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ORDINANCE NO. 96-1001

AN ORDINANCE of the City Council of the City of SeaTac, Washington, relating to employment and employees and amending the Pay and Compensation Plan of the City for non-represented employees

WHEREAS, the City Council of the City of SeaTac, Washington, has previously enacted Ordinance No. 90-1037 and various amendments thereto, establishing personnel polices and procedures and adopting a pay and compensation plan for City employees; and,

WHEREAS, the City Council of the City of SeaTac, Washington has previously enacted Ordinance No. 94-1015 and various amendments thereto establishing a salary pay plan; and,

WHEREAS, in order to address the need for a reasonable and fair compensation to City employees, and to provide a reasonable cost of living allowance, it is appropriate that modification of the pay and compensation plan be made, consistent with the City Council's intention to provide equitable compensation to non-represented employees of the City and to other employees of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN as a non-codified Ordinance, as follows:

1. SALARY RANGES: The salary ranges for the various positions of the non-represented employees of the City shall be increased by the amount of 2.88 percent over the current level to reflect the COLA for 1996, effective January 1, 1996, with the salaries of employees in those positions being likewise increased by the same percentage to the extent that such increase does not exceed the maximum amount for the employee's salary range, and with employees whose salary is or would exceed the maximum amount for the employee's salary range, the salaries of such employees shall be increased over the 1995 level by the amount of 2.22 percent, effective January 1, 1996.

2. That the provisions of Ordinance No. 94-1015 and Ordinance No. 95-1008 and the pay and compensation Ordinances of the City shall remain in full force and effect except as inconsistent herewith.

3. That this Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary as required by law.

ADOPTED this 9th day of January, 1996, and signed in authentication thereof on

this 9th day of January, 1996.

CITY OF SEATAC

_____

Joe Brennan, Mayor

ATTEST:

_____

Judith L. Cary, City Clerk

Approved as to Form:

_____

Mary E. Mirante, Acting City Attorney

ORDINANCE NO. 96-1002

AN ORDINANCE of the City Council of the City of SeaTac, Washington amending Sections 15.13.080 and 15.13.110B.1.d. of the SeaTac Municipal; Code.

WHEREAS, since the adoption of the initial zoning code of the City, through Ordinance No. 92-1041, a city-wide Comprehensive Plan has been adopted, and further zoning issues within the City have been identified; and

WHEREAS, in order to better meet the needs of the City and to provide a zoning code that is responsive to those needs, the zoning code is subject to periodic review and amendment; and

WHEREAS, in connection with review of the zoning code, certain standards have been identified as needing definition and greater clarity; and

WHEREAS, the Planning Commission of the City of SeaTac has completed a review of the identified needs, and has held public hearings for the purpose of soliciting public comment regarding zoning code changes, and the Planning Commission has recommended certain amendments to the City Council;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN as follows:

1. That Section 15.13.080 of the SeaTac Municipal Code be, and the same hereby is, amended to read as follows:

Projections may extend into the required setbacks as follows:

A. Fireplace structures (including flues and exhaust projections), bay or garden windows, enclosed stair landings, and closets ~~or similar~~ may project into any setback, provided such projections ~~are~~:

1. Are ~~L~~limited to two (2) per facade;

2. Are ~~N~~not wider than ten (10) feet; and

3. Project no more than twenty-four (24) inches, inclusive of rain gutters, into any yard setback.

B-C. [No change]

D. Eaves, including rain gutters and down spouts, may not project more than:

1. Eighteen (18) inches into an interior side yard setback; or

2. Twenty-four (24) inches into a front/rear yard setback;

Structures that do not have rain gutters and are currently legal nonconforming in regard to the building setback from the property line may be remodeled to provide rain gutters that extend beyond the maximum projection of an eave into the side, front and rear setback area (See Figure 15.13.080a), providing that, under no circumstances, will the edge of the existing roof line be extended further into any yard setback.

E. [No change]

2. That Section 15.13.110B.1.d. of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

d. Exceptions to the maximum building setback shall be granted for:

i. Auto sales/rentals and other outdoor sales;

ii. Car washes;

iii. Communication Facilities;

iv. Utility substations;

v. Auto Service Stations; and

~~ii.~~ vi. Site designs, approved by the City Manager or designee,

that are intended to enhance pedestrian convenience and activity.

3. This Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this 23rd day of January, 1996, and signed in authentication thereof on this 23rd day of January, 1996.

CITY OF SEATAC

_____

Don DeHan, Mayor

ATTEST:

_____

Judith L. Cary, City Clerk

Approved as to Form:

_____

Robert L. McAdams, Acting

City Attorney

ORDINANCE NO. 96-1003

AN ORDINANCE of the City Council of the City SeaTac, Washington, granting TCI of Seattle, Inc., its successors and assigns, a non-exclusive franchise to operate a cablevision system in the City, setting forth conditions therefore

WHEREAS, the City is authorized to grant one or more non-exclusive revocable franchises to construct, maintain and operate a cable television system within the City, and to renew the same; and,

WHEREAS, pursuant to and in accordance with the provisions of the Federal Cable Communications Policy Act, P.L. 98-549, as amended by the Cable Television Consumer Protection Act, P.L. 102-385, TCI of Seattle, Inc., hereinafter referred to as the "Grantee", has requested a franchise to operate a cable television service within the City and after evaluation of the application received from the Grantee, the City has determined that it is in the best interest of the City and its residents to grant a franchise renewal to the Grantee; and,

WHEREAS, the City has, following required and reasonable notice, conducted a full public hearing, affording all persons reasonable opportunity to be heard, which proceeding was concerned with the analysis and consideration of the technical ability, financial condition, legal qualifications and general character of the Grantee; and,

WHEREAS, the City has also considered and analyzed the plans of the Grantee for the operation of a cable television system and found the same to be adequate and feasible in view of the needs and requirements of the City; and,

WHEREAS, the City has determined that it is in the best interests of and consistent with the health, safety and welfare of the citizens of the City to grant a cable television franchise to the Grantee to operate a cable television system within the confines of the City and on the terms and conditions hereinafter set forth; and,

WHEREAS, the Grantee has agreed to be bound by the conditions hereinafter set forth.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON, DO ORDAIN that in consideration of the granting of a non-exclusive franchise pursuant hereto, the Grantee, TCI of Seattle, Inc., hereby promises to comply with the provisions of this franchise. In consideration of the Grantee's promises, the City hereby grants to Grantee, a franchise as follows:

SECTION 1: TITLE

This Franchise may be referred to as the "TCI of Seattle, Inc., - City of SeaTac Cable Communications Franchise".

SECTION 2: DEFINITIONS

For the purpose of this Franchise Ordinance, the following terms, phrases, words, and their derivations shall have the meanings given herein. When not inconsistent with the context, words used in the present tense include the future words in the plural number include the singular number, and words in the singular number include the plural number. The word "shall" is mandatory and the word "may" is permissive. Words not defined shall be given their common and ordinary meanings.

"Access channel" shall mean any channel set aside for public use, educational use, or governmental use.

"Basic cable service" shall mean the service tier which includes the re-transmission of local television broadcast signals and any community access channels carrying public educational or governmental programming.

"Cable Act" collectively means the Cable Communications Policy Act of 1984 (P.L. 98-549) and the Cable Television Consumer Protection Act of 1992 (P.L. 102-385), as may be amended.

"Cable service" shall mean the one-way transmission to subscribers of video programming, or other programming services and subscriber interaction, if any, which is required for the selection of such video programming or other programming services.

"Cable communications system" or "cable system" or "cable television system" shall mean a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video and/or audio programming and which is provided to multiple subscribers within a community, but which term shall not include (1) a facility or combination of facilities that serves only to retransmit the television signals of one or more television broadcast stations; (2) a facility or combination of facilities that serves only subscribers in one or more multiple unit dwellings under the common ownership, control or management, unless such facility or facilities use any public right-or-way; (3) a facility of common carrier which is subject, in whole or in part, to the provisions of Title II of the Communications Act of 1934, as amended, except that such facility shall be considered a cable system other than for the purposes of Section 621(C)of the Act, to the extent such facility is used in the transmission of video programming directly to the subscribers; or (4) any facilities of any electric utility used solely for operating its electric utility system.

"City" is the City of SeaTac, Washington.

"Connection" shall mean the attachment of the service drop from the distribution line to the radio or television set or other communications device of the subscriber.

"Council" or "City Council" shall mean the governing body of the City of SeaTac, Washington.

"Easement" shall mean a right of one person or entity to use property owned by another person or entity, regardless of whether the property is privately owned or publicly owned, or is a public rights-of-way. Such easements shall include public utility easements, as well as "exclusive" and "non-exclusive" easements.

"Franchise" shall mean the non-exclusive right and authority to construct, maintain, and operate a cable communications system through use of the public streets, dedications, public utility easements, other public rights-of-way, or public places in the City pursuant to a contractual agreement executed by the city and a franchisee.

"Franchisee" or "Grantee" refers to an entity authorized to construct and/or operate a cable communications system within the City pursuant to this Chapter, including any lawful successor, transferee or assignee of the original grantee. It is provided, however, that lessees of facilities of the Grantee shall be obligated to obtain the appropriate license, permit, certification or franchise from the City or from the governmental entity having jurisdiction to regulate such uses of the Grantee's facilities within the franchise area, independent from and in addition to this Franchise.

"Gross revenues" shall mean all operating revenue actually received by Grantee from the cable television system derived directly or indirectly by a franchisee, its affiliates, subsidiaries, parent, and any person in which the franchisee has a financial interest in association with the provisions of cable television services within the City, including, but not limited to, basic service monthly fees, premium service fees, institutional service fees, installation and re-connection fees, leased channel fees, converter rentals, studio rental, production equipment and personnel fees, advertising revenues, copyright fees received where Grantee is the copyright holder; provided, however, that gross revenues shall not include any taxes on services furnished by the franchisee payable to the State of Washington or any other governmental unit and collected by the franchisee on behalf of said governmental unit, nor any revenues from the provisions of cable television services outside of the City, nor any revenues from sale of capital assets or lease of property for purposes unrelated to cable television, nor any amounts received in the nature of refundable security deposits, nor bad debts. For the purposes hereof, gross revenue shall include only the amount of lease payment revenue received by the Grantee from lessees of the Grantee's facilities in the franchise area.

"Installation" shall mean the connection of the system at the subscriber's premises.

"Local office" shall mean the office facility of the Grantee which is in closest proximity to the City of SeaTac.

"Person" shall mean an individual or legal entity, such as a corporation or partnership.

"Premium entertainment service" shall mean pay television offered on a per channel or per program basis.

"Rate Regulation" shall mean the authority and/or actions to control, determine and set the rates, charges, costs and fees to be paid by customers and subscribers of the services offered and provided by, and available from the Grantee in connection herewith, to the extent provided by law.

"Service drop" shall mean the cable that connects a subscriber's premises to the nearest feeder line of the cable communications system.

"Street" or "public way" shall mean the surface of and the space above and below any public street, road, highway, path, sidewalk, alley, court, or easement now or hereafter held by the City for the purpose of public travel or public utilities and shall include public easements or rights-of-way.

"Subscriber" shall mean a lawful recipient of cable television

service or other services provided over a cable television system.

SECTION 3; GRANT OF AUTHORITY

A. There is hereby granted by the City, insofar as it has the power to do so, to the Grantee, for a period of time identified as the term of this franchise, in Section 10 hereof, the non-exclusive right, privilege and franchise to have, acquire, construct, reconstruct, use, operate, own and maintain a cable system for the entire area of the City, subject to applicable law, to the terms and provisions of the ordinance, and to the conditions and restrictions as hereinafter provided. No privilege or power to eminent domain is bestowed by this grant of authority.

B. For purposes of this franchise, the designation "Grantee" shall be deemed to refer to TCI of Seattle, Inc., its parent companies, subsidiaries and affiliates or any transferee or successor in interest of the Grantee, Provided that the requirements of Section 16, Transfer of Ownership or Control, has been met.

C. The City hereby grants to Grantee the authority to use the City's public streets, sidewalks, easements and other rights-of-way for the purposes of this franchise.

SECTION 4: AUTHORITY NOT EXCLUSIVE

The grant of authority for use of the City's public streets, sidewalks, easements and other rights-of-way as conferred in Section 3 hereof, is not exclusive and does not establish priority for use over other franchise holders, permit holders and the City's own use of public property. Additionally, the Grantee shall respect the rights and property of the City and other authorized users of public streets, sidewalks, easements and rights-of-way.

Disputes between the Grantee and other parties over the use, pursuant to this agreement, of the public streets, sidewalks, easements and other rights-of-way shall be submitted to the City for resolution.

The Grantee shall comply with the following conditions with respect to use of city streets and facilities:

A. All transmission and distribution structures, lines, and equipment erected by the Grantee within the franchise area shall be so located as to cause minimum interference with the proper use of streets, and other public ways and places, and to cause minimum interference with the rights and reasonable convenience of property owners who join any of the said streets or public ways and places. The cable system shall be constructed and operated in compliance with all city, state and national construction and electrical codes and shall be kept current with new codes, as required by such codes.

The Grantee shall install and maintain its wires, cables, fixtures and other equipment in such a manner that they will not interfere with any installations of the City or of a public utility serving the City.

B. In case of disturbance of any street, public way, or paved area, the Grantee shall, at its own cost and expense and in a manner approved by the City, replace and restore the disturbed area of such street, public way or paved area in as good a condition as before the work involving such disturbance was done. If the Grantee does patch or replace a portion of pavement in a City street, and that patch or replacement of pavement breaks down, chips away or otherwise needs to be re-patched or replaced again, the Grantee shall, at its own cost and expense and in a manner approved by the City provide for the patch or replacement of pavement, notwithstanding the length of time since the initial patch or replacement was made, Provided that the responsibility to re-patch, repair or replace the pavement shall not extend beyond the time that the City takes action to over-lay, re-pave or otherwise re-surface the patched portion or section of roadway.

C. If at any time during the period of Franchise the City shall elect to alter or change the grade of any street, sidewalk, alley or other public way, or make any other change of the public way, the Grantee, upon reasonable notice by the City, shall remove, relay, and relocate its poles, wires, cables, underground conduits, manholes, and other fixtures at the Grantee's expense.

D. Any poles or other fixtures placed in any public way by

the Grantee shall be placed in such manner as not to interfere with the usual travel on such public way.

E. The Grantee shall have the authority to trim trees or vegetation upon and overhanging streets and public ways and places of the franchise area so as to prevent the branches of such trees or vegetation from coming in contact with the wires and cables of the Grantee, Provided that the Grantee shall obtain prior approval from the City, and provided that the work is done in accordance with the approved plan. It further is provided, however, that where the Grantee needs to make emergency repairs to the Grantee's system and/or to restore service to Grantee's customers, if Grantee needs to trim any trees or vegetation in order to make such repairs or to restore service, the Grantee shall be deemed to have received approval from the City, so long as the trimming of trees or vegetation is done in accordance with City Ordinance and only to the extent necessary to complete the emergency repairs or service restoration.

F. In all sections of the franchise area where the cables, wires, or other like facilities of public utilities are placed underground, the Grantee shall place its cables, wires or other like facilities underground to the maximum extent that existing technology reasonably permits the Grantee to do so. In such instances and at such times as other public utilities are converting their utility service lines from above ground to underground services, the Grantee shall coordinate underground conversion with the other utilities so that all of the public utility lines would be underground where utility lines are placed underground. In this regard, the Grantee shall comply with the requirements of any ordinance of the City for undergrounding of utilities.

G. Subject to any applicable state or federal regulations, tariffs or then existing construction codes, the City shall have the right to make additional use, for any public or municipal purposes, of any poles or conduits controlled or maintained exclusively by or for Grantee in any street, Provided such use by City does not interfere with the use by Grantee, and Provided that such rights to use the Grantee's facilities by the City shall be subordinate to the rights of the Grantee, to the effect that if the Grantee needs to expand its use of such facilities after the City has made use of such facilities, and the City and the Grantee cannot both use the facilities without interfering with the Grantee's use of such facilities, the City shall terminate or suspend its use of such facilities, and further provided that the City's use of such poles, conduits or facilities shall be in accordance with the standards of the Grantee, and the installation of City lines or facilities shall be at the City's expense.

H. The Grantee shall at all times employ ordinary care and shall install and maintain in use commonly accepted methods and devices for preventing failures and accidents which are likely to cause damage, injuries, or nuisances to the public.

I. The Grantee shall make no improvements or place any permanent fixtures in any Airport Clear Zone areas of the City.

SECTION 5: FRANCHISE REQUIRED

No cable operator shall be allowed to occupy or use the public streets or right-of-ways of the City, or be allowed to operate a cable communications system without a franchise granted pursuant to agreement with the City.

SECTION 6: PREVIOUS RIGHTS ABANDONED

Except as specifically provided by state or federal law, this Franchise is in lieu of any and all other rights, privileges, powers, immunities, and authorities owned, possessed, controlled, or exercisable by Grantee or any successor pertaining to the construction, operation, modification or maintenance of a cable system in the City. The acceptance of this Franchise shall operate, as between the Grantee and the City, as an abandonment of any and all such rights, privileges, powers, immunities, and authorities within the City. In addition, upon the effective date of this franchise, all rights and obligations of Grantee, or its predecessors, under or by virtue of prior franchises or agreements, shall terminate. All construction, operation, modification, and maintenance by the Grantee of any cable system in the City shall be under this Franchise and not under any other right, privilege, power, immunity, or authority.

SECTION 7: ACCEPTANCE OF AGREEMENT

As a condition of this franchise, both the City and the Grantee agree to be bound by all the lawful terms and conditions contained herein and as evidenced by filing with the City an acceptance of this franchise. In consideration for the grant of the franchise, under which Grantee will receive substantive benefits, Grantee covenants that it will not, at any time, proceed against the City in any claim or proceeding challenging any lawful term or provision of the Franchise as unreasonable or arbitrary or argue that the City did not have the authority to impose such terms or conditions; and hereby agrees and acknowledges that such Franchise is in accordance with P.L. 98-549 and P.L. 102-385; and releases and discharges the City from liability based upon any claim that such Franchise is unlawful or unenforceable, unless a subsequent change in the law specifically prohibits or prevents the City from imposing or enforcing such previously enacted terms, provisions or conditions, in which case such challenge shall be limited to only those terms, provisions or conditions that the City is prohibited from enforcing.

Grantee acknowledges and accepts the right of the City to issue a franchise and Grantee agrees it shall not now nor at any time hereafter challenge this right in any way or in any state or federal court, or in any other forum.

The regulations adopted by or pursuant to this Franchise shall be interpreted and applied so as to be consistent with any applicable federal or state law or regulation now or hereafter in effect to the extent that such federal or state law or regulation is preemptive of local laws and regulations, in which case any conflict between this Franchise or any regulations adopted by or pursuant hereto and any such federal or state law or regulation, the federal or state law or regulation shall prevail.

It is provided, however, that nothing in this Franchise shall prohibit the Grantee from approaching the City Council of the City at a Regular Council Meeting regarding the franchise.

