (i) the Port, and (ii) the City, its agents, or its employees, it is expressly agreed that the City's obligations of indemnity under this paragraph shall be effective only to the extent of the City's negligence. Such obligations shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any person or entity described in this paragraph. This paragraph shall not be construed so as to require the City to defend, indemnify, or hold harmless the Port from such claims, damages, losses or expenses caused by or resulting from the sole negligence of the Port.

In any and all claims against the Port, by any employee of the City, its agent, anyone directly or indirectly employed by either of them, or anyone for whose acts any of them may be liable, the indemnification obligation of this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation benefits payable by or for the City, or other person

under applicable industrial insurance laws (including, but not limited to Title 51 of the Revised Code of Washington), it being clearly agreed and understood by the Parties hereto that the City expressly waives any immunity the City might have had under such laws. By executing this Agreement, the City acknowledges that the foregoing waiver has been mutually negotiated by the parties.

The City shall pay all attorneys' fees and expenses incurred by the Port in establishing and enforcing the Port's right under this paragraph, whether or not suit was instituted.

10. Comply with All Laws. The Parties shall at all times comply with all federal, state and local laws, ordinances and regulations, including but not limited to all environmental laws, which in any manner apply to the performance of this Agreement.

11. Integration. This Agreement, together with the attached Exhibit A, constitutes the entire agreement between the Parties and unless modified in writing by an amendment executed by the Parties, shall be implemented only as described herein.

12. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Washington. Any action arising out of this Agreement shall be brought in King County.

13. No Employment Relationship Created. The Parties agree that nothing in this Agreement shall be construed to create an employment relationship between the City and the Port.

14. No Entity Created. The Parties agree that nothing in this Agreement shall be construed to create a joint entity between the City and the Port.

15. Notices. Notices to the Port shall be sent to the following address:

Port of Seattle
Economic Development Division
P. O. Box 1209
Seattle, WA 98121

Notices to the City shall be sent to the following address:

City of Duvall
City Administrator
PO Box 1300
Duvall, WA 98019

16. Audits and Retention of Records. The City shall retain and make all books, records and documents (the "Records") relating to the performance of this Agreement open to inspection or audit by representatives of the Port or Washington State during the term of this Agreement and for a period of not less than six (6) years after termination of the Agreement; *provided*, that if any litigation, claim or audit arising out of, in connection with or related to this Agreement is initiated, the City shall retain such Records until the later of (a) resolution or completion of litigation, claim or audit; or (b) six (6) years after the termination of this Agreement.

17. Amendment. This Agreement may only be amended by written agreement of the Parties.

18. Dispute Resolution. The signatories below or their authorized delegates shall use good faith efforts to cooperatively resolve disputes that arise in connection with this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this agreement as of the date first set forth above.

PORT OF SEATTLE	**CITY OF DUVALL**
By: Tim Jayne Sr. Manager, Purchasing	By: Matthew Morton City Administrator
Signature	*Signature*
Dated	*Dated*

EXHIBIT A

SCOPE OF WORK/SPECIFIC REQUIREMENTS

1. **Scope of Work**:

   a. Update the Economic Development Vision creating a new guiding vision for economic development to specifically implement Adopted Goal V to:
      i. Use visitor maps, directories and signage to identify points of interest for the purpose of increasing tourism locally, regionally and internationally.
      ii. Actively promote the City's natural, cultural, artistic and agricultural assets as a linkage to tourism.
      iii. Promote usage of the City's trails as recreational tourism assets.
      iv. Recruit overnight lodging options to increase visitor stays and increase dollars per individual spent in the Snoqualmie Valley.
      v. Collaborate with other Valley Cities to boost the sub-region's tourism draw through unified marketing, signage, and other activities such as, our current collaboration on the "Savour Snoqualmie Valley" initiative.

   b. Update Economic Development Strategy with Outcomes and Objectives:
      i. Aligns with the Port's stated strategic objective of "Advancing this region as a leading tourism destination and business gateway" by:
         a) Contributing to a cohesive regional branding and tourism effort.
         b) Increasing job and business opportunities for local communities in trade and travel.
         c) Sharing in the vision of creating 100,000 jobs.

   c. Partner with Regional Efforts (Savour Snoqualmie Valley) to maximize investment and success:
      i. Coordinate local and regional tourism efforts to maximize efficiency and synergize investment.
      ii. Work with/through organizations who have secured regional partnerships.
      iii. Shared investment in the Mountain to Sound Greenway Trust "Savour Snoqualmie Valley" business plan.

d. The City will submit a written report to the Port within 45 days of completion of the Scope of Work but no later than, May 31, 2017, a final report shall be submitted to the Port.

e. Port may request periodic project updates from the City.

2. <u>Definition and restatement of how funds are to be used</u>.

Category:	Port of Seattle Funds:	Matching Funds:	Total Funds:
Wayfinding Signage – Snoqualmie Valley Trail			
Promotional – Marketing Brochures i.e. Local First and Locals Guide 2017			
Consultant – Tourism focused economic development			
Professional staff – Update Economic Development Strategic Action Plan relative to Port			
TOTAL FUNDS	$7,345	$3,672.50	$11,017.50

Any funds obtained from the Port for economic development and tourism activities are to be used specifically for projects that create jobs, foster business growth, and support the Port's business interests, advertising, promotion, marketing, or attendance at travel trade shows that have the potential to generate incremental visitor expenditures and/or increase visitors to the City of Duvall and the surrounding area.

2. <u>Access and Process for obtaining funds</u>.

The Port may authorize reimbursement of eligible expenses upon approval by the Port and documentation from the City providing information on expenses and required match. Port may require appropriate documentation to validate participation in the activity, advertising placement, or a specific project that will be initiated.

3. <u>Port Approval and Recognition</u>:

a. All projects must utilize and identify the Port as a partner or sponsor. Prior to implementation, Port requires a review of the

proposed placement of the Port logo on advertising, promotion materials, booth displays, online, digital or printed materials.

b. Prior to specific advertising execution or implementation, the Port will review and approve the advertising placement and schedule.

4. **The Agreement and Final Report**:

TASK	DESCRIPTION	SCHEDULE
Task 1	Execute Agreement	No later than September 30, 2016
Task 2	Execution of Agreement by Port	No later than September 30, 2016
Task 3	Provide an Invoice for the total amount remaining due from the Port	No later than May 31 2017
Task 4	Final Report and Accounting: 1. Provide a detailed report on updated Economic Development Strategic Action Plan and implementation of Goal V and alignment with the Port strategic objectives. 2. Provide copies of the Economic Development Strategic Action Plan. 3. Partnership and regional efforts through Savour Snoqualmie Valley. 4. Provide a copy of brochures, marketing materials and pictures of wayfinding signage. 5. Provide a detailed accounting of the monies spent, including 50% matching funds.	No later than: May 31, 2017

5. **Miscellaneous**:

No Port funds can be used to underwrite general or capital expenses associated with an event or program already in progress.

End of Exhibit A - Scope of Work/Specific Requirements