SECTION 8: CITY REGULATIONS

A. Every cable communications system for which a franchise is required by City ordinance shall be constructed, operated, and maintained in accordance with regulations now, or hereafter adopted by the city, as well as the provisions of any city law or regulation of general application now or hereafter in effect, including, but not limited to any such city law or regulation requiring the issuance of a permit and payment of a permit fee incident to the performance of work within a public street or right-of-way, provided that in the event of a conflict between a regulation adopted by or pursuant to this Franchise and the provisions of any City law or regulation of general application, the regulations adopted by or pursuant to this Franchise shall prevail as to their application to this Grantee. However, the provisions of this section

shall not be construed to accord to the city any right to adopt any law or regulation which results in the unconstitutional impairment of any right of Grantee granted pursuant hereto.

B. The Grantee agrees that at such time as the City determines, through its Public Works Department, that because of construction, installation or other works or improvements by the Grantee, or by other utilities or by the City, it is appropriate for the Grantee to convert its overhead utility lines to underground lines or service in conjunction with such conversion by other utilities in the area, or independently if no other overhead utilities are in the vicinity, the Grantee shall convert its overhead utility lines to underground service at its own expense and in accordance with the schedule for conversion as reasonably determined by the City.

SECTION 9: SYSTEM CONSTRUCTION AND EXTENSION OF SERVICE

A. The cable system as presently constructed is hereby approved as to the extent of the franchise area. The Grantee is hereby authorized to extend the trunk and distribution system as necessary within the franchise area.

OVERHEAD

Grantee, whenever it shall receive a request for service from at least eight (8) potential subscribers within a distance equal to the total of two hundred (200) cable feet of its trunk cable per each such potential subscriber, shall extend its system to such subscribers at no cost to the subscribers for system extension, other than the usual connection fees for all subscribers. The sixteen hundred (1,600) feet shall be measured in extension length of Grantee's cable required for service located within the public right-of-way or easement and shall not include length of a normal 150 foot service drop to the subscriber's home or premises.

UNDERGROUND

In the event a request is made for service by a resident(s) living in an area served exclusively by underground utility service, and there are not sufficient prospective customers to meet Grantees capital investment pay back model the Grantee may enter into a contractual agreement with the resident(s) requesting service wherein the Grantee shall be reimbursed for its construction costs. The Grantee shall contribute as a credit to the project costs an amount equal to the value of constructing a new overhead distribution line to serve the residences. Whenever any subsequent subscriber who did not contribute to the original costs of the extension connects to the extended distribution service line, that subscriber shall pay his/her pro rata share directly to the Grantee prior to obtaining cable service. The Grantee shall then promptly tender such payment to the original subscribers so long as they continue to live in their original residence, remain a cable subscriber and/or the original costs are fully reimbursed.

Reimbursement shall be calculated on a front foot basis as a percentage of the total cost of the service line extension. It is provided, however, that reimbursement by later subscribing customers shall only be required during the first ten (10) years following completion of the service line extension to which the customer would connect.

If the prospective subscribers agree to pay the difference between the total costs of construction, minus the Grantee's contribution, as determined herein, the Grantee shall extend its service line accordingly, provided, however, that fifty percent (50%) of the subscribers' share shall be paid at the time construction is to begin and fifty percent (50%) of the subscribers' share shall be paid when construction is completed.

Adjustments may be made with respect to the respective shares of the Grantee and the subscriber, if additional prospective subscribers request service, however, no adjustments will be made after construction begins. Thereafter, latecomers subscribing during the next three (3) years, will pay back to the initial subscribers, in addition to the normal installation and hook-up costs, a sum reasonably intended to represent the additional construction costs involved in the extension, which payments back to the subscribers shall be pursuant to latecomers agreements negotiated by and between the City, the Grantee and the initial subscribers.

No person, firm or corporation in the Grantee's franchise area shall be arbitrarily refused service.

If the formula for providing service to lower density areas does not make cable service reasonably available to additional subscribers, based upon particular circumstances, the Grantee shall try to work with such prospective subscribers to arrive at a solution or formula, satisfactory to both Grantee and subscribers, which would allow for extension of utility services to such subscribers.

In the event that additional territory is incorporated within the city limits of the City, by annexation or otherwise, Grantee's rights and duties under this Franchise shall be deemed to include such additional territory.

The Grantee shall develop plans and strategies to make cable television services available to all residents within the City, and the Grantee shall update those plans and strategies not less than once every two years. The Grantee shall provide those plans and strategies to the City, together with progress reports to reflect the levels of service availability. The Grantee agrees that it shall make available to and offer full cable service to any person or institution which resides or is located within the limits of the City of SeaTac, within six months of the date of this Franchise except as otherwise provided herein.

B. Whenever feasible Grantee will notify the Director of Public Works of the City of impending construction at least thirty (30) days prior to the commencement of such construction. Any obstruction, opening, or disturbance of any street, sidewalk, driveway, public way or other public place shall be properly guarded by adequate barriers, lights, signals and warnings to prevent danger to any person or vehicle. Grantee shall, at its own cost and expense, restore and replace any other property disturbed, damaged or in any way injured by or on account of its activities to as good condition of such property as it was in immediately prior to the disturbance, damage, or injury, which restoration or replacement shall be accomplished within ten (10) days following written demand by the city, unless a sooner period of time is required by the exigency of the circumstances involved with such disturbance, damage or injury. If the work is not done within the time required, the City shall be entitled to perform the necessary work, and shall be reimbursed for its expenses by the Grantee.

C. The Grantee shall, at its own cost and expense, protect, support, temporarily disconnect, relocate in the same street or other public place, or remove from said street or other public place, any of its property when requested to do so by the City because of the following: Street or other public excavation, construction, repair, change of street grade, regrading or grading; traffic conditions; installation of sewers, drains or water pipes; City-owned power or signal lines; tracks; vacation or relocation of streets or any other type of structure or improvement of a public agency, or any other type of improvement necessary for the public health, safety or welfare. The Grantee shall obtain appropriate permits for any such work, and shall comply with all federal, state and local rules, regulations and requirements in the performance of such work.

D. The Grantee shall maintain all wires, conduits, cables, and other real and personal property and facilities in a safe, suitable condition, and in good order and repair.

E. The Grantee shall keep accurate, complete and current maps and records of its distribution system and facilities at its local office. Such maps and records shall be available for inspection by officials of the City during normal business hours at the local office of the Grantee, with copies of such maps, records and updates being provided by the Grantee to the City upon request. The maps and records shall designate overhead lines, underground lines, and any other component of the Franchisee's system, whether leased or owned. If the Grantee's mapping system is available in a Computer Assisted Drawing (CAD) format, such CAD files and updates shall be provided to the City.

F. All cables and wires or other work shall be installed parallel with existing telephone and electric utility wires wherever possible.

G. Multiple configurations shall be in parallel arrangement and bundled in accordance with engineering and safety considerations.

H. The Grantee shall, on the request of any person holding a building moving permit issued by the city, temporarily raise or lower its wires to permit the moving of buildings. The expense of such temporary removal or raising or lowering of wires shall be paid by the person requesting the same, and the Grantee shall have the authority to require such payment, in advance. The Grantee shall be given not less than forty-eight (48) hours advance notice to arrange for such temporary wire changes. Any interruption in service occasioned by moving buildings shall be done, as far as is practicable, outside of prime time (i.e., 7:00 p.m. to 11:00 p.m. local time).

I. The Grantee shall also comply with the requirements of the City and its Public Works Department, as per its municipal codes, and/or standard operating procedures, for construction projects, and for excavation of streets, sidewalks and right-of-ways, and the Grantee shall obtain all necessary permits for work within City streets, sidewalks, right-of-ways and City property. In connection with any work involving or occurring in a street or right-of-way identified as an arterial street, the Grantee shall provide the City with a traffic control plan which shall be approved by the Public Works Department prior to the commencement of such work. Before the Grantee does any work in any city street, sidewalk or right-of-way which interferes with the use of the right-of-way or which involves construction, excavation, paving or which otherwise interferes with use of the city street, sidewalk or right-of-way, the Grantee shall provide the City with performance bond(s) in amounts acceptable to the Public Works Department to

ensure completion of such work and full repair of the city street, sidewalk or right-of-way, or return to full utility of the same.

J. Before the Grantee replaces any existing distribution lines or constructs any new distribution lines, the Grantee shall submit the distribution line route to the City's Public Works Director for approval of that route.

K. The Grantee shall ensure that all vehicles involved in work within the City on behalf of the Grantee, whether owned by the Grantee, or by contractors or subcontractors of the Grantee, shall be visibly marked and identifiable as such, with identifying letters or either the Grantee's or the contractor's or subcontractor's company or business logo, and that all persons involved in work within the City on behalf of the Grantee, whether employees or representatives of the Grantee, or contractors or subcontractors of the Grantee, shall have photo identification or photo identification badges identifying them as such.

SECTION 10: EFFECTIVE DATE OF FRANCHISE - TERM - EXTENSIONS

The effective date of the Franchise shall be thirty (30) days after passage of the Franchise Ordinance by the City Council and upon acceptance by the Grantee. Such acceptance must be exercised in writing, by registered or certified mail notice to the City, on or before the day of , 1996.

The term of this Franchise shall be for a period of ten (10) years, commencing on the effective date thereof. The Grantee shall be entitled to an extension of the term of this Franchise for an additional five (5) year period at the conclusion of the initial term hereof, provided that the City may, during the term of this Franchise, conduct public reviews of the Franchise at intervals of no less than three (3) years. The purpose of any such reviews shall be to ensure, with the benefit and opportunity of public comment, that the Franchise and the Grantee continue to provide effective service to the public in light of new developments in cable law and regulations, local regulatory environment, community needs and interests, including but not limited to: programming, channels, charges, fees, service levels, technology and technical performance of the system. Both the City and Grantee agree to make a full and good faith effort to participate in the review, and make appropriate changes to accomplish this end.

SECTION 11: TIME IS OF THE ESSENCE

Whenever this Franchise shall set forth any time within which an act is to be performed by or on behalf of the Grantee, such time shall be deemed of the essence. Any failure of the Grantee to perform within the time allotted shall be sufficient grounds for the City to invoke any appropriate remedy as provided by law, including, but not limited to, terminations of this franchise.

SECTION 12: TAXES

A. Grantee shall pay applicable state, local and franchise taxes, and nothing contained in this Franchise shall be construed to exempt the Grantee from the Business and Occupation ("B & O") tax which may be levied by the City on businesses or operations in the same class as the business of the Grantee, nor from any other tax which may be assessed on the basis of gross or net revenues of businesses or operations in the same class as the business of the Grantee.

B. In addition to the above, nothing contained in this Franchise shall be construed to exempt the Grantee from any tax, liability or assessment which may be hereinafter authorized by law.

SECTION 13: FRANCHISE PAYMENTS

The Grantee shall pay to the City, in quarterly installments, a five percent (5%) franchise fee based on gross revenues received for cable television operations in the City for the preceding quarter. The franchise fee shall be in addition to a possible B & O tax, and separate from the B & O tax described in Section 12 hereof, and separate from any other tax lawfully imposed by the City. The Grantee shall provide an annual summary report showing gross revenues received during the preceding year. Contributions to access channels (PEG channels) will not be construes to be in lieu of a franchise fee nor any other obligations to the City.

SECTION 14: BINDING AGREEMENT

A. Upon acceptance, this Cable Communications Franchise is an agreement/contract between the City and the Grantee, binding upon both parties. It is the intent of the parties that the Franchise(or any renewal thereof) shall be subject to amendment from time to time to allow the Grantee to innovate and implement new services and developments, or to agree to any terms allowed by law and for which each party agrees to bargain in good faith with the other party, upon the initiation of any proposed amendment.

B. In the event of any dispute between the City and the Grantee arising with respect to this franchise, or with respect to any rights or obligations therefrom, the Grantee shall first pursue and exhaust available administrative remedies. Thereafter, the Grantee may pursue appropriate legal action.

C. The Grantee may appeal any action by any office, employee, department, board, or commission of the City with respect to the Grantee's Franchise to an unbiased appeal board established and mutually agreed to by both parties.

D. In the event that the performance by Grantee of any of the terms, conditions, obligations, or requirements of this Franchise is prevented or substantially impaired due to any cause beyond its reasonable control or which could not reasonably have been foreseen, the Grantee's inability to perform shall be deemed to be excused and no penalties or sanctions shall be imposed as a result thereof, provided and on condition that the Grantee has notified the city in writing within thirty (30) days of its discovery or the occurrence of such an event. Such causes beyond the Grantee's reasonable control or not reasonably foreseeable shall include, but not limited to, acts of God and civil emergencies.

E. Notwithstanding paragraph A above, it is understood and agreed that nothing in this Franchise shall preclude or prohibit the City from enacting any ordinance, from time to time, in the interest of public health and safety, which may impact the Grantee in its operation of the cable system, as a proper exercise of the City's police power. Grantee's rights hereunder are subject to such police power and in the event of any conflict between the provisions of this Franchise and any present or future exercise of the City's police power, such conflict shall be resolved in favor of such police power.

F. Grantee further recognizes and agrees that the City shall in no way be bound to renew or extend the Franchise at the end of any franchise term, except as provided by Federal or State law.

SECTION 15: CABLE SERVICE AND SERVICE AREA - SERVICES - RATES

A. The City and the Grantee acknowledge that the customers within the City should be entitled to cable service of the

same general capabilities and capacity as that provided other Cities in the King-Pierce-Snohomish County area of the State of Washington, including but not limited to interactive services such as addressability, security computer interaction, banking, shopping, voice and data transmission, High Definition Television (HDTV), fiber optic and other such features.

The City may, in its discretion, require that the Grantee provide such interactive services as well as up grades capable of carrying fifty-four (54) channels, within the City. The Grantee shall provide such services within the City within twenty-four (24) months of the time that the Grantee provides such services to: (1) the City of Seattle System; (2) any community adjacent to the City; or (3) forty percent (40%) of the municipalities in King, Pierce and Snohomish Counties.

Prior to implementation of any change of service by the Grantee, the Grantee may request a public hearing by the City Council to discuss the benefits of said features to the citizens of the City. If the City Council finds that such features are reasonably required to meet community needs, taking into consideration the expense of providing such services and the potential costs to subscribers, the City Council may require the implementation of such features consistent with the provisions of this Franchise. If the Council deems it necessary, it may, at its own option by a majority vote, extend the time requirements established in this section. Additionally, the Grantee, upon completion of the upgrade or by the expiration of the time periods described above, or sooner, shall provide, maintain and operate a public access studio within a radius of eight (8) miles of the City Hall, or at a location mutually agreeable by all parties. Such facilities shall be subject to approval by the City as suitable, which approval shall not be unreasonably withheld.

Current services as of the date of adoption of this Ordinance include the following:

CHANNEL GUIDE

CHANNEL PROGRAMMING

2 NorthWest Cable News* Reagional News Coverage

3 Univision* Spanish Programming

BET* Black Entertainment

4 KOMO* ABC, Seattle

5 KING* NBC, Seattle

6 TBS* Movies, Sports & Specials

7 KIRO* CBS, Seattle

8 KTBW* Religious, Tacoma

9 KCTS* PBS, Seattle

10 KTZZ* Independent, Seattle

11 KSTW* Independent, Tacoma

12 KBTC* PBS, Tacoma

13 KCPQ* FOX, Tacoma

14 Encore (P) Movies from the '60s, '70s & '80s

15 fX General Entertainment

16 Prime Sports Northwest Regional Sports

17 ESPN 24-Hour Sports

18 USA Variety, Sports & Movies

19 TNT Movies & Variety Programming

20 TNN Country Variety

21 CNN 24-Hour World News

22 STARZ! (P) First Run Movies & More

23 HBO (P) Exclusive Movies and Specials

24 Showtime (P) Exclusive Movies and Specials

25 Cinemax (P) 24-Hour Movies

26 The Disney Channel (P) Family Entertainment

27 UWTV* Education Programming

28 Government Access* Community Reports

29 Public Access* Community Programming

30 Nickelodeon Children's Programming

31 The Family Channel Family Variety Programming

32 Arts & Entertainment Drama, Theater & Classics

33 Lifetime Lifestyle Programming

International Channel Foreign Language Programming

34 CNBC Consumer News & Business

35 The Discovery Channel Documentaries and Travel

36 MTV Music Videos

37 QVC Home Shopping

38 Headline News Half-Hour Headlines

39 American Movie Classics Hollywood Classics

60** C-SPAN* Congress in Action

61** The Weather Channel* Local & National Reports

** Pay-Per-View* Movies, & Events

* Included in the Basic Service. All other channels in the Expanded Basic Service except those denoted IV (P) which indicates a Premium Channel available for additional charge.

** Channel number varies depending on the converter type and television brand. Other possible channel numbers include: 0, 1. 55, 56, 72, 73, 98, 99.

In order to comply with provisions of the FCC rules concerning Leased Access, Channels 60 and 61 will periodically be subject to preemption for Leased Access programming.

B. Within nine (9) months of the effective date of this Ordinance, unless the date is extended by the City upon request by the Grantee, the Grantee shall provide the City with one (1) access channel capable of live broadcasts from the Council Chambers of City Hall for the exclusive use of the City for televising meetings of the City Council and Planning Commission, as well as other meetings of City boards, commissions, committees or agencies. Additionally, upon request by the City, the Grantee shall provide the City with additional access channels when the currently provided access channel(s) is/are in use for programming during fifty percent (50%) of the hours between 10:00 a.m. and 10:00 p.m., during any consecutive ten (10) week period, with such channels being provided within four (4) months following a request by the City. The contribution of such public, educational and government access channels, and any associated capital costs, shall not be construed as payment in lieu of franchise fees or any other tax or obligation that the Grantee may have to the City. It is provided, however, that if an additional access channel is not utilized on a consistent basis for twenty-five percent (25%) of the hours between 10:00 a.m. and 10:00 p.m., such access channel shall revert back to the Grantee for use consistent with the terms of the franchise. Within nine (9) months of the effective date of this Ordinance, unless the date is extended by the City upon request by the Grantee, the Grantee shall develop and make available a character generator channel, for information and community service messages to benefit the City and the community of SeaTac, Washington. The Grantee shall make periodic reports to the City, and shall respond to inquiries, in connection with its progress of service development or status as it relates to this paragraph, when requested by the City.

The Grantee shall provide, reasonable maintain, and install the necessary equipment for local government cable-casting within the time periods for providing the City with the capacity of live broadcasts from the Council Chambers of City Hall, unless extended by mutual written agreement. Such equipment shall not be less in quantity nor equivalent quality than those listed in the List attached hereto, marked as Exhibit "A", and incorporated herein by this reference.

C. Within the same time frame identified in paragraph 15A, above, the Grantee shall provide the capacity to link each and every building, facility and structure of the City, to provide programming which can be originated in coded form at any such building, facility and structure of the City, and can be received by decoding devices at any other such City building, facility or structure.

D. Upon completion of the system upgrade subject to the conditions set forth herein, the Grantee shall make provisions for an emergency alert system. The Grantee shall establish a process which will provide a character generated scroll and shall make the best effort to furnish a voice override notifying viewers and listeners of the emergency. Subject to federal and state laws and regional planning authorities, control of these emergency override facilities shall be the responsibility of the City. The City shall hold the Grantee, its agents, employees, officers, and assigns harmless from any claims arising out of the emergency use of its transmitting facilities by the City. The City, at its option, may elect to share this service with adjoining communities.

E. In areas which are annexed by the City after the effective date of this franchise, Grantee will be required to install facilities for full cable television service according to and consistent with the provisions and requirements for extension of service in paragraph 9A hereof.

F. The service rates and installation rates in effect upon the adoption of this Ordinance shall be provided to the City within sixty (60) days of the adoption of this Ordinance.

G. Notwithstanding the rates set forth above, and notwithstanding any change, increase or adjustment of cable television rates or rates and/or charges for service by the Grantee, the Grantee shall offer a discount of thirty percent (30%) from the normal rate, fee or charge to subscribers for basic services and installation to those persons who are sixty-two (62) years of age or older, and/or disabled, provided that such person(s) is/are the legal owner or the lessee/tenant of his/her/their residence and that the total combined household disposable income from all sources does not exceed the Housing and Urban Development standards for the Seattle-Everett area for the current and preceding calendar year. Absent the City=s involvement in utilities or other municipal programs that afford the City the standards and information to measure low-income eligibility, the Grantee shall be responsible for identifying and certifying to the City that such applicant(s) conform(s) to the specified criteria. The City shall have the right to inspect, review and audit the records relative to such low income senior citizen, disabled citizen discount, and in the case of challenges and appeals, the City Council shall be authorized to determine if the discount is warranted.

H. In connection with the billings and statements for payment by customers and subscribers of the Grantee's cable television services, if the Grantee, in its billing practices, bills customers/subscribers for services in advance of those services having been received/provided, the Grantee shall comply with the following:

> Bills shall not be delinquent until thirty (30) days after their due date, which due date shall approximately correspond to the date the bill statement is received by the customer or subscriber. Late charges or other fees based upon the timeliness of payments by a customer or subscriber shall not be assessed or charged by the Grantee until after the bill for services is delinquent as provided herein.

I. Although the Grantee is not required by law to provide any particular video or audio service as a part of its premium service, the Grantee shall notify the City in writing at least thirty (30) days in advance of any change of its intent to alter the mix, level or quality of such premium service, as well as any changes in its fees, charges or charges for such service.

J. The City may request the Grantee to conduct annual reviews as part of its commitment to operate the cable system to satisfy the future cable related needs and interests of the community, taking into account the cost of doing so. The City will be apprised in writing of each review. Grantee shall cooperate with the City in analyzing the development of new uses of cable system, such as water meter readings, traffic signal controls, alarm systems and health monitoring signal devices. That analysis shall include the technological and economic feasibility and viability of such uses.

SECTION 16: TRANSFER OF OWNERSHIP OR CONTROL

A. This Franchise shall not be assigned or transferred, either in whole or in part, or leased, sublet, or mortgaged in any manner, nor shall title thereto, either legal or equitable or any right, interest or property therein, pass to or vest in any person without the prior written consent of the City. Within sixty (60) days of receiving the request for transfer, the City shall, in accordance with Section 76.502 of the F.C.C. Rules and Regulations, notify the Grantee in writing of the information and materials it requires to determine the legal, financial and technical qualifications of the transferee to provide the services of the Grantee, and assurances to determine the transferee's willingness and ability to comply with all of the provisions and requirements of the franchise. The City shall be deemed to have consented to the proposed transfer or assignment in the event its refusal to consent is not communicated in writing to the Grantee or the proposed assignee within sixty (60) days following receipt of the written information, materials, and assurances requested by the City. It is further provided, however, that if information, materials or assurances are received by the City in response to its request which prompt new or additional requests by the City for information, materials or assurances, such new or additional requests shall be forwarded to the Grantee within sixty (60) days of the receipt of the information, materials or assurances prompting the new or additional requests, and it is further provided that, in such case, the City shall have been deemed to have consented to the proposed transfer or assignment in the event its refusal to consent is not communicated in writing to the Grantee or the proposed assignee within sixty (60) days following the receipt of the requested new or additional information, materials or assurances.

B. The Grantee shall promptly notify the City of any actual or proposed change in, or transfer of, or disposition of or

acquisition by any other party of control of the Grantee. The word "control" as used herein is not limited to major stockholders, but includes actual working control in whatever manner exercised. Every change, transfer, or acquisition of control of the Grantee shall make the Franchise subject to cancellation unless and until the City shall have consented thereto, which consent will not be unreasonably withheld. For the purpose of determining whether it shall consent to such change, transfer, disposition, or acquisition of control, the City may inquire into the qualifications of the prospected controlling party, and the Grantee shall assist the City in any such inquiry.

C. The consent or approval of the City to any transfer of the Grantee shall not constitute a waiver or release of the right of the City in and to the streets, and any transfer shall by its terms, be expressly subordinate to the terms and conditions of this franchise.

D. In the event of a sale, and upon request, the purchase price of the system shall be made available to the City Manager. The purchase price shall be held as confidential.

E. By its acceptance of this franchise, the Grantee specifically grants and agrees that any such transfers occurring without prior approval of the City shall constitute a violation of this Franchise by the Grantee. In no event shall a transfer of ownership or control be approved without successor in interest becoming a signatory to this Franchise agreement. In accordance with the above provisions, transfer of this Franchise shall not be unreasonably withheld.

F. For the purpose of this section, transfer of ownership or control of this Franchise shall be defined as either acquisition of more than thirty percent (30%) interest in the Grantee's stock membership or actual working control of Grantee's operations in the franchise area in whatever manner it is exercised.

G. Upon approval of the City, Grantee may assign this Franchise to a Washington Limited Partnership in which Grantee is the sole general partner; provided, however, that the assignee agrees to be bound by all of the terms and conditions of this Franchise and/or obligations of the Grantee.

SECTION 17: INDEMNIFICATION OF CITY

A. The Grantee shall at all times protect and hold the City harmless from all claims, actions, suits, liability, loss, expense or damages of every kind and description, including investigation costs, court costs, and attorney's fees, which may accrue to or be suffered or claimed by any person or persons arising out of the negligence of the Grantee in the ownership, construction, repair, replacement, maintenance and operation of said cable television system and by reason of any license, copyright, property right or

patent of any article or system used in the construction or use of said system.

The Grantee shall maintain in full force and effect during the life of its franchise, public liability insurance in a solvent insurance company authorized to do business in the State of Washington, naming the City as an additional insured , at no less than in the following amounts:

1. $500,000.00 property damage in any one accident;

2. $1,000,000.00 for personal injury to any one person;

3. $3,000,000.00 for personal injury in any one accident.

Provided, that all such insurance may contain reasonable deductible provisions not to exceed an amount that would be fiscally prudent for the Grantee for any type of coverage, and provided further, the City may require that any and all investigation of claims made by any person, firm, or corporation against the City arising out of any use or misuse or privileges granted to the Grantee hereunder shall be made by, or at the expense of the Grantee or its insurer. The Grantee shall provide the City with current certificates of insurance, reflecting the levels of coverage, and indicating the respective terms of coverage. The insurance policies shall further include provisions notifying the city in case of

cancellation or termination.

SECTION 18: REPORTS

A. The Grantee shall submit to the City, upon its request, copies of all pleadings, applications, reports, communications or documents of any kind, submitted by the Grantee to, as well as copies of all decisions, correspondence and actions by, any federal, state and local courts, regulatory agencies or any other governmental bodies relating to its cable television operations within the franchise area. Pursuant to such request, the Grantee shall submit such documents to the City simultaneously with their submission to such courts, agencies and bodies; and within five (5) days after receipt from such courts, agencies or bodies. Grantee hereby waives any rights to claim confidentiality, privilege or proprietary rights with respect to such documents. However, to the extent permitted by law, the City shall make best efforts to keep such documents confidential. The Grantee shall also file with the City, it annual financial reports and summaries of its business activities.

B. The refusal, failure or neglect of the Grantee to file any of the reports required in this section, or as the City shall direct, shall be deemed a material breach of this Franchise and shall subject the Grantee to all measures and remedies, legal or equitable, which are available to the City under this Franchise or otherwise. So long as Grantee maintains records to fully comply with this section, Grantee may maintain such records on a system-wide basis; provided, however, that Grantee shall provide separate records to demonstrate compliance with Sections 12 and 13 hereunder. If Grantee elects to maintain records on a system-wide basis, Grantee hereby waives any objection to the City's reasonable inspection of such records pursuant to this franchise.

C. Any materially false or misleading statement or representation made knowingly by the Grantee in any report required in this Franchise shall be deemed a material breach of this Franchise and shall subject the Grantee to all measures, legal or equitable, which are available to the City under this Franchise or otherwise.

D. All reports and records required under this or any other section shall be furnished at the sole expense of the Grantee.

SECTION 19: TIME FOR PAYMENTS

All payments to be made by the Grantee to the City, pursuant to this franchise, directly or indirectly, including but not limited to possible or future B & O taxes and franchise fee payments, shall be made quarterly, with such payments being submitted with accompanying statements, records or other documentation identifying the payment, periods covered, basis for payments, and such other information as would be necessary or appropriate to explain the payments.

SECTION 20: MISCELLANEOUS PROVISIONS

A. The Grantee shall provide without charge at least one outlet to each governmental office building, fire station, police station, and public and non-profit private school building that its cable passes by, which governmental office buildings, fire stations, police stations, and public and non-profit private school buildings are identified and set forth on the List attached hereto, marked as Exhibit "B" and incorporated herein by this reference, provided that as new such facilities are added, constructed or developed, additional outlets shall be provided to such facilities within six (6) months of notice by the City of their addition, construction or development, or the effective date of this Ordinance.

B. In case of any emergency or disaster, the Grantee shall, upon request from the City, make available its cable system facilities to the City for emergency use during the emergency or disaster period.

C. The Grantee agrees to establish and maintain a forum through an identified individual or committee of individuals to receive, transmit and communicate responses to the comments, complaints, concerns, questions and/or other verbal or written communications from the City, the Grantee's customers, citizens of the City or of neighboring communities served by the Grantee about the service, activities or projects of the Grantee. The Grantee shall keep the City continuously advised of the composition, structure and status of the customer concern/complaint forum, including the name, address and phone number of the representative(s) or the official(s) of the Grantee authorized to receive and

respond to comments, complaints, concerns or questions. The Grantee shall keep records of all such concerns, complaints, questions or other comments and the responses thereto, and shall make reasonably available to the City, upon request, the records of such complaints, concerns, questions or comments, and the responses of the Grantee thereto. The Grantee also agrees to meet with or have its identified representatives meet with the City or its representatives or designees and/or citizens/customers and/or citizen/customer groups and/or persons acting on their behalf, to discuss such concerns, complaints, questions or other comments, as requested by, for and on behalf of the City.

SECTION 21: LIQUIDATED DAMAGES

If the Grantee shall neglect, fail or refuse to comply with any material provisions of this Franchise within the time specified herein, or any proper extension thereof granted by the City, then the Grantee does hereby agree as a part of the consideration for the granting of this Franchise to the Grantee, to pay to the City the amount of Five-Hundred Dollars ($500.00) not as a penalty, but as liquidated damages for such breach of the franchise, for each and every working day that the Grantee shall be out of compliance with the requirements hereof. It is provided, however, that the City shall allow the Grantee a minimum of thirty (30) days after notice to the Grantee of such neglect, failure or refusal to comply within which to meet compliance or correct performance, prior to the assessment of any liquidated damages.

SECTION 22: SERVICE OF NOTICE

A. Unless otherwise provided herein, all notices required to be given to the City under any provisions of this Franchise shall be in writing and shall be deemed served:

1. When delivered by hand to the City Clerk during normal business hours; or,

2. When mailed to any other person designated to receive such notice.

Unless directed otherwise by the City, the address to which such notices shall be sent is as follows:

SeaTac City Manager

SeaTac City Hall

17900 International Blvd., suite 401

SeaTac, WA 98188

Phone: (206) 241-9100

FAX: (206) 241-3999

B. All notices required to be given to the Grantee under any provision of this Franchise shall be in writing and shall be deemed served:

1. When delivered by hand or mailed to Grantee's local office or such other address as has been designated for service of notice; or

2. When mailed to any other person designated to receive such notice on behalf of Grantee.

Unless directed otherwise by the City, the address to which such notices shall be sent is as follows:

TCI Cablevision of Washington, Inc.

General Manager, South Seattle Office

15241 International Blvd.

SeaTac, WA 98188

Phone: (206) 433-3434

FAX: (206) 433-5103

SECTION 23: SUCCESSORS AND ASSIGNS

Subject to the requirements contained in Section 16, this Franchise shall be binding on any successors or assigns of the Grantee.

SECTION 24; GUARANTEE

A. In consideration of the grant of the Franchise to Grantee, Grantee guarantees, absolutely and unconditionally, the performance by Grantee of all the obligations of Grantee pursuant to and in accordance with all of the terms, provisions and conditions of the franchise. This guarantee shall continue in full force and effect until all obligations of the Grantee under the Franchise shall have been fully satisfied and discharged.

B. Grantee further covenants that in consideration for the grant of the franchise, it will indemnify, save and hold harmless and defend the City from all liens, charges, claims, demands, suits, actions, fines, penalties, losses, costs (including, but not limited to, legal fees and court costs), judgements, injuries, liabilities or damages, in law or equity, of any and every kind and nature whatsoever arising out of or in any way connected with the installation, operation, maintenance or condition of the Grantee's cable system and/or the grant of this franchise, to the extent permitted by law.

SECTION 25: INTERPRETATION OF FRANCHISE

This Franchise Ordinance shall be interpreted in every instance where possible in accordance with and under the laws of the State of Washington, provided, however, that if such interpretation is in direct conflict with federal laws regarding cable television systems, the federal law shall control.

SECTION 26: AMENDMENT OF FRANCHISE

Except as otherwise expressly provided herein, this Franchise may be amended only by a written instrument executed by the City and Grantee, and adopted by the City in accordance with law and in conformity with the provisions hereof.

SECTION 27: VIOLATION OF FRANCHISE

Violation of the terms of this Franchise shall be an actionable breach, and shall subject the Grantee to all measures legal or equitable, which are available to the City for enforcement of this franchise, including termination of the franchise.

If termination proceedings are instituted, the City shall give the Grantee a written notice that all rights conferred under the Franchise(and any specific sections involved)may be revoked or terminated by the Council after a public hearing. The Grantee shall be entitled to not less than thirty (30) days' prior notice of the date, time and place of the public hearing. At any such hearing, the burden of proof shall be on the Grantee to demonstrate, by a preponderance of the evidence, that the alleged violation(s) did not occur or that the Grantee has exercised its best efforts to ensure that such violation(s) will not occur again. The City Council, in its sole discretion, may leave this Franchise in place, terminate the franchise, or impose new terms related to the alleged violation(s), as a condition of continuing with the franchise. Any appeal of the Council's decision shall be exclusively by writ of review to the King County Superior Court and must be filed within fifteen (15) days of the date of the Council's decision.

The City may elect, in lieu of the above and without prejudice to any of its other legal rights and remedies, to obtain an

order from the Superior Court having jurisdiction compelling the Grantee to comply with the provisions of the franchise, and awarding damages and costs including reasonable attorneys' and expert witnesses, fees incurred by the City by reason of a Grantee's failure to comply.

SECTION 28: ATTORNEYS' FEES TO PREVAILING PARTY

If legal proceedings are instituted, either by the City or the Grantee, to enforce any rights, obligations or provisions under this franchise, then the prevailing party shall be entitled to reasonable attorneys' fees and costs incurred in connection with such legal proceedings.

SECTION 29: PROVISIONS OF FRANCHISES OF OTHER JURISDICTIONS

If King County, Washington, or any other municipal jurisdiction in the vicinity of the City negotiates and enters into an agreement with the Grantee or grants a franchise to the Grantee that includes terms or provisions that are more favorable to the City than the terms hereof or are in addition to the terms hereof, those terms or provisions shall be added, at the option of the City, to this Franchise and the Grantee shall be bound and obligated thereby as if such term(s) and/or provision(s) were set forth and fully included herein provided that such terms and conditions are determined by the City to meet the future cable-related needs of the City of SeaTac, taking into consideration the costs of such terms and conditions in accordance with the provisions of Section 15A of this Franchise. For the purposes hereof, "jurisdictions in the vicinity of the City" refers to the cities of Auburn, Burien, Des Moines, Federal Way, Kent, Normandy Park, Renton, and Tukwila, all located in King County, Washington.

SECTION 30: SEVERABILITY

If any provision of this Franchise or its application to any person or circumstance is held to be invalid, the remainder of the Franchise or its application of the provision to other persons or circumstance shall not be affected.

SECTION 31: EFFECTIVE DATE

That this Ordinance shall be in full force and effect after adoption and thirty (30) days after passage of the Ordinance and upon receipt of an executed acceptance document from the grantee.

ADOPTED by the City Council on the 13th day of February, 1996,

and signed in authentication thereof on this 13th day of February, 1996.

CITY OF SEATAC

Don DeHan, Mayor

ATTEST:

Judith L. Cary, City Clerk

Approved as to Form:

City Attorney

ORDINANCE NO. 96-1004

AN ORDINANCE of the City Council of the City of SeaTac, Washington, amending Section 2.20.040 of the SeaTac Municipal Code, relating to the terms of office of members of the Human Services Commission.

WHEREAS, Ordinance No. 91-1026 created and provided for the Human Services Commission of the City of SeaTac, and members were initially appointed in June to staggered terms and thereafter to terms of three years, all of which terms end in the month of June; and,

WHEREAS, it is desired that the terms of office of all members of the Human Services Commission expire on December 31, three years following the appointment of each member of the Commission rather than in June so that the established members can be fully involved in, and be knowledgeable of, the budget process; and,

WHEREAS, to reach this goal, it is necessary to extend the terms of office of present members of the Commission;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON, DO ORDAIN as follows:

1. Section 2.20.040 of the SeaTac Municipal Code be, and the same hereby is, amended to read as follows:

2.20.040 Terms of Office.

Members of the Human Services Commission shall serve for a term of three years, or until appointment of a successor member, whichever is later. ~~However, the initial members shall be appointed to serve the following terms: two members shall serve a one year term, or until appointment of a successor member, whichever is later; two members shall serve a two year term, or until appointment of a successor member, whichever is later; and one member shall serve a three year term, or until appointment of a successor member, whichever is later.~~ The term of office of all members serving during the year 1996 is extended until December 31 of the year in which the term of each member would expire except for this provision. All subsequent terms shall commence on January 1 and shall terminate on December 31 three

years thereafter. If a member of the Human Services Commission shall be absent, without prior notification or excuse, from three consecutive, regularly scheduled meetings of the Commission, the Chairperson of the Human Services Commission may declare the position held by that member vacant and a new member may be appointed in the manner set forth at Section 2.20.030 of this chapter. It is provided, however, that if there has been a difficulty in filling appointments to City boards, commissions or advisory committees established by the City Council, and if a member of the Human Services Commission applies to serve on another such board, commission or advisory committee, prior to appointment of the member to the other board, commission or committee, the member shall indicate which of the two board(s), commission(s) or committee(s) shall be the member's "first" and "second" preferences. Thereafter, the member's appointment and/or membership on the board, commission or committee of "second preference" shall be conditional, so that the Mayor and City Council may replace the conditional member with another regular member, as other qualified applicants request membership on the "second preference" board, commission or advisory committee to serve for the remainder of the initial member's term. In the event of the extended excused absence or disability of a member, the Mayor, with concurrence of the City Council, may appoint a member pro tempore to serve during the absence or disability; provided, that such pro tempore appointments or re-appointments shall be for a period of time not to exceed eight months, with any appointments, re-appointments or extensions of appointments thereafter being reviewed and considered by the City Council.

2. This Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this 27th day of February, 1996, and signed in authentication thereof on this 28th day of February, 1996.

CITY OF SEATAC

_____

Kathy Gehring, Deputy Mayor

ATTEST:

_____

Judith L. Cary, City Clerk

Approved as to Form:

_____

Robert M. McAdams, Interim City Attorney

ORDINANCE NO. 96-1005

AN ORDINANCE of the City Council of the City of SeaTac, Washington amending the 1995 Budget

WHEREAS, pursuant to the provisions of Chapter 35A.33 of the Revised Code of Washington, the City is required to adopt an annual budget and provide for procedures for filing of estimates, preliminary budgets, deliberations, public hearings and final fixing of the budget; and,

WHEREAS, pursuant to the provisions of the Revised Code of Washington, a preliminary budget for the fiscal year 1995 was prepared and filed, requisite public hearings were held for the purpose of fixing the final budget and the City Council made deliberations and adjustments as deemed necessary and proper, and adopted the budget for the City of SeaTac for the fiscal year 1995, which budget was adopted through Ordinance 94-1047, on November 22, 1994; and,

WHEREAS, because the 1995 ending fund balance in the General Fund was higher than anticipated in the 1995 Budget, and the City Council determined to appropriate additional and available funds for non-budgeted purchases; and,

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN as follows:

1. The 1995 Budget for the City of SeaTac, covering the period from January 1, 1995 through December 31, 1995, as adopted by Ordinance 94-1047, and as amended by Ordinance 95-1009, be, and the same hereby is amended as shown on the attached exhibit.

2. This Ordinance shall be in full force and effect for the fiscal year 1996, five (5) days after publication as required by law.

ADOPTED this 27th day of February, 1996, and signed in authentication

thereof on this 28th day of February, 1996.

CITY OF SEATAC

Kathy Gehring, Deputy Mayor

ATTEST:

Judith L. Cary, City Clerk

Approved as to Form:

Robert McAdams, Interim City Attorney

ORDINANCE NO. 96-1006

AN ORDINANCE of the City Council of the City of SeaTac, Washington amending the 1996 Budget

WHEREAS, pursuant to the provisions of Chapter 35A.33 of the Revised Code of Washington, the City is required to adopt an annual budget and provide for procedures for filing of estimates, preliminary budgets, deliberations, public hearings and final fixing of the budget; and,

WHEREAS, pursuant to the provisions of the Revised Code of Washington, preliminary budgets for the fiscal year 1996 was prepared and filed, requisite public hearings were held for the purpose of fixing the final budget and the City Council made deliberations and adjustments as deemed necessary and proper, and adopted the budget for the City of SeaTac for the fiscal year 1996, which budget was adopted through Ordinance 95-1029, on November 14, 1995; and,

WHEREAS, the 1996 Budget was adopted previous to receiving tax assessment information from King County that would impact setting the ad valorem property tax rate and the resulting estimated property tax revenue for 1996; and,

WHEREAS, because of the circumstances and impacts on the City's property tax revenue receipts, in light of the subsequent tax assessment information received, it is appropriate that the 1996 Budget be amended to address this new tax assessment information.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN as follows:

1. The 1996 Budget for the City of SeaTac, covering the period from January 1, 1996 through December 31, 1996, as adopted by Ordinance 95-1029, be, and the same hereby is amended as shown on the attached exhibit.

2. This Ordinance shall be in full force and effect for the fiscal year 1996, five (5) days after publication as required by law.

ADOPTED this 27th day of February, 1996, and signed in authentication

thereof on this 28th day of February, 1996.

CITY OF SEATAC

Kathy Gehring, Deputy Mayor

ATTEST:

Judith L. Cary, City Clerk

Approved as to Form:

Robert McAdams, Interim City Attorney

96-1007

Permit Fee Schedule of the 1994 Edition Uniform Building Code

Never Generated

ORDINANCE NO. **96-1008**

AN ORDINANCE OF THE CITY OF SEATAC, WASHINGTON, ADOPTING A NEW TITLE 16 OF THE SEATAC MUNICIPAL CODE TO CONSOLIDATE PROCEDURAL ACTIONS FOR DEVELOPMENT ACTIVITIES OCCURRING UNDER TITLES 13 THROUGH 15 OF THE SEATAC MUNICIPAL CODE AND TO IMPLEMENT THE STATE ENVIRONMENTAL POLICY ACT AND GROWTH MANAGEMENT ACT AMENDMENTS INCLUDED IN 1995 ENGROSSED SUBSTITUTE HOUSE BILL 1724, REPEALING CERTAIN OTHER PROVISIONS; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City of SeaTac is charged with the responsibility of preparing a comprehensive plan for anticipating and influencing the orderly and coordinated development of land and building uses of the City and its environs, as set forth in Chapter 35A.63 RCW and Chapter 36.70A RCW, and Chapter 2.15 of the SeaTac Municipal Code (SMC); and

WHEREAS, the Washington State Legislature passed, and the Governor signed into law, the Washington State Growth Management Act of 1990 and amendments thereto (hereinafter the Growth Management Act), requiring selected counties and cities to prepare comprehensive plans consistent with the provisions of the Growth Management Act, all as generally codified at Chapter 36.70A RCW; and

WHEREAS, the Planning Commission and City Council for SeaTac implemented that planning process resulting in the preparation of a new SeaTac comprehensive plan consistent with Chapter 36.70A RCW and the Growth Management Act (hereinafter the 1994 SeaTac Comprehensive Plan); and

WHEREAS, a Draft Environmental Impact Statement dated August 26, 1994 and a Final Environmental Impact Statement dated December 20, 1994 were prepared pursuant to Chapter 43.21C, RCW and Chapter 13.30 SMC for timely consideration along with consideration of the 1994 SeaTac Comprehensive Plan; and

WHEREAS, the 1994 SeaTac Comprehensive Plan was coordinated with the Planning documents and agencies of the Puget Sound region, King County, and other relevant jurisdictions; and

WHEREAS, the City Council held a duly advertised public meeting on December 20, 1994 for consideration of the 1994 SeaTac Comprehensive Plan and associated documents as recommended by the Planning Commission and determined that the 1994 SeaTac Comprehensive Plan meets the requirements of, the Growth Management Act Chapter 36.70A RCW and Chapter 35A.63 RCW, including but not limited to the required elements concerning Land Use, Housing, Capital Facilities, Utilities, and Transportation; and in addition, the optional elements of Environmental Features, Parks and Open Space, as permitted by the Growth Management Act and Chapter 36.70A RCW; and

WHEREAS, the 1995 Washington State legislature passed, and the Governor signed into law, the Integration of Growth Management Planning and Environmental Review Act, Engrossed Substitute House Bill 1724, 1995 Laws Ch. 347 (hereinafter the SEPA/GMA Act), requiring counties and cities planning under GMA to establish certain uniform procedural actions in the processing of development applications; and

WHEREAS, the City Department of Planning and Community Development prepared a new Title 16 of the SeaTac Municipal Code to meet the legislative directive for uniform processing of development applications for consideration by the Planning Commission; and

WHEREAS, on February 26, 1996 the Planning Commission held a public hearing upon legal and sufficient notice on the proposed adoption of a new Title 16 of the SeaTac Municipal Code which will implement the SEPA/GMA Act and make other changes to procedural and substantive requirements for processing development applications; and

WHEREAS, the Planning Commission, upon consideration of the public testimony and evidence found that adoption of a new Title 16 SMC would be consistent with the provisions of the SEPA/GMA Act and the 1994 SeaTac Comprehensive Plan, and would benefit the public health, safety, and welfare if adopted; and

WHEREAS, the Planning Commission therefore recommended to the City Council the adoption of a new Title 16 SMC implementing the SEPA/GMA Act as set forth in Exhibit A to this Ordinance, attached and incorporated by this reference; and

WHEREAS, on March 26, 1996, the City Council held a public meeting on the adoption of a new Title 16 SMC as received from and recommended by the Planning Commission; and

WHEREAS, upon consideration of the public testimony and evidence from said meeting, and the recommendation of the Planning Commission, the City Council finds that the new Title 16 SMC is consistent with the 1994 SeaTac Comprehensive Plan and the provisions of the SEPA/GMA Act, and will benefit the public health, safety, and welfare if adopted as set forth in Exhibit A;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN as follows:

1. A new Title 16, entitled "Development Code Administration", attached as Exhibit A to this ordinance and incorporated by this reference, is adopted for the City of SeaTac and is added to the SeaTac Municipal Code.

2. That Section 1.20.090 of the SeaTac Municipal Code be, and the same hereby is, amended to read as follows:

For the following cases, the Examiner shall receive and examine available information, conduct public hearings, prepare records and reports thereof, and make decisions, which shall be given the effect of and an administrative or legislative decision appealable to the Council:

~~A. Applications for unclassified use permits;~~

B. is relettered as A.

C. is relettered as B.

D. is relettered as C.

3. That Section 1.20.100 of the SeaTac Municipal Code be, and the same hereby is, amended and renumbered to read as follows:

For the following cases, the Examiner shall receive and examine available information, conduct public hearings, prepare records and reports thereof, and make decisions, which shall be given the effect of a recommendation to the Council:

~~A. Applications for reclassification of property;~~

~~B. Applications for planned unit developments;~~

~~D. Applications for preliminary plats.;~~

A.~~C.~~ Other applications or matters which the Council may refer by ordinance specifically declaring that the Hearing Examiner shall make a recommendation to City Council.

B.~~E.~~ Applications for shoreline environment redesignation.

4. That Section 1.20.110 of the SeaTac Municipal Code be, and the same hereby is, amended to read as follows:

For the following cases, the Examiner shall receive and examine available information, conduct public hearings, prepare records and reports thereof, and make decisions, which shall be final and conclusive:

A. (No Change)

B. (No Change)

C. (No Change)

D. Appeals from the decision of the City Manager or designee, on application for short subdivision and lot line adjustments.

E. (No Change)

F. (No Change)

G. (No Change)

H. (No Change)

I. (No Change)

J. Appeal for a sign amortization extension.

5. That Section 1.20.130 B of the SeaTac Municipal Code be, and the same hereby is, amended to read as follows:

Whenever a project requires more than one permit or approval, the Examiner ~~may~~ shall order a consolidation of and conduct the required public hearings to avoid unnecessary costs or delays. Decisions of the Examiner to order and conduct consolidated hearings shall be final in all cases.

6. That Section 15.22.050 of the SeaTac Municipal Code be, and the same hereby is, amended to read as follows:

A. (No Change)

B. 1. - Delete

~~The property has experienced a change of conditions (e.g. sewer/water extensions, different land uses adjacent to the subject site, a new technology affecting the site), has undergone substantial and material changes not anticipated or contemplated in the Comprehensive Plan.~~

B.2. renumbered as 1.

B.3. renumbered as 2.

B.4. renumbered as 3.

B.5. renumbered as 4.

B.6. renumbered as 5.

7. That Section 1.20.180 C. 1. of the SeaTac Municipal Code (Additional Criteria for Zoning Decisions) be, and the same hereby is, deleted:

~~1. Since the last previous area zoning, authorized public improvement, permitted private development or other conditions or circimstances affecting the subject property have under gone substantial and material change not anticipated or comptemplated in the comprehensive paln or area zoning: and~~

8. That Chapter 1.25 (City Manager Code Responsibilities) of the SeaTac Municipal Code be, and the same hereby is, deleted (This has been added to Title 16);

9. That Section 15.22.060 I. and J. of the SeaTac Municipal Code be, and the same hereby is amended as follows:

I. **Decisions Appealable to the City Council.** See Section 1.20.090 of the SMC. ~~For the following cases, the Hearing Examiner shall receive and examine available information, conduct public hearings, prepare records and reports thereof, and make decisions which shall be given the effect of an administrative decision appealable to the City Council.~~

~~1. Applications for unclassified uses in a zone classification;~~

~~2. Appeals from permit denials or conditions imposed on environmental grounds pursuant to the State Environmental Policy Act (SEPA)~~

~~3. Appeals from threshold determinations concerning applications subject to City Council action;~~

~~4. Other applications or appeals which the City Council may refer by ordinance, specifically declaring that the Hearing Examiner's decision shall be appealable to the City Council (Ord. 90-1045, Section 9/Ord. 90-105 1, Section 2).~~

J. Decisions of the Hearing Examiner which are Final. See 1.20.110 of the SMC. ~~For the following cases, the Hearing Examiner shall receive and examine available information, conduct public hearings, prepare records and reports thereof, and make decisions which shall be final and conclusive:~~

~~1. Applications for conditional use permits;~~

~~2. Applications for variances (including sign variances);~~

~~3. Applications for shoreline permits when a public hearing is required;~~

~~4. Appeals from the decisions of the City Manager or designee on applications for short subdivisions (Amended: Ord. No. 95-1012, Effective 4/27/95.);~~

~~5. Appeals from threshold determinations concerning applications not subject to City Council action;~~

~~6. Appeals for a sign amortization extension;~~

~~7. Appeals from decisions regarding the abatement of non-conforming uses;~~

~~8. Appeals from administrative decisions or determinations by City officials where the governing ordinance provides for an appeal to the Hearing Examiner;~~

~~9. Other applications or appeals which the City Council may prescribe by ordinance.~~

10. That Section 15.22.060 R. of the SeaTac Municipal Code be, and the same hereby is amended as follows:

R. Examiner Actions. Within ten working (10) days of the conclusion of a hearing

or rehearing, the Hearing Examiner shall render a written recommendation or decision and shall transmit a copy thereof to all persons of record.

1. The Examiner's decision may be to grant or deny the application or appeal, or the Hearing Examiner may grant the application or appeal with such conditions, modifications and restrictions as he/she finds necessary to make the application or appeal compatible with the environment, and carry put applicable state laws and regulations, and the regulations, policies, objectives and goals of the Comprehensive Plan, the Zoning Code, the Subdivision Code and other ordinances, policies and objectives of the City.

11. This Ordinance shall be in full force and effect thirty (30)days after passage.

ADOPTED this 9th day of April 1996, and signed in authentication thereof on

this 9th day of April 1996.

CITY OF SEATAC

_____

Don DeHan, Mayor

ATTEST:

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Judith L. Cary, City Clerk

Approved as to Form:

Robert L. McAdams,

Acting City Attorney

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REVISED 3/14/96

REVISED 3/22/96

ORDINANCE NO. 96-1009

AN ORDINANCE of the City Council of the City of SeaTac, Washington, adopting by reference the standards and procedures of Chapter 16.82 of the King County Code relating to grading and filling.

WHEREAS, early in the City's corporate existence, the City Council, by Ordinance No. 90-1021, appointed King County as the City's agent for administering building and construction standards and adopted by reference the provisions of the King County Code governing such standards; and

WHEREAS, Section 7 of the said Ordinance No. 90-1021 specifically adopted by reference Chapter 16.82 of the King County Code which relates to clearing, grading, filling, and similar earthwork ; and

WHEREAS, upon establishment of the City's Department of Public Works and its Building Division, the Council enacted Ordinance No. 92-1033 which repealed the earlier Ordinance and adopted by reference various Uniform Codes ; and

WHEREAS, grading and filling standards and procedures adopted by reference at Section 7 of the repealed Ordinance were inadvertently not readopted; and

WHEREAS, Chapter 16.82 of the King County Code adequately addresses standards and procedures which can be administered by the City in the public interest; and

WHEREAS, RCW 35A.13.180 authorizes adoption of codes by reference;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON, DO ORDAIN as follows:

Section 1. Adoption by Reference.

A new Chapter 13.11 to the SeaTac Municipal Code, to be entitled Grading Code, is hereby adopted to read as follows:

13.11.010 Grading Code.

Chapter 16.82 of the King County Code, as now in effect and as may subsequently be amended, is hereby adopted by reference, with the following exceptions:

A. References to King County and the County shall be deemed to refer to the City of SeaTac;

B. References to "Director" shall be deemed to refer to the City's Director of Public Works;

C. References to the King County Department of Development and Environmental Services shall be deemed to refer to the City's Department of Planning and Community Development;

D. References to K.C.C. 21A.14 and 21A.24 shall be deemed to refer to Chapter 15.28 of the SeaTac Municipal Code;

E. References to K.C.C. Chapter 23.04 shall be deemed to refer to Chapter 1.15 of the SeaTac Municipal Code;

F. References to 100 cubic yards at K.C.C. ' 16.82.050 (10) and (11) shall be changed to be 50 cubic yards.

13.11.010 Copy on File.

At least one copy of Chapter 16.82 of the King County Code shall be authenticated and recorded by the City Clerk and not less than one copy thereof shall be available in the office of the City Clerk for use and examination by the public.

Section 2. Effective Date.

The City Council hereby finds, as a fact, that absence of enforceable clearing, grading, filling, and other earthwork standards constitutes an emergency and that this Ordinance should be enacted as a public emergency ordinance necessary for the protection of public health, public safety, public property or the public peace. Therefore, this Ordinance shall take effect and be in full force and effect upon its adoption and publication of a summary of its contents pursuant to law.

ADOPTED this 23 RD day of April, 1996, and signed in authentication

thereof on this 23 RD day of April, 1996.

CITY OF SEATAC

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Don DeHan, Mayor

ATTEST:

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Judith L. Cary, City Clerk

Approved as to Form:

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Robert L. McAdams, Interim City Attorney

ORDINANCE NO. 96-1010

AN ORDINANCE of the City Council of the City of SeaTac, Washington, declaring public use and necessity regarding certain properties adjacent to the South 188th Street Improvement Project, and authorizing condemnation proceedings.

WHEREAS, the City of SeaTac has approved a project to make certain improvements to South 188th Street, within the City; and,

WHEREAS, construction of the said project is to be commenced, and efforts are now on-going to negotiate agreements for public use and just compensation as to properties which must be acquired in connection with the project; and,

WHEREAS, in event those efforts should not be successful in securing the acquisition of all of the property necessary for the said project; and,

WHEREAS, because of the importance of South 188th Street as a part of the City's infrastructure system, and because the acquisitions are necessary to complete this project for the public use and benefit;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON, DO ORDAIN as follows:

Section 1. Portions of the properties fronting the south line of South 188th Street generally between 28th Avenue South and International Boulevard, as shown on the map attached hereto and as legally described, together with apparent ownership, on Exhibits "A" through "E" thereof, which is incorporated herein by this reference, are necessary as additional right of way for the South 188th Street Improvement Project, and acquisition thereof is for public use and necessity; and,

Section 2. The City Manager, and designees, are authorized to obtain title reports and other documentary evidence of ownership, interests, and encumbrances, and to obtain appraisals of the said properties; and,

Section 3. The City Manager, and designees, are authorized to negotiate and enter into agreements for public use and just compensation with owners and to pay such compensation in exchange for deeds; and,

Section 4. The City Manager, and designees, are authorized to negotiate and enter into temporary construction easements and rights of access on such terms as may be deemed desirable; and,

Section 5. In event of inability of the City Manager, or designees, to agree as to public use and/or just compensation, the City's Legal Department is hereby authorized to commence condemnation proceedings pursuant to law; and,

Section 6. The costs and compensation related to acquisition of the said real property and easements shall be paid from fund 307 - Transportation CIP fund of the City; and,

Section 7. This Ordinance shall not be codified in the SeaTac Municipal Code; and,

Section 8. This Ordinance shall be in full force and effect thirty (30) days after passage and publication of a summary thereof, pursuant to law.

ADOPTED this 23rd day of April, 1996, and signed in authentication

thereof on this 23rd day of April, 1996.

CITY OF SEATAC

_____

Don DeHan, Mayor

ATTEST:

_____

Judith L. Cary, City Clerk

Approved as to Form:

_____

Robert L. McAdams, Interim City Attorney

ORDINANCE NO. 96-1011

AN ORDINANCE of the City Council of the City of SeaTac, Washington, vacating various streets and alleys within the City of SeaTac within and/or adjacent to Port of Seattle buy-out areas.

WHEREAS, certain City streets, alleys and rights-of-way are located within buy-out areas and aviation clear zones owned by the Port of Seattle and are therefore unused or unopened; and

WHEREAS, the City and Port entered into a Memorandum of Understanding on May 26, 1993 whereby the aforesaid streets, alleys and rights-of-way would be vacated in exchange for three parcels of real property owned by the Port, aggregating approximately 6.5 acres; and

WHEREAS, Resolution No. 96-002 was adopted by the City Council scheduling a public hearing hereof and notice of the proposed vacation and of the public hearing was posted and was given to owners pursuant to RCW 35.79.020; and

WHEREAS, the City Council has determined that the exchange of land owned by the Port for the vacated streets, alleys and rights-of-way is adequate and sufficient compensation and that no additional compensation from other owners is necessary; and

WHEREAS, the City Council has further determined that it is necessary for the City to retain an easement and the right to exercise easements in respect to certain of the vacated streets, alleys and rights-of-way for the construction, repair, and maintenance of underground public utilities and services;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON, DO ORDAIN as follows:

1. The streets, alleys and rights-of-way listed on Attachments 1 and 2 of this Ordinance are hereby vacated subject, however, to reservation of an easement to the City over, across, and under those vacated streets, alleys and rights-of-way described on Attachment 3 to this Ordinance, for the purpose of construction, repair, and maintenance of underground public utilities and services.

2. Compensation for the said vacation of City streets, alleys and rights-of-way shall consist of conveyance by the Port of Seattle of Parcel 1, Parcel 2, and Parcel 3, as shown on Attachment 4 to this Ordinance, which aggregate approximately 6.5 acres, the value of which is declared to be adequate and sufficient consideration for the value of the vacated streets, alleys and rights-of-way.

3. This Ordinance shall not be codified in the SeaTac Municipal Code.

4. This Ordinance shall be in full force and effect upon receipt of statutory warranty deeds conveying free and clear title to the said three parcels of real property, but in no event sooner than thirty (30) days after passage.

ADOPTED this 23 RDday of April, 1996, and signed in authentication

thereof on this 23 RD day of April, 1996.

CITY OF SEATAC

_____

Don DeHan, Mayor

ATTEST:

_____

Judith L. Cary, City Clerk

Approved as to Form:

_____

Robert L. McAdams, Interim City Attorney

ORDINANCE NO. 96-1012

AN ORDINANCE of the City Council of the City of SeaTac, Washington, reinstating Chapter 8.15 of the SeaTac Municipal Code relating to curfew and parental responsibility.

WHEREAS, the City Council previously adopted Ordinance No. 95-1006 for the purpose of creating a new Chapter 8.15 of the SeaTac Municipal Code relating to juvenile curfew and parental responsibility; and

WHEREAS, Section 3 of the Ordinance provided that it would automatically expire one year after the effective date which was 30 days after passage and, accordingly, the Ordinance did expire on March 14, 1996; and

WHEREAS, the City Council finds that all of the reasons for enacting the Ordinance still exist and that the juvenile curfew and parental responsibilities should be reimposed; and

WHEREAS, the City Council finds and states that the absence of a curfew and requirements of parental responsibility constitute an urgent situation requiring that this Ordinance be immediately effective;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN as follows:

Section 1. Chapter 8.15 of the SeaTac Municipal Code is hereby reinstated to read as follows:

Chapter 8.15

Curfew and Parental Responsibility

8.15..010 Definitions.

As used in this chapter, the following words shall have the following meanings:

(a) "Curfew hours" means:

(1) 11:00 p.m. on any Sunday, Monday, Tuesday, Wednesday, or Thursday, until 5:00 A.M. of the following day; and

(2) 12:01 A.M. until 5:00 A.M. on any Saturday or Sunday.

(b) "Emergency" means any unforeseen combination of circumstances or the resulting state that calls for immediate action. The term includes, but is not limited to, a fire, a natural disaster, an automobile accident, or any situation requiring immediate action to prevent serious bodily injury or loss of property.

(c) "Establishment" means any privately owned place of business operated for a profit to which the public is invited, including but not limited to, any place of amusement or entertainment.

(d) "Guardian" is a person other than a parent who has legal guardianship of a juvenile.

(e) "Juvenile" means any unemancipated person under the age of 18 years.

(f) "Parent" means the natural parent, adopted parent, or step-parent of a juvenile.

(g) "Public place" means any place to which the public or a substantial group of

the public has access and includes, but is not limited to, streets, highways, and the common areas of schools, hospitals, apartment houses, office buildings, transportation facilities, shops and commercial businesses.

(h) "Remain" means to linger or stay.

(i) "Serious bodily injury" means bodily injury that creates a substantial risk of death or that causes death, serious permanent disfigurement, or protracted loss or impairment of the function of any bodily member or organ.

8.15.020 Juvenile Curfew.

A. It shall be unlawful for any juvenile to remain in any public place or establishment within the City of SeaTac during curfew hours.

B. It shall be a complete defense to prosecution under paragraph A, above, that the juvenile was:

(1) Accompanied by the juvenile's parent or guardian or other person over the age of 18 years who has been given custody or control of the juvenile by said juvenile's parent or guardian;

(2) On an errand at the direction of the juvenile's parent or guardian without any detour or stop;

(3) In a motor vehicle involved in interstate travel;

(4) Engaged in an employment activity, or going to or returning home from an employment activity without any detour or stop;

(5) Involved in an emergency;

(6) On the sidewalk abutting the juvenile's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the juvenile's presence;

(7) Attending an official school, religious or other recreational activity supervised by adults and sponsored by the City of SeaTac, a civic organization, a school district, or another similar entity that takes responsibility for the juvenile, or going to or returning home from, without any detour or stop, an official school, religious, or other recreational activity supervised by adults and sponsored by the City of SeaTac, a civic organization, a school district, or other similar entity that takes responsibility for the juvenile;

(8) Exercising First Amendment Rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly;

(9) Attending or returning home from, without any detour or stop, any theater, movie house or sporting event; provided, however, that the juvenile shall have in his or her possession and present to a police officer upon request the ticket or ticket stub(s) from the theater, movie house or sporting event; or,

(10) Patronizing a restaurant or similar licensed food service establishment, during regular hours of operation of such establishment, where the juvenile receives or

secures the services provided by the establishment from within the building or structure of the establishment, or returning home therefrom, without any detour or stop.

C. Penalties: A violation of this section is an infraction. The civil infraction penalty for a first violation of this section within a five (5) year period shall be fifty dollars ($50.00); for a second offense within a five (5) year period, the penalty shall be one hundred dollars ($100.00); and for a third or subsequent violation within a five (5) year period, the penalty shall be two hundred dollars ($200.00). It is provided, however, that individuals who have committed violations of this section shall have the opportunity to work off their penalties through community service in the City of SeaTac parks, at the rate of five dollars ($5.00) per hour, as can be scheduled with the City's Parks and Recreation Department.

8.15.030 Temporary Custody Procedure.

A police officer who reasonably believes that a juvenile is in violation of any of the curfew provisions of this chapter shall have authority to take the juvenile into custody and deliver or arrange to deliver the minor either to:

(1) The juvenile's parent, guardian, custodian or other adult person having custody or control of such minor; or,

(2) The offices of the police department acting as the law enforcement agency of the City of SeaTac, or facility operated by such police department; or,

(3) The appropriate juvenile authority.

8.15.040 Parental Responsibility.

A. It is unlawful for the parent, guardian, or other adult person having custody or control of any juvenile to permit or knowingly allow such juvenile to remain in any public place or on the premises of any establishment within the City of SeaTac during curfew hours.

B. It shall be a complete defense to the prosecution under paragraph A, above, that the juvenile was:

(1) Accompanied by the juvenile's parent, guardian, or any other person over the age of 18 years who has been given custody or control of the juvenile by said juvenile's parent or guardian;

(2) On an errand at the direction of the juvenile's parent or guardian without any detour or stop;

(3) In a motor vehicle involved in interstate travel;

(4) Engaged in an employment activity, or going to or returning home from an employment activity, without any detour or stop;

(5) Involved in an emergency;

(6) On the sidewalk abutting the juvenile's residence or abutting the residence of a next-door neighbor if the neighbor did not complain to the police department about the juvenile's presence;

(7) Attending an official school, religious, or other recreational activity supervised by adults and sponsored by the City of SeaTac, a civic organization, a school district, or other similar entity that takes responsibility for the juvenile, or going to or returning home from, without any detour or stop, an official school, religious or other recreational activity supervised by adults and sponsored by the City of SeaTac, a civic organization, a school district, or other similar entity that takes responsibility for the juvenile;

(8) Exercising First Amendment Rights protected by the United States Constitution, such as the free exercise of religion, freedom of speech, and the right of assembly;

(9) Attending or returning home from, without any detour or stop, any theater, movie house, or sporting event; provided, however, that the juvenile shall have in his or her possession and present to a police officer upon request the ticket or ticket stub(s) from the theater, movie house or sporting event; or,

(10) Patronizing a restaurant or similar licensed food service establishment, during regular hours of operation of such establishment, where the juvenile receives or secures the services provided by the establishment from within the building or structure of the establishment, or returning home therefrom, without any detour or stop.

C. Penalties.

(1) A first violation of this section within a five (5) year period shall be a misdemeanor, which shall be punishable by a fine of no more than two hundred and fifty dollars ($250.00).

(2) A second or subsequent conviction of this section within a five (5) year period is a misdemeanor and shall be punishable by a fine of not more than five hundred dollars ($500.00) or by imprisonment in jail for not more than ninety (90) days or by both such fine and imprisonment.

8.15.050 Third Person Liability.

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

Section 2. Each separate provision of this Ordinance shall be deemed independent of all others. If any provision of this Ordinance, or any part thereof, or its application to any persons or circumstances is declared to be invalid, all other provisions or parts thereof or its application to other persons or circumstances shall remain valid and enforceable.

Section 3. This Ordinance is necessary for the immediate preservation of public peace, health, and safety, and for the support of city government and its existing public institutions, and, therefore, this Ordinance,

being passed by unanimous vote of the Council, shall take effect and be in full force and effect upon its adoption and publication of a summary of its contents pursuant to law.

ADOPTED this 14 th day of May, 1996, and signed in authentication

thereof on this 14 th day of May, 1996.

CITY OF SEATAC

_____

Don DeHan, Mayor

ATTEST:

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Judith L. Cary, City Clerk

Approved as to Form:

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Robert L. McAdams, Interim City Attorney

ORDINANCE NO. 96-1013

AN ORDINANCE of the City Council of the City of SeaTac, Washington, amending and repealing certain Sections of the City Traffic Code, at Chapter 9.05 and Chapter 9.10 of the SeaTac Municipal Code to eliminate out-of-date and unnecessary references, to establish consistency with the Model Traffic Ordinance, and to establish civil penalties for certain parking infractions.

WHEREAS, review of the City Traffic Code has disclosed out-of-date references to King County and its schedules and procedures, as well as internal inconsistencies and conflicts with the adopted Model Traffic Ordinance; and

WHEREAS, the City Council has been made aware of residents' concerns in regard to on-street parking and violation of posted parking restrictions; and

WHEREAS, review of existing parking restrictions and establishment of civil penalties for violation of the same indicates that such civil penalties may not be sufficiently higher than private parking rates so as to discourage unlawful on-street parking; and

WHEREAS, the City's existing civil penalties for parking infractions are less than those specified in the applicable court rules adopted by the Washington Supreme Court;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON, DO ORDAIN as follows:

Section 1. Section 9.05.015 of the SeaTac Municipal Code is hereby amended to read as follows:

9.05.015 Additional code sections adopted by reference.

The following sections of Title 46 of the Revised Code of Washington, as ~~they~~ currently ~~are~~ enacted and as they may be amended in the future, not having been included in the MTO, are hereby adopted by reference into the SeaTac Traffic Code:

~~46.09.020 Off road vehicles - Definitions.~~

46.09.030 Use permits - Issuance - Fees.

46.09.040 Use permit prerequisite to operation.

46.09.050 Vehicles exempted from ORV use permits and tags.

46.09.070 Application for ORV use permit.

46.09.080 ORV dealers - Permits - Fees - Number plates - Title application - Violations.

46.09.110 Disposition of ORV moneys.

~~46.09.120 Operation violations.~~

~~46.09.130 Additional violations - Penalty.~~

~~46.09.140 Accident reports.~~

46.09.150 Motor vehicle fuel excise taxes on fuel for nonhighway

vehicles not refundable.

46.09.170 Refunds from motor vehicle fund - Distribution - Use.

~~46.09.180 Regulation by local political subdivisions or state agencies.~~

46.09.200 Enforcement.

~~46.10.020 Ownership, transport, operation of snowmobile without registration prohibited.~~

46.10.030 Ownership or operation of snowmobiles without registration prohibited - exceptions.

46.10.050 Snowmobile dealers' registration - Fee - Dealer number plates. use - Sale or demonstration unlawful without registration.

~~46.12.010 Certificates required to operate and sell vehicles - Manufacturers or dealers, security interest how perfected.~~

~~46.16.160 Vehicle trip permits - Restrictions and requirements - Fees and taxes - Penalty - Rules.~~

~~46.50.055 Violation of instructional permit restrictions.~~

46.20.205 Failure to notify DOL of address change.

<u>46.20.720 Ignition interlocks, biological, technical devices - Drivers convicted of alcohol offenses.</u>

46.20.730 Ignition interlock device - Definition.

~~46.29.610 Requirements - Surrender of license - Penalty.~~

46.29.620 Forge proof of financial responsibility - Penalty.

~~46.44.080 Local weight regulations - Authority to establish.~~

~~46.61.165 Violation of transit/carpool lane.~~

<u>46.61.5056 Alcohol violators - Information school - Evaluation and treatment.</u>

46.70.090 Unlawful/improper use of dealer license plates.

46.80.020 Wrecker license required - Penalty.

Section 2. Section 9.05.016 of the SeaTac Municipal Code is hereby repealed .

Section 3. Sections 9.05.030 and 9.05.040 of the SeaTac Municipal Code are each hereby repealed.

Section 4. Section 9.05.050 and 9.05.060 of the SeaTac Municipal Code is hereby amended to read as follows:

9.05.050 ~~Stopping, standing, or~~ <u>Commercial</u> parking prohibited.

The following provisions are adopted in addition to the provisions of RCW 46.61.570(1), as ~~referenced in the MTO:~~

~~A. When signs are erected in each block giving notice thereof, no person shall park a vehicle:~~

~~1. At any time upon any of the streets or portions thereof described in Schedule 14;~~

~~2. Between the hours specified in Schedule 15 of any day except as provided within the district or upon any of the streets described in said Schedule;~~

~~3. Or stop or stand a vehicle between the hours specified in Schedule 16 of any day except as provided in said Schedule within the district or upon any of the streets described in said Schedule;~~

~~4. For a period of time longer than specified in Schedule 17 upon any of the streets or parts of streets specified in said Schedule.~~

~~B.~~ No person shall park a commercial vehicle which is more than eighty (80) inches wide overall on any street or alley in residentially zoned areas between the hours of midnight and six a.m.

9.05.060 Parking wide vehicles on certain streets.

It is a traffic infraction for any person to park any vehicle as defined in RCW 46.04.670 which is ninety (90) inches wide or wider on or along any city street, road, alley or right-of-way other than 12th Place South between 16th Avenue South and 12th Avenue South, 12th Avenue South between 12th Place South and South 192nd Street, South 192nd Street between 12th Avenue South and 16th Avenue South and 16th Avenue South between South 192nd Street and 12th Place South; provided, that this section shall not apply to momentary stops and parking for loading, unloading and making deliveries to residences and businesses in the vicinity, or instances when an emergency exists and the vehicle is parked no longer than necessary. It is further provided that this section shall not be construed to grant any person a right to park any vehicle in any location in the city, and this section does not relieve the driver or operator of any vehicle of the responsibility to park a vehicle in a safe manner and in accordance with applicable traffic codes. ~~The penalty for a violation of this section shall be thirty-five dollars ($35.00).~~

Section 5. Section 9.05.062 of the SeaTac Municipal Code is hereby repealed.

Section 6. Section 9.05.080A of the SeaTac Municipal Code is hereby amended to read as follows:

9.05.080 Parking a motor vehicle on the roadway or in a manner which impedes traffic - Exceptions.

A. It shall be unlawful for any driver or operator of a vehicle to stop, park or leave standing any vehicle, whether attended or unattended, on the travel<u>ed</u> portion of any public roadway or park, <u>to</u> stop or leave <u>standing</u> any motor vehicle in any other location which impedes, restricts or prevents travel over~~,~~ or across any public roadway. Violation of this section shall constitute a traffic infraction punishable by a penalty not to exceed ~~twenty~~ <u>fifty-seven</u> dollars (~~$20.00~~) (<u>$57.00</u>).

Section 6. Section 9.05.090 of the SeaTac Municipal Code is hereby amended to read as follows:

9.05.090 Parking restrictions - Authority to identify restrictive zones.

The City Manager or designee is authorized to identify and designate by appropriate signage parking restrictions, time limitations and parking prohibitions for certain streets of the City, to include restriction to parking by local residents only, in order to provide for reasonable parking availability and safe use of City streets. The penalty for violations of ~~posted~~ parking restrictions, prohibitions, or time periods shall be ~~$10.00~~ fifty dollars ($50.00) i~~n addition to other costs and assessments~~. It is provided however that the provisions of this section shall not apply to violations of parking regulations specifically set forth and provided for in other sections of the City Code.

Section 8. Section 9.10.010 of the SeaTac Municipal Code is hereby repealed.

Section 9. This Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this 28th day of May, 1996, and signed in authentication thereof on this 28th day of May, 1996.

CITY OF SEATAC

_____

Kathy Gehring, Deputy Mayor

ATTEST:

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Judith L. Cary, City Clerk

Approved as to Form:

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Robert L. McAdams, Interim City Attorney

ORDINANCE NO. 96-1014

AN ORDINANCE of the City Council of the City of SeaTac, Washington, amending Section 8.10.010 of the SeaTac Municipal Code to incorporate by reference the crime of Interfering With the Reporting of Domestic Violence.

WHEREAS, the current SeaTac Municipal Code addresses domestic violence at Chapter 8.10; and

WHEREAS, a new state statute has been enacted which further addresses domestic violence by creating the crime of Interfering With Reporting of Domestic Violence as a gross misdemeanor; and

WHEREAS, inclusion in the City Code of that new crime would allow City law enforcement officials and the court to take appropriate enforcement action in cases where existing statutes may not have specific application;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON, DO ORDAIN as follows:

Section 1. Section 8.10.010 of the SeaTac Municipal Code is hereby amended to read as follows:

8.10.010 Domestic violence prevention.

The following sections of Chapter 9A.36, 10.99 and 26.50 RCW as now in effect, and as may subsequently be amended, are hereby adopted by reference to establish domestic violence offenses and procedures for domestic violence prevention:

9A.36. Interfering With Reporting of Domestic Violence, (' 3, Chapter 248, Laws of 1996)..

10.99.020 Definitions.

10.99.040 Violation of No Contact Order.

26.50.010 Definitions.

26.50.020 Commencement of action - Jurisdiction - Venue.

26.50.030 Petition for order for protection - Availability of forms and instructional brochures - Filing fee, when required - Bond not required.

26.50.040 Application for leave to proceed in forma pauperis.

26.50.050 Hearing - Service - Time.

26.50.060 Relief - Realignment of designation of parties.

26.50.070 Ex parte temporary order for protection.

26.50.080 Issuance of order - Assistance of peace officer - Designation of appropriate law enforcement agency.

26.50.090 Order - Service - Fees.

26.50.100 Order - Transmittal to law enforcement agency - Record in law enforcement information system - Enforceability.

26.50.110 Violation of order - Penalties.

26.50.120 Violation of order - Prosecuting attorney or attorney for municipality may be requested to assist - Cost and attorney's fees.

26.50.130 Order - Modification - Transmittal.

26.50.140 Peace officers - Immunity.

26.50.200 Title to real estate - Effect.

26.50.210 Proceedings additional.

Section 2. This Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this 11th day of June, 1996, and signed in authentication thereof on this 11th day of June, 1996.

CITY OF SEATAC

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Don DeHan, Mayor

ATTEST:

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Judith L. Cary, City Clerk

Approved as to Form:

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Robert L. McAdams, Interim City Attorney

ORDINANCE NO. 96-1015

AN ORDINANCE of the City Council of the City of SeaTac, Washington, amending Section 8.05.390 and 8.05.400 of the SeaTac Municipal Code to incorporate by reference the crime of Unlawful Sale, Purchase, Acquisition or Sale of Food Stamps and to incorporate by reference the Crime of Abandonment of a Dependent Person in the Third Degree.

WHEREAS, the current SeaTac Municipal Code addresses miscellaneous crimes at Chapter 8.05.390 and crimes against persons at Chapter 8.05.400; and

WHEREAS, the City Code has never adopted RCW 9.91.140 Unlawful Sale, Purchase, or Acquisition or Sale of Food Stamps, as a miscellaneous crime; and

WHEREAS, a new state statute has been enacted which further addresses crimes against persons by creating the crime of Abandonment of a Dependent Person as a gross misdemeanor; and

WHEREAS, inclusion in the City Code of both crimes would allow City law enforcement officials and the court to take appropriate enforcement action in cases where existing statutes may not have specific application;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON, DO ORDAIN as follows:

Section 1. Section 8.05.390 of the SeaTac Municipal Code is hereby amended to read as follows:

8.05.390 Miscellaneous crimes.

The following sections of Title 9 RCW now in effect, and as may subsequently be amended are hereby adopted by reference to establish the following miscellaneous crimes under the SeaTac Criminal Code:

9.91.010 Denial of civil rights - Terms defined.

9.91.025 Unlawful bus conduct.

9.91.060 Leaving children unattended in parked automobile.

9.91.090 Fraudulent destruction of insured property.

9.91.110 Metal buyers - Records of purchases - Penalty.

9.91.130 Disposal of trash in charity donation receptacle.

9.91.140 Unlawful Sale, Purchase, or Acquisition of Food Stamps

Section 2. Section 8.05.400 of the SeaTac Municipal Code is hereby amended to read as follows:

8.05.400 Assault and other crimes involving physical harm.

The following sections of the Washington Criminal Code as now in effect, and as may subsequently be amended, are hereby adopted by reference to establish the crimes of assault and other crimes involving physical harm under the SeaTac Criminal Code:

Ch 302, § 1, Laws of 1996 Abandonment of Dependent Persons.

9A.36.041 Assault in the fourth degree.

9A.36.050 Reckless endangerment in the second degree.

9A.36.070 Coercion.

Section 3. The City's Code Reviser is authorized to substitute the RCW section designation, when assigned by the State Code Reviser, in lieu of reference to the Session Laws.

Section 4. This Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this_____day of_____, 1996, and signed in authentication

thereof on this _____day of _____, 1996.

CITY OF SEATAC

_____

Don DeHan, Mayor

ATTEST:

_____

Judith L. Cary, City Clerk

Approved as to Form:

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Robert L. McAdams, Interim City Attorney

ORDINANCE NO. 96-1016

AN ORDINANCE of the City Council of the City of SeaTac, Washington amending the zoning map of the City, and providing for the City-wide rezone of property within the City to conform to the City of SeaTac Comprehensive Plan.

WHEREAS, after the incorporation of the City of SeaTac, the City of SeaTac developed and implemented, through its zoning code, certain provisions for identification of zoning regulations, zoning districts and development standards to be operative within the City of SeaTac; and

WHEREAS, in conjunction with the development of the zoning code of the City, a zoning map was likewise developed, and officially adopted by Ordinance, identifying various regions and properties in the City, and identifying the zoning districts into which the property fell; and

WHEREAS, subsequent to the adoption of the City's zoning code and zoning map, and pursuant to the requirements of the Washington State Growth Management Act, the City of SeaTac concluded an in-depth study of various aspects of the City and developed a City-wide Comprehensive Plan, which was likewise adopted by Ordinance; and

WHEREAS, in light of the provisions of the City of SeaTac Comprehensive Plan, it is appropriate that certain parcels and pieces of property within the City be re-zoned to conform more closely to the comprehensive plan; and

WHEREAS, at the invitation of the City, property owners requested rezones to conform with the Comprehensive Plan; and

WHEREAS, in connection with the City-wide rezone program, public hearings were held by the City of SeaTac Planning Commission at which hearings all members of the public, including property owners seeking rezones were permitted to speak and address the issue of rezones; and

WHEREAS, after the public hearings and further study by the Planning Commission, a list of properties that are the subject of the City-wide rezone has been compiled, which identifies the property to be rezoned and the change of zoning which is being requested;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN, as a non-codified ordinance, as follows:

1. That the parcels of property shown on the maps attached hereto, marked as Exhibit "A", incorporated herein by this reference, be and the same hereby are re-zoned as indicated on said attached Exhibit "A".

2. That the list of the parcels of property, with tax lot numbers identified, marked as Exhibit "B", incorporated herein by this reference, be and the same hereby are re-zoned as indicated on said attached Exhibit "B".

3. That the zoning map of the City is amended to reflect the changes provided in paragraphs 1 and 2 hereof, so that the zoning map of the City is as shown on the maps attached hereto, marked as Exhibit "A" and incorporated herein by this reference, the original of which shall be on file with the office of the City Clerk.

4. That a copy of this Ordinance shall be filed with the County Assessor's Office, King County, State of Washington.

5. That this Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this day of , 1996, and signed in authentication thereof on this day of , 1996.

CITY OF SEATAC

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Don DeHan, Mayor

ATTEST:

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Judith L. Cary, City Clerk

Approved as to Form:

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Robert McAdams, Acting City Attorney

ORDINANCE NO. 96-1017

AN ORDINANCE of the City Council of the City of SeaTac, Washington relating to denial, suspension or revocation of adult entertainment licenses and appeals therefrom; amending Section 5.40.270 of the SeaTac Municipal Code.

WHEREAS, the City Council originally adopted Ordinance No. 90-1039, which incorporated by reference Title 6 of the King County Code relating to licensing and regulating all businesses, including adult entertainment, which was codified at Chapter 5.30 of the SeaTac Municipal Code; and

WHEREAS, Section 20 of Ordinance No. 90-1039 provided for appeal from licensing decisions to the City Hearing Examiner; and

WHEREAS, the City Council then adopted Ordinance No. 91-1023 which set forth adult entertainment licensing provisions without reference to the King County Code (although the Ordinance closely paralleled the County provisions), but appeal to the City Hearing Examiner remained unchanged; and

WHEREAS, amendments were then made, as a result of the litigation between Marlar, Inc. and the City, by Ordinance No. 92-1019, but, again, the appeal process was unchanged; and

WHEREAS, by Ordinance No. 95-1018, the Council repealed all of the adult entertainment provisions of the previous ordinances as codified at Sections 5.30.070 through 5.30.900 of the SeaTac Municipal Code, and adopted an entirely new adult entertainment Chapter to the Municipal Code, Chapter 5.40 SeaTac Municipal Code; and

WHEREAS, the said Ordinance No. 95-1018 and Section 5.40.270 of the SeaTac Municipal Code changed the appeal process from the City Hearing Examiner to the City Council; and

WHEREAS, the City Council finds that the preferred forum for such appeals is the City Hearing Examiner, who has greater expertise in deciding appeals from administrative decisions, who is better able to establish quasi-judicial procedures and to rule on procedural issues and questions of law, and who can more expeditiously and economically conduct and decide appeals to the benefit of all litigants;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN as follows:

Section 1. Section 5.40.270 of the SeaTac Municipal Code is hereby changed to read as follows:

5.40.270 Denial, suspension or revocation of license or permit procedures - Appeal.

A. When the City Manager or designee refuses to grant a license or permit, or suspends or revokes the same, the applicant shall be notified in writing of the same, describing the reasons therefor, and shall inform the applicant of his or her right to appeal to the ~~City Council~~ City Hearing Examiner within ten (10) days of the date of the written notice by filing a written notice of appeal with the City Clerk containing a statement of the specific reasons for the appeal and a statement of the relief requested.

B. Whenever the City Manager or designee has found or determined that any violation or change in circumstances of this chapter has occurred, s/he shall issue a Notice of Violation and Suspension or Revocation ("Notice") to the licensee or permit holder.

The notice shall include the following:

1. Name(s) of person(s) involved.

2. Description of the violation(s), including date and section of this chapter violated.

3. Description of the administrative action taken.

4. Rights of appeal as set forth above.

The notice shall be served either personally or by mailing a copy of the notice by certified mail, postage prepaid, return receipt requested, to the licensee at his or her last known address. Proof of personal service shall be made at the time of service by a written declaration under penalty of perjury, executed by the person effecting the service, declaring the time, date, and the manner by which service was made. The decision may be appealed to the ~~City Council~~ City Hearing Examiner if request for appeal is filed with the City Clerk within ten (10) days of ~~receipt~~ of date of the notice. Said request shall be in writing, state specific reasons for the appeal, and the relief requested.

C. The suspension or revocation of a license shall be immediately effective unless a stay thereof is specifically requested in the written request for an appeal.

D. Within ten (10) days of receiving a timely appeal, the City Clerk shall forward the administrative record of the licensing decision to the ~~City Council~~ City Hearing Examiner.

E. When an applicant has appealed the City Manager's or designee's decision according to the provisions hereof, the ~~City Council~~ City Hearing Examiner shall review the administrative record at the next regularly scheduled meeting for which proper notice can be given. Written notice of the date and time of the scheduled meeting will be given to the applicant by the City Clerk by mailing the same, postage prepaid, to the applicant at the address shown on the license or permit application.

F. If the licensee appeals the Notice to the ~~City Council~~ City Hearing Examiner, the licensee shall be afforded a reasonable opportunity to be heard as to the violation and action taken. The applicant and City Manager or designee shall be given an opportunity to argue the merits of the issues of the appeal before the ~~City Council~~ City Hearing Examiner. Oral argument by each party shall not exceed ten (10) minutes and shall be limited to the administrative record before the ~~Council~~ City Hearing Examiner.

G. The ~~City Council~~ City Hearing Examiner shall uphold the City Manager's or designee's decision unless it finds the decision is not supported by substantial evidence in the administrative record. The City Manager or designee shall have the initial burden of proof.

H. The ~~City Council~~ City Hearing Examiner shall issue a written decision within ten (10) days of hearing the appeal. The ~~Council~~ City Hearing Examiner may uphold the City Manager's or designee's decision and deny the permit, overrule the City Manager's or designee's decision and grant the permit, or remand the matter to the City Manager or designee for further review and action. The City Manager or designee shall complete further action or review within thirty (30) days of receiving the remand.

I. The decision by the ~~City Council~~ City Hearing Examiner shall constitute final administrative review. ~~Applicant shall be responsible for the cost of any preparation of record for appeal.~~

J. Either party may seek judicial review of a final decision of the ~~City Council~~ City Hearing Examiner as provided by law.

K. The applicant shall be responsible for the cost of any preparation of record for appeal.

Section 2. This Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this 13th day of August, 1996, and signed in authentication

thereof on this 13th day of August, 1996.

CITY OF SEATAC

_____

Kathy Gehring, Deputy Mayor

ATTEST:

_____

Judith L. Cary, City Clerk

Approved as to Form:

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Robert L. McAdams, Interim City Attorney

ORDINANCE NO. 96-1018

AN ORDINANCE of the City Council of the City of SeaTac, Washington amending the zoning map of the City, and providing for the City-wide rezone of property within the City to conform to the City of SeaTac Comprehensive Plan.

WHEREAS, after the incorporation of the City of SeaTac, the City of SeaTac developed and implemented, through its zoning code, certain provisions for identification of zoning regulations, zoning districts and development standards to be operative within the City of SeaTac; and

WHEREAS, in conjunction with the development of the zoning code of the City, a zoning map was likewise developed, and officially adopted by Ordinance, identifying various regions and properties in the City, and identifying the zoning districts into which the property fell; and

WHEREAS, subsequent to the adoption of the City's zoning code and zoning map, and pursuant to the requirements of the Washington State Growth Management Act, the City of SeaTac concluded an in-depth study of various aspects of the City and developed a City-wide Comprehensive Plan, which was likewise adopted by Ordinance; and

WHEREAS, in light of the provisions of the City of SeaTac Comprehensive Plan, it is appropriate that certain parcels and pieces of property within the City be re-zoned to conform more closely to the comprehensive plan; and

WHEREAS, at the invitation of the City, property owners requested rezones to conform with the Comprehensive Plan; and

WHEREAS, in connection with the City-wide rezone program, public hearings were held by the City of SeaTac Planning Commission at which hearings all members of the public, including property owners seeking rezones were permitted to speak and address the issue of rezones; and

WHEREAS, after the public hearings and further study by the Planning Commission, a list of properties that are the subject of the City-wide rezone has been compiled, which identifies the property to be rezoned and the change of zoning which is being requested;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN, as a non-codified ordinance, as follows:

1. That the parcels of property shown on the maps attached hereto, marked as Exhibit "A", incorporated herein by this reference, be and the same hereby are re-zoned as indicated on said attached Exhibit "A", except for the parcels of property identified as "Area 8" which shall be subject to further consideration within sixty (60) days.

2. That the list of the parcels of property, with tax lot numbers identified, marked as Exhibit "B", incorporated herein by this reference, be and the same hereby are re-zoned as indicated on said attached Exhibit "B", except for the parcels of property identified as "Area 8" which shall be subject to further consideration within sixty (60) days.

3. That the zoning map of the City is amended to reflect the changes provided in paragraphs 1 and 2 hereof, so that the zoning map of the City is as shown on the maps attached hereto, marked as Exhibit "A" and incorporated herein by this reference, the original of which shall be on file with the office of the City Clerk.

4. That a copy of this Ordinance shall be filed with the County Assessor's Office, King

County, State of Washington.

5. That this Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this 13th day of August, 1996, and signed in authentication thereof on this 13th day of August, 1996.

CITY OF SEATAC

_____

Kathy Gehring, Deputy Mayor

ATTEST:

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Judith L. Cary, City Clerk

Approved as to Form:

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Robert McAdams, Acting City Attorney

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ORDINANCE NO. 96-1019

AN ORDINANCE of the City Council of the City of SeaTac, Washington, amending Sections: 1.20.090, 16.03.040, 16.03.090, 16.05.040, 16.07.010, 16.07.030, 16.07.040, 16.07.050, 16.09.020, 16.09.030, 16.09.040, 16.11.020, and 16.13.020 of the SeaTac Municipal Code.

WHEREAS, since the adoption of the initial "Development Review" code, Title 16, of the City, through Ordinance No. 96-1008, the state legislature has mandated certain changes to Title 16 through House Bill 2567 (HB 2567); and

WHEREAS, in order to better meet the needs of the City and to provide a "Development Review" code that is responsive to those needs, the "Development Review" code is subject to periodic review and amendment; and

WHEREAS, in connection with review of the "Development Review" code, certain standards have been identified as needing definition and greater clarity; and

WHEREAS, the Planning Commission of the City of SeaTac has completed a review of the identified needs, and has held public hearings for the purpose of soliciting public comment regarding "Development Review" code changes, and the Planning Commission has recommended certain amendments to the City Council;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN as follows:

1. That Section 1.20.090 of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

For the following cases, the Examiner shall receive and examine available information, conduct public hearings, prepare records and reports thereof, and make decisions, which shall be given the effect of an administrative decision appealable to the Council:

A. Preliminary Subdivisions;

B. Preliminary Planned Unit Developments;

C. Rezone/s Initiated by the Property Owner/;s

D.~~A~~. Appeals from permit denials or conditions imposed on environmental grounds pursuant to the State Environmental Policy Act;

E.~~B~~. Appeals from threshold determinations concerning applications subject to Council action;

F.~~C.~~ Other applications or appeals which the Council may refer by ordinance, specifically declaring that the Hearing Examiner's decision shall be appealable to the Council.

2. That Section 16.03.040 of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

In addition to its legislative responsibility, the City Council shall review and act on the following subjects:

A. Individual or Citywide rezones initiated by the City.

~~B. Preliminary Subdivisions~~

~~C. Individual requests for rezones of properties, not including the rezone of properties initiated by the City~~.

~~D. Preliminary Planned Unit Developments (PUD'S).~~

3. That Section 16.03.090 of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

The Hearing Examiner shall review and act on the following subjects. In all cases, the Hearing Examiners decision shall be final unless appealed to the City Council or Superior Court as outlined in Chapter 1.20.090 and 1.20.110 SMC.

A. Conditional Use Permits

B. Variance Requests

C. Preliminary Subdivisions

D. Preliminary Planned Unit Development

E. Individual requests for rezones of properties, not including the rezone of properties initiated by the City.

F~~C~~. Applications for Shoreline Permits when a public hearing is required.

G~~D~~. Appeals from the decisions of the City staff on applications for short subdivisions.

H~~E~~. Appeals from the decisions of the City staff on applications for lot line adjustments (LLA).

I~~F~~. Appeals from threshold determinations concerning applications not subject to Hearings Examiner action.

J~~G~~. Appeals from administrative decisions or determinations by City officials where the governing ordinance provides for an appeal to the Examiner.

K~~H~~. Appeals from notices and orders issued as code enforcement actions.

L~~I~~. Appeals from decisions regarding the abatement of nonconforming uses.

M~~J~~. Other applications or appeals which the Council may prescribe by ordinance.

N~~K~~. Appeals for a sign amortization extension.

4. That Section 16.05.040 4. and 5. of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

A. No Change

B. No Change

1. No Change

2. No Change

3 . No Change

4. County Assessor's map/s showing a 500' or 1000' radius around the exterior property boundaries of the subject property (See Section 16.07.010 B. 3. regarding notification of adjacent property owners).

5. A stamped, legal sized envelope addressed to each property owner within 500' or 1000' feet of the subject property with the return address for the City of SeaTac, Dept. of Planning and Community Development. A return address stamp is available for the property owner's or his/her representatives use. The applicant shall provide two (2) sets of these envelopes. Additional sets of envelopes may be required as necessary dependant on the project proposal (This shall also include a receipt for the cost of the stamps, envelopes, and address labels for those properties between 500' and 1000'. The City shall reimburse the applicant for those costs).

6. No Change

7. No Change

5. That Section 16.07.010 B. 3. of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

3. Adjacent property owners within 500' or 1000' feet of the exterior property line shall be notified ~~Sent~~ by first class mail, at a minimum, based on the following criteria:

a. For the following actions, adjacent property owners within 500' shall be notified:

i. All actions normally exempt from SEPA review, but which require SEPA review due to "Sensitive Areas" on site (i.e. construction of a single-family house).

ii. All actions within "Shoreline" jurisdiction that normally are exempt from SEPA review, but required SEPA review due to being subject to shoreline regulations (i.e. construction of a single-family house).

b. For the following actions, adjacent property owners within 1000' shall be notified:

i. All other actions requiring an NOA that do not meet the criteria listed above.

ii. Short Plats

~~to all property owners within 1000' feet of the exterior property lines of the subject property~~

~~(not including rights-of-way).~~ The property owner or his/her representatives shall be responsible for providing the envelopes as required by the minimum application requirements as outlined in Section 16.05.040.

6. That Section 16.07.010 E. of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

A Notice of Application is not required for the following actions, when they are categorically exempt from SEPA review.

1. Application for building permits.

2. Application for lot line adjustments

3. Variance

4. Temporary Use Permits

5. Storage Tank Permit

6. Grading Permit

7. Aircraft Repair Hanger Permit

8. Commercial Rubbish-Handling Operation Permit

9. Dry Cleaning Plant Permit

10. Lumber Yard Permit

11. Motor Vehicle Fuel Dispensing Stations Permit

12. Repair Garages Permit

13 . Application for Administrative Approvals

14. Special Projects Initiated by the City

15. Home Occupation Permit

16. Special Home Occupation Permits

17. Temporary Use Permit

18. Separate Lot Determinations

7. That Section 16.07.030 A. 2. of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

2. Mailing at least fourteen (14) days before the date of a public meeting, hearing, or pending action to all property owners as shown on the records of the County Assessor and to all street addresses of properties within a minimum of 500' or 1000' feet~~, not including street rights-of-way,~~ of the exterior boundaries of the property which is the subject of the meeting or pending action. Addressed, pre-stamped envelopes shall be provided by the applicant as required by 16.05.040. Additional notification to property owners beyond 500' or 1000' feet may be

required at the discretion of the City Manager or his designee. The criteria for determining the area of notification is listed below.

Adjacent property owners within 500' or 1000' feet of the exterior property line shall be notified by first class mail, at a minimum, based on the following criteria:

a. For the following actions, adjacent property owners within 500' shall be notified:

i. All actions normally exempt from SEPA review, but which require SEPA review due to "Sensitive Areas" on site (i.e. construction of a single-family house).

ii. All actions within "Shoreline" jurisdiction that normally are exempt from SEPA review, but required SEPA review due to being subject to shoreline regulations (i.e. construction of a single-family house).

iii Variances

iv Home Occupation Permits

v. Special Home Occupation Permits

vi. Temporary Use Permits

vii Lot Line Adjustments

b. For the following actions, adjacent property owners within 1000' shall be notified:

i. All other actions that do not meet the criteria listed above.

ii. Short Plats

8. That Section 16.07.030 A. 4. of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

4. The "Notice Board" shall have the minimum following dimensions.

The notice board shall be four (4') feet by five (5') feet and shall have a sky blue background with white lettering. Lettering size shall be the following:

a. Helvetica or similar standard type face;

b. Three (3") inch capital letters for the following title:

NOTICE OF PROPOSED OF LAND USE ACTION

c. Two (2") inch capital letters for all other letters except for the 8.5 x 11 inch laminated city notice sheet.

The property owner or his/her representative shall be responsible for the installation of the "Notice Board". An affidavit shall be submitted to the City by the property owner or his/her representative stating when the "Notice Board" has

been installed and the location of the "Notice Board". The "Notice Board" shall be the same as illustrated in Section 16.07.010 B ~~040 D. 4.~~ of the SMC.

9. That Section 16.07.040 A. of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

A. For administrative approvals, notice shall be made to adjacent property owners within a minimum of 500' or 1000' of the exterior boundary lines of the subject property as outlined in the criteria listed under Section 16.07.030 A. 2. a. and b. .

10. That Section 16.07.050 of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

A. A written notice for all final decisions shall be sent to the applicant and all parties of record. For development applications requiring Hearings Examiner or City Council approval, the notice shall be the decision of the Hearings Examiner or the signed ordinance or resolution of the City Council. The Notice of Decision shall also be posted on the subject property.

B. The Notice of Decision shall also state that *"affected property owners may request a change in valuation for property tax purposes notwithstanding any program of revaluation".*

C. The Notice of Decision shall also be sent to the County Assessor's Office.

11. That Section 16.09.020 A. of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

A. The City Manager or his designee may grant preliminary approval or approval with conditions, or may deny the following actions subject to the notice and appeal requirements of this ~~section~~ title:

12. That Section 16.09.030 A. of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

A. Staff Report.

The City Manager or his designee shall prepare a staff report on the proposed development or action summarizing the comments and recommendations of City Departments, affected agencies, and special districts, and evaluating the development's consistency with the City's Development Codes, adopted plans, and regulations. The staff report shall include findings, conclusions and proposed recommendations for disposition of the development proposal or action.

13. That Section 16.09.030 C. of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

C. Required Findings:

The Hearings Examiner shall not approve a proposal or action unless he/she makes the following findings and conclusions based on the criteria for the following proposals or actions.

1. Conditional Use Permits - See Criteria in Section 15.22.030 of the SMC.

2. Variances - See Criteria in Section 15.22.020 of the SMC.

3. Preliminary Planned Unit Developments - See Criteria in Section 15.23.090 of the SMC.

4. Preliminary Subdivisions - See Criteria in Section 14.05.070 of the SMC.

5. A decision on rezone requests not initiated by the City. The Hearings Examiner decision shall be based on criteria contained in Section 15.22.050 of the SMC.

14. That Section 16.09.040 B. of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

B. Decisions. The City Council shall make its decision by motion, resolution, or ordinance as appropriate.

~~1. Hold an open record hearing and make a decision on the following matters.~~

~~i. Preliminary Planned Unit Developments based on criteria in Section 15.23.090 of the SMC.~~

~~ii. Preliminary Subdivisions based on criteria in Section 14.05.070 of the SMC.~~

~~iii. Make a decision on rezone requests not initiated by the City. The City Council's decision shall be based on criteria contained in Section 15.22.050 of the SMC.~~

1. Hold a closed record appeal hearing and make a decision on the following matters:

i. Appeals of decisions by the Hearings Examiner regarding Planned Unit Developments.

ii. Appeals of decisions by the Hearings Examiner regarding Preliminary Subdivisions.

iii. Appeals of decisions by the Hearings Examiner regarding individual rezones not initiated by the City.

15. That Section 16.11.020 of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

A. The following decisions of the Hearings Examiner may be appealed, by applicants or parties of record, from the Hearings Examiner hearing, to the City Council.

1. Preliminary Subdivisions

2. Preliminary Planned Unit Developments

3. Rezones not initiated by the City

B. The following decisions of the Hearings Examiner may be appealed, by applicants or parties of record from the Hearings Examiner hearing, to King County Superior Court.

1. Conditional Use Permits

2. Variances

3. Open record appeals of Threshold Determinations or other actions as determined by the City Council.

16. That Section 16.13.020 of the SeaTac Municipal Code be and the same hereby is amended to read as follows:

Compliance with the requirements of Titles 13 through 16, SMC, shall be mandatory. The general penalties and remedies established in ~~at~~ Chapter 1.15, SeaTac Municipal Code, for such violations shall apply to any violation of those titles. The enforcement actions authorized under this chapter shall be supplemental to those general penalties and remedies.

17. That this Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this 13th day of August, 1996, and signed in authentication thereof on this 13th day of August, 1996.

CITY OF SEATAC

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Don DeHan, Mayor

ATTEST:

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Judith L. Cary, City Clerk

Approved as to Form:

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Bob McAdams, Interim City Attorney

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ORDINANCE NO. 96-1020

AN ORDINANCE of the City Council of the City of SeaTac, Washington amending the zoning map of the City, and providing for the City-wide rezone of property within the City to conform to the City of SeaTac Comprehensive Plan.

WHEREAS, after the incorporation, the City developed and implemented, through its zoning code, certain provisions for identification of zoning regulations, zoning districts and development standards to be operative within the City; and

WHEREAS, a zoning map was likewise developed, and officially adopted by Ordinance, identifying various regions and properties in the City, and identifying the zoning districts into which such properties fell; and

WHEREAS, subsequent to the adoption of the City's zoning code and zoning map, and pursuant to the requirements of the Washington State Growth Management Act, the City concluded an in-depth study of all elements of the Act and developed a City-wide Comprehensive Plan, which was likewise adopted by Ordinance; and

WHEREAS, in light of the provisions of the City Comprehensive Plan, it is appropriate that certain of properties be re-zoned to conform more closely to the Comprehensive Plan; and

WHEREAS, at the invitation of the City, property owners requested rezones to take advantage of the opportunity to conform with the Comprehensive Plan, and to obtain therefore it was the benefit of the City's offer to facilitate the rezones and to waive fees that would otherwise be involved in rezone requests; and

WHEREAS, in connection with the City-wide rezone program, public hearings were held by the Planning Commission at which hearings all members of the public, including property owners seeking rezones, were permitted to speak and to address the issue of rezones; and

WHEREAS, after the public hearings and further study by the Planning Commission, a list of properties that are the subject of the City-wide rezone has been compiled, which identifies the property to be rezoned and the change of zoning which is being requested;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN, as a non-codified ordinance, as follows:

1. The parcels of property identified as Area 6 on the maps attached hereto, marked as Exhibit "A", incorporated herein by this reference, be and the same hereby are re-zoned as indicated on said attached Exhibit "A".

2. The parcels of property, with tax lot numbers identified, listed as Area 6 on Exhibit"B", incorporated herein by this reference, be and the same hereby are re-zoned as indicated on said attached Exhibit "B".

3. The zoning map of the City is amended to reflect the changes provided in paragraphs 1 and 2 hereof, so that the zoning map of the City is as shown on the maps attached hereto as Exhibit "A", the original of which shall be on file with the City Clerk.

4. A copy of this Ordinance shall be filed with the County Assessor's Office, King County, State of Washington.

5. This Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this 13th day of August, 1996, and signed in authentication thereof on this 13th day of August, 1996.

CITY OF SEATAC

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Kathy Gehring, Deputy Mayor

ATTEST:

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Judith L. Cary, City Clerk

Approved as to Form:

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Robert L. McAdams, Acting City Attorney

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ORDINANCE NO. 96-1021

AN ORDINANCE of the City Council of the City of SeaTac, Washington establishing an emergency management organization and providing for an emergency management plan; and adding a new Chapter to Title 2 of the SeaTac Municipal Code.

WHEREAS, the Washington Emergency Management Act, Chapter 38.52 RCW, requires each political subdivision of the state to establish a local organization for emergency management, together with a plan and program for emergency management, and to obtain certification of consistency with the state comprehensive emergency management plan; and

WHEREAS, RCW 35A.38.010 further provides authority to all code cities to participate in the creation of local organizations for emergency services, provide for mutual aid, and exercise all of the powers and privileges and perform all of the functions and duties set forth in the said Washington Emergency Management Act; and

WHEREAS, each local organization for emergency management is required to have a director appointed by the executive head of the political subdivision, pursuant to RCW 38.52.070, which, in the case of cities, is defined by RCW 38.52.010(8) as the Mayor; and

WHEREAS, the City Council deems it expedient to comply with state law and to establish an organization to ensure preparation for, and meaningful response in event of, a large-scale emergency or disaster;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN as follows:

Section 1. There is hereby added to Title 2 of the SeaTac Municipal Code a new Chapter 2.75, to read as follows:

Chapter 2.75

EMERGENCY MANAGEMENT

Sections:

2.75.100 Penalty.

2.75.110 Severability.

2.75.010 Purpose.

The declared purposes of this chapter are to provide for the preparation and implementation of plans for mitigation, preparedness, response and recovery activities within the City in the event of an emergency or disaster, and to provide for the coordination of emergency functions and services of the City and other affected public agencies and private persons, corporations and organizations. Any expenditures made in connection with such emergency management activities, including mutual aid activities, shall be deemed conclusively to be for the direct protection and benefit of the inhabitants and property of the City.

2.75.020 Emergency management policy.

It is the policy of the City to make effective preparation and use of staffing, resources, and facilities for dealing with any emergency or disaster that may occur. Emergencies and disasters, by their very nature, may disrupt or destroy existing systems and the capability of the City to respond to protect life, public health and property. Therefore, citizens are advised to be prepared to be without public services or utilities for up to 72 hours should an emergency or disaster occur.

2.75.030 Definitions.

A. "Emergency management" shall mean the preparation for the carrying out of all emergency functions, other than functions for which the military forces are primarily responsible, to mitigate, prepare for, respond to, and recover from emergencies and disasters, and to aid victims suffering from injury or damage resulting from disasters caused by all hazards, whether natural or man-made, and to provide support for search and rescue operations for persons and property in distress.

B. "Emergency or disaster" as used in this chapter shall mean an event or set of circumstances which: (1) Demands immediate action to preserve public health, protect life, protect public property, or to provide relief to any stricken area within the City overtaken by such occurrences, or (2) reaches such a dimension or degree of destructiveness as to warrant the Mayor proclaiming the existence of a disaster or the Governor declaring a state of emergency in accordance with appropriate local ordinances and state statute.

C. "Disaster Coordinator" shall mean the City Manager appointed by the City Council.

D. "Deputy Disaster Coordinator" shall mean the person appointed by the Disaster Coordinator to perform the duties of the Disaster Coordinator in the absence of the Disaster Coordinator.

2.75.040 Emergency management organization.

A. There is hereby created in accordance with Chapter 38.52 RCW, an emergency management organization. The purpose of the local organization is to perform local emergency management functions. The organization shall represent only the City of SeaTac and operate only within the City.

B. The Disaster Coordinator shall be the administrative head and have direct responsibility for the organization, administration and operation of the emergency management program for the City.

C. The Disaster Coordinator, shall be the City Manager who has been appointed by the City Council. The Disaster Coordinator shall develop and maintain the emergency operations plan and program in cooperation with the Emergency Preparedness Board and shall have such other duties as may be added by amendment to this Ordinance.

D. The Deputy Disaster Coordinator, shall be the Fire Chief who has been appointed by the Disaster

Coordinator. The Deputy Disaster Coordinator shall exercise the powers and perform the duties of the Disaster Coordinator during his/her absence or disability. In the absence of the Deputy Disaster Coordinator the position shall be filled by the Police Chief, and in the absence of the Police Chief, by the Public Works Director.

E. An Emergency Preparedness Board is hereby created to provide direction and staff support for the development and maintenance of the Emergency Operations Plan. The Board members may staff the Emergency Operations Center during emergencies and disasters and perform any other necessary functions during an emergency or disaster. The Board shall consist of such key personnel as are designated by the Disaster Coordinator, and such personnel from outside professional and volunteer organizations having key roles in emergency preparedness, planning and response activities as determined by the Disaster Coordinator. The Emergency Preparedness Board shall consist of the following members: City Manager, Human Services Coordinator, Public Works Director, Fire Chief, Finance Director, City Clerk, Parks Director, Police Chief, Planning Director and Human Resources Manager.

2.75.050 Emergency operations plan.

The emergency operations plan, prepared by the Emergency Preparedness Board under the direction of the Disaster Coordinator is the official emergency operations plan of the City of SeaTac. The Disaster Coordinator shall file a copy of said plan in the office of the City Clerk, and distribute copies of said plan to appropriate City departments.

2.75.060 Emergency or disaster powers of the Mayor.

In the event of a proclamation of a disaster as herein provided, or upon the proclamation of a state of emergency by the Governor of the State, the Mayor is hereby empowered:

A. To make and issue rules and regulations on matters reasonably related to the protection of life and property as affected by such disaster; provided, however, such rules and regulations must be confirmed at the earliest practicable time by the City Council;

B. To request the County Executive to proclaim a local emergency when, in the opinion of the Mayor the resources of the area or region are inadequate to cope with the disaster;

C. To obtain vital supplies, equipment and such other properties found lacking and needed for the protection of the life and property of the people and to bind the City for the fair value thereof, and, if required immediately, to commandeer the same for public use;

D. To require emergency services of any City officer or employee and, in the event of the proclamation of a state of emergency by the Governor in the region in which this City is located, to command the service and equipment of as many citizens of this City as may be deemed necessary in the light of the disaster proclaimed; and such persons to be entitled to all privileges, benefits and immunities as are provided by state law for registered emergency workers;

E. To requisition necessary personnel or material of any City department or agency.

2.75.070 Emergency and disaster powers of the Disaster Coordinator.

The Disaster Coordinator is hereby empowered:

A. To request the Mayor to proclaim the existence or threatened existence of a disaster and the termination thereof, if a quorum of the City Council is available and functioning, or to issue such proclamation, if a quorum of the City Council is not available, subject to confirmation by the City Council at the earliest practicable time;

B. To control and direct the efforts of the emergency management organization of the City for the accomplishment of the purposes of this chapter;

C. To direct coordination and cooperation between divisions, services and staff of the departments and services of the City in carrying out the provisions of the emergency management plan, and to resolve questions of authority and responsibility that may arise between them;

D. To act on behalf of the Mayor if he/she is unable to carry out his/her duties, in carrying out purposes of this chapter or the provisions of the emergency management plan.

2.75.080 Functions and duties of departments and employees.

All City departments, and all officers and employees thereof, are hereby assigned the powers and duties set forth in the emergency operations plan referenced in Section 2.75.050 of this chapter.

2.75.090 Private liability.

No individual, firm, association, corporation or other party owning, maintaining or controlling any building or premises, who voluntarily and without compensation grants to the City a license or privilege or otherwise permits said City to inspect, designate and use the whole or any part or parts of such building or premises for the purpose of sheltering persons during an actual, impending, mock or practice emergency or disaster, or their successors in interest, or the agents or employees of any of them, shall be subject to liability for injuries sustained by any person while in or upon said building or premises as a result of any act or omission in connection with the upkeep or maintenance thereof, except a willful act of negligence, when such a person has entered or gone into or upon said building or premises for the purpose of seeking refuge therein during an emergency or disaster or an attack by enemies of the United States or during a disaster drill, exercise or test ordered by a lawful authority.

2.75.100 Penalty.

Every violation of any rule, regulation or order issued under the authority of this chapter shall constitute a misdemeanor and shall be punishable as such, provided, that whenever any person shall commit a second offense hereunder, the same shall constitute a gross misdemeanor and shall be punishable as such. It shall specifically be a violation of the said rules, regulations, and orders to:

A. Wilfully obstruct, hinder, or delay any member of the emergency management organization in the enforcement of any lawful rule or regulation issued pursuant to this chapter or in the performance of any duty imposed upon such member by virtue of this chapter.

B. Wear, carry or display, without authority, any means of identification specified by the emergency management agency of the State.

2.75.110 Compensation Board.

A Compensation Board is hereby created for the processing of claims as provided in Chapter 38.52 RCW. The Compensation Board shall be composed of the Mayor, the City Manager, one Councilmember selected by the City Council, the City Attorney and the local coordinator of medical and health services. The Councilmember shall serve as the chair of the Compensation Board and the City Manager shall serve as the secretary of the Board.

2.75.120 Severability.

If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

Section 2. The City Clerk shall forward to the Adjutant General of the State Military Department a certified copy of this Ordinance and shall request review and evaluation of this Ordinance for compliance with the criteria established by the Department. Upon development and adoption of the emergency operations plan, the City Clerk shall forward the same to the Adjutant General of the Department and shall request certification of compliance of the City's plan with the State's comprehensive emergency operations plan.

Section 3. This Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this 24th day of September, 1996, and signed in authentication thereof on this 24th day of September, 1996.

CITY OF SEATAC

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Don DeHan, Mayor

ATTEST:

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Judith L. Cary, City Clerk

Approved as to Form:

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Robert L. McAdams, Interim City Attorney

ORDINANCE NO. 96-1022

An Ordinance of the City Council of the City of SeaTac, Washington establishing a Right-of-Way Use Code; and repealing certain sections of the SeaTac Municipal Code.

WHEREAS, Ordinance No. 90-1013, now codified as Chapter 11.05 of the SeaTac Municipal Code, authorized an Interlocal Agreement whereby King County was appointed the City's agent for road and traffic maintenance services; and

WHEREAS, the said Ordinance further adopted by reference certain provisions of the King County Code relating to use of rights-of-way for private purposes and for utility purposes; and

WHEREAS, the City Council finds that reference to King County Code provisions no longer meets the public interest in health, safety, and welfare, and that a particularized city right-of-way use code should be adopted; and

WHEREAS, Section 2 of Ordinance 93-1039, now codified as Section 11.10.010 of the SeaTac Municipal Code banned any display for sale of merchandise on City rights-of-way; and

WHEREAS, the City Council finds that a permitting system is preferable to any out-right ban on use of rights-of-way;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN as follows:

Section 1. Section 11.05.060 of the SeaTac Municipal Code and Section 6 of Ordinance No. 90-1013, Section 11.05.080 of the SeaTac Municipal Code and Section 8 of Ordinance No. 90-1013, and Section 11.05.110 of the SeaTac Municipal Code and Section 11 of Ordinance No. 90-1013 are hereby repealed.

Section 2. Section 11.10.010 of the SeaTac Municipal Code and Section 2 of Ordinance No. 93-1039 are hereby repealed.

Section 3. The following new sections are hereby added to Chapter 11.10 of the SeaTac Municipal Code:

11.10.020 Short title.

This chapter is known as and may be referred to as the "Right-of-Way Use Code."

11.10.030 Purpose.

It is the purpose of this chapter to provide for the issuance of right-of-way use permits in order to regulate activities within rights-of-way in the city in the interest of public health, safety, and welfare; and to provide for the fees, charges, security devices, and procedures required to administer the permit process, to include the following specific purposes.

A. This chapter is enacted to protect and preserve the public health, safety, and welfare. The provisions hereof shall be liberally construed for the accomplishment of these purposes.

B. This chapter and any procedures adopted hereunder shall not create or otherwise establish or designate a particular class or group of persons who will or should be specially protected or benefited by the terms of this chapter or procedures adopted under this chapter.

C. This chapter and procedures adopted hereunder shall place the obligation of complying with the requirements of this chapter and said procedures upon the permittee, and no provision shall impose any duty upon the city, or any of its officers, employees, or agents. Nothing contained in this chapter or procedures adopted under this chapter shall be construed to create or form the basis for liability on the part of the city or its officers, employees, or agents, for any injury or damage resulting from the failure of the permittee to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter or any procedures adopted under this chapter by the city, its officers, employees, or agents.

11.10.040 Territorial application.

This chapter and the procedures adopted under this chapter shall be in effect throughout the City, and shall include City streets designated as parts of the state highway system, but shall not include fully controlled limited access highways.

11.10.050 Definitions.

As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meanings.

A. "Citation and notice" means a written document initiating a criminal proceeding issued by an authorized peace officer in accordance with the Criminal Rules for Courts of Limited Jurisdiction.

B. "Department" means the department of public works.

C. "Directive memorandum" means a letter from the city to a right-of-way use permittee, notifying the recipient of specific nonconforming or unsafe conditions and specifying the date by which corrective action must be taken.

D. "Director" means the director of the department of public works.

E. "Franchised utilities" means utilities that have city approval to use city rights-of-way for the purpose of providing their services within the city, whether by written franchise or otherwise.

F. "Hazardous waste" includes any and all such materials as defined by RCW 43.200.015 (radioactive wastes) and RCW 70.105.010(5), (6), & (15) (other hazardous wastes).

G. "Nonprofit" means for charitable purposes and not for monetary gain.

H. "Notice of violation" means a document mailed to a permittee or unauthorized user and posted at the site of a nonconforming or unsafe condition.

I. "Permit" means a document issued by the city granting permission to engage in an activity not allowed without a permit.

J. "Private use" means use of the public right-of-way, other than as a thoroughfare for ordinary transit of vehicles, pedestrians, or equestrians, for the benefit of a particular person or entity.

K. "Right-of-way" means all public streets, alleys, and property granted or reserved for, or dedicated to, public use for streets and alleys, together with public property granted or reserved for, or dedicated to, public use for walkways, sidewalks, trails, shoulders, drainage facilities, bike ways and horse trails, whether improved or unimproved, including the air rights, subsurface rights, and easements related thereto.

L. "Security device" means any and all types of bonds, deeds of trust, security agreements, or other similar instruments.

M. "Stop work notice" means a notice posted at the site of an activity that requires all work to be stopped until the city approves continuation of work.

N. "Underground location service" means the underground utilities location center that will locate all underground utilities prior to an excavation.

O. "Unsafe condition" means any condition which the director reasonably determines is a hazard to health, or endangers the safe use of the right-of-way by the public, or does or may impair or impede the operation or functioning of any portion of the right-of-way, or which may cause damage thereto.

11.10.060 Powers of the director.

The director, under the supervision of the city manager, shall have the following powers.

A. Prepare and adopt procedures as needed to implement this chapter and to carry out the responsibilities of the department. Such procedures do not require approval of the city council to be initially implemented, however, the council may by resolution direct that procedures, guidelines, fees, or other aspects of the permitting system be amended or modified to the satisfaction of the council;

B. Administer and coordinate the enforcement of this chapter and all procedures adopted under this chapter relating to the use of rights-of-way;

C. Advise the city council, city manager, and other city departments on matters relating to applications for use of rights-of-way.

D. Carry out such other responsibilities as required by this chapter or other codes, ordinances, resolutions, or procedures of the city;

E. Request the assistance of other city departments to administer and enforce this chapter, as necessary;

F. Assign the responsibility for interpretation and application of specified procedures to such designees as may be deemed appropriate.

11.10.070 Permit requirements.

A. It is unlawful for anyone to make private use of any public right-of-way without a right-of-way use permit issued by the city, or to use any right-of-way without complying with all provisions of a permit issued by the city, unless such private use falls within the designated exceptions set forth in this chapter.

B. General and specific permit requirements are defined in the procedures referenced in this chapter.

C. Additional permits for any use may be required by other city codes or ordinances. The city does not waive its right to any right-of-way by issuance of any permit.

11.10.080 Right-of-way use permits.

The following classes of right-of-way use permits are hereby established.

A. Class A - Short Term Nonprofit.

(1) Class A permits may be issued for use of a right-of-way for 72 or less continuous hours nonprofit purposes which do not involve the physical disturbance of the right-of-way.

(2) This class of use may involve disruption of pedestrian and vehicular traffic or access to private property and may require inspections, cleanup, and police surveillance. For periods longer than 72 hours these uses will be considered Class D, long-term and permanent. If any of these uses are for profit they are considered Class B.

(3) Class A permits include but are not limited to the following when for non-profit purposes:

(a) Assemblies;

(b) Bike races;

(c) Block parties;

(d) Parades;

(e) Parking;

(f) Processions;

(g) Nonmotorized vehicle races;

(h) Street dances;

(i) Street runs.

B. Class B - Short term Profit.

(1) Class B permits may be issued for use of right-of-way for 72 or less hours for profit purposes which do not involve the physical disturbance of the right-of-way.

(2) This class of use may involve disruption of pedestrian and vehicular traffic or access to private property and may require inspections, cleanup, and police surveillance. For periods longer than 72 hours these uses will be considered Class D, long-term and permanent.

(3) Class B permits include but are not limited to the following when they are for profit purposes:

(a) Fairs;

(b) House or other large structure moves other than those which require a Class E permit;

(c) Temporary sale of goods;

(d) Temporary street closures.

C. Class C - Disturbance of City Right-of-way.

(1) Class C permits may be issued for use of a right-of-way, for a period not in excess of 180 days, for activities that may alter the appearance of or disturb the surface, or subsurface of the right-of-way on a temporary or permanent basis.

(2) Class C permits include but are not limited to:

(a) Boring;

(b) Culverts;

(c) Curb cuts;

(d) Paving;

(e) Drainage facilities;

(f) Driveways;

(g) Fences;

(h) Landscaping;

(i) Painting;

(j) Sidewalks;

(k) Street trenching;

(l) Utility installation/ repair/replacement.

D. Class D - Long Term and Permanent.

(1) Class D permits may be issued for use of a right-of-way, for a period not in excess of 180 days, for activities for extended periods of time but which will not physically disturb the right-of-way.

(2) The use of a right-of-way for structures, facilities, and uses that involve capital expenditures and long-term commitments of use require this type of permit.

(3) Class D permits include but are not limited to:

(a) Air rights and aerial facilities;

(b) Bus shelters and stops;

(c) Access to construction sites and haul roads;

(d) Loading zones;

(e) Newspaper sale, distribution, and storage facilities;

(f) Recycling facilities;

(g) Sales structures;

(h) Sidewalk cafes;

(i) Special and unique structures, such as: awnings, benches, clocks, decorations, flagpoles, fountains, kiosks, marquees, private banners, public mailboxes, and street furniture;

(j) Underground rights;

(k) Utility facilities;

(l) Waste facilities;

E. Class E - Potential Disturbance of City Right-of-Way.

(1) Class E permits may be issued for use of a right-of-way, for a period not in excess of 180 days, for those activities

that have the potential of altering the appearance of or disturbing the surface or subsurface of the right-of-way on a temporary or permanent basis.

(2) Class E permits include but are not limited to:

(a) Frequent use hauling involving an average of one loaded vehicle every ten (10) minutes or less over any continuous 48 hour period;

(b) Any hazardous waste hauling.

(3) Class E permits may be issued to a general contractor to authorize construction and fill hauling activities by the said general contractor and by subcontractors.

11.10.090 Application and processing of permits.

A. To obtain a right-of-way use permit the applicant shall file an application with the department of public works.

B. Every application shall include the location of the proposed right-of-way use, a description of the use, the planned duration of the use, applicant contact information, and all other information which may be required as specified in the procedures adopted under this chapter, and shall be accompanied by payment of the required fees.

C. The director shall examine each application submitted for review and approval to determine if it complies with the applicable provisions of this chapter and procedures adopted under this chapter. Other departments that have authority over the proposed use or activity may be requested to review and approve or disapprove the application. The director may inspect the right-of-way proposed for use to determine any facts which may aid in determining whether a permit should be granted. If the director finds that the application conforms to the requirements of this chapter and procedures adopted under this chapter, that the proposed use of such right-of-way will not unduly interfere with the rights and safety of the public, and if the application has not been disapproved by a department with authority, the director shall approve the permit, and may impose such conditions thereon as are reasonably necessary to protect the public health, welfare, and safety and to mitigate any impacts resulting from the use.

D. All applications for permits will be submitted at least 30 days before the planned need for the permit, or such greater period as may be reasonably required by the director. If unforeseen conditions require expedited processing the city will attempt to cooperate, but additional fees to cover additional costs to the city may be charged.

E. Upon submittal of a completed application, the department shall collect from the applicant an application fee in the amount set forth in the adopted fee schedule.

11.10.100 Permit fees and charges.

The fee for each permit shall be set forth in a fee schedule to be adopted by motion of the city council. Such fee schedule may include a sliding scale for indigent applicants.

A. Application Fee. A nonrefundable application fee shall be charged for each right-of-way use permit application that is accepted for processing, counter service, and record-keeping.

B. Processing of Application Fee. A fee for the processing of applications may be charged. The amount of the fee shall be determined based upon the time and costs required to review, inspect, research, and coordinate the applicant’s data for each permit application. The processing fee may be different depending upon the class of right-of-way use permit involved.

C. Daily Use Fee. Permits may include a fee for each day (or part thereof) for use of the right-of-way. The fee will compensate the city for monitoring and inspecting the site or activity. The daily use fee may be different depending upon the class of right-of-way use permit involved.

D. Reimbursement of Actual Expenses. When a permit is issued, the city may impose a charge based on the actual cost to compensate for its time and expenses. These costs may include street crews, signal crews, and police, if required to assist in the activity. A refundable deposit or other security device may also be required. Costs of damage to city property, or expense of assistance by city employees, may be deducted from the deposit, charged against the security device, or billed to the permittee directly.

E. Repair and Replacement Charges. If the city should incur any costs in repairing or replacing any property as the result of the permittee's actions, the costs of repair and replacement shall be charged to the permittee. These charges will be for the actual costs to the city.

F. Utilities shall be charged at an hourly rate for city inspections and other services pursuant to the adopted fee schedule.

G. Waiver of Fees. Franchised utilities which must apply for permits because of city-initiated construction projects may be granted a waiver by the director of normal permit fees. This provision shall only apply to work that would not normally have been done by the utility.

11.10.110 Specifications.

All work to be performed under any permit issued under this chapter shall conform to all city codes or ordinances, the current development standards of the department, and all other standards used by the city in the administration of this chapter.

11.10.120 Permit exception.

The following exceptions shall be authorized.

A. A right-of-way use permit shall not be required of franchised utilities or city contractors when responding to emergencies that require work in the right-of-way, such as water or sewer main breaks, gas leaks, downed power lines, or similar emergencies, provided that the department shall be notified by the responding utility or city contractor verbally or in writing, as soon as practicable following onset of an emergency. Nothing in this chapter shall relieve a responding utility or city contractor from the requirement to obtain a right-of-way use permit after beginning emergency work in the right-of-way.

B. Permits shall not be required for routine maintenance and construction work performed by city utilities and city maintenance crews, or contractors awarded contracts to perform public works projects.

C. Permits under this chapter shall not be required for persons using the right-of-way as pedestrians or while operating motor vehicles for routine purposes such as travel, commuting, or other personal business.

11.10.130 Revocation of permits.

A. The director may revoke or suspend any permit issued under this chapter whenever:

(1) The work does not proceed in accordance with the plans as approved, or conditions of approval, or is not in compliance with the requirements of this chapter or procedures, or other city ordinances, or state laws;

(2) The city has been denied access to investigate and inspect how the right-of-way is being used;

(3) The permittee has misrepresented a material fact in applying for a permit;

(4) The progress of the approved activity indicates that it is, or will be, inadequate to protect the public and adjoining property or the street or utilities in the street, or if any excavation or fill endangers, or appears reasonably likely to endanger, the public, the adjoining property or street, or utilities in the street.

B. Upon suspension or revocation of a permit, all use of the right-of-way shall cease, except as authorized by the director.

C. Continued activity following revocation or suspension under this section shall subject each and every violator to the maximum penalties provided by this chapter.

11.10.140 Renewal of permits.

Each permit shall be of a duration as specified on the permit, but not to exceed 180 days. A permit may be renewed, if requested by the permittee before expiration of the permit, provided, however, that the use or activity is progressing in a satisfactory manner as reasonably determined by the director, or designee.

11.10.150 Performance deposits, security devices, and insurance.

A. If the director determines that there is a potential for injury, damage, or expense to the city as a result of damage to persons or property arising from an applicant's proposed use of any right-of-way, the applicant shall be required to make a cash deposit, or to provide a security device or insurance in a form acceptable to the director, or designee for the activities described in the subject permit. The amount of the deposit, security device, or insurance shall be determined by the director, or designee.

B. The requirements for performance deposits, security devices, and insurance are based on considerations of permittee’s prior performance, permittee’s ability to pay, nature of the proposed use, costs of the activity, length of use, public safety, potential damage to right-of-way, and potential liability or expense to the city.

11.10.160 Hold Harmless.

As a condition to the issuance of any permit under this chapter, the permittee shall agree to defend, indemnify, and hold harmless the city, its officers, employees, and agents, from any and all suits, claims, or liabilities caused by or arising out of any use authorized by any such permit.

11.10.170 Guarantee.

When there is a need to ensure conformance with the city's development standards, city or state construction standards, or other requirements, the applicant shall be required to provide a guarantee of workmanship and materials for the period of one year. Such guarantee may be in the form of a cash deposit or a security device in a form and amount approved by the director. Notwithstanding the foregoing, utilities shall guarantee workmanship and materials until the next regularly scheduled overlay of the street.

11.10.180 Inspections.

As a condition of issuance of any permit or authorization which requires approval of the department, each applicant shall be required to consent to inspections by the department or any other appropriate city department.

11.10.190 Correction and discontinuance of unsafe, nonconforming, or unauthorized conditions.

A. Whenever the director determines that any condition on any right-of-way is in violation of, or any right-of-way is being used contrary to any provision of this chapter or procedures adopted under this chapter or other applicable codes or standards, or without a right-of-way use permit, the director may order the correction or discontinuance of such condition or any activity causing such condition.

B. The director is authorized to order correction or discontinuance of any such condition or activities following the methods specified in procedures adopted pursuant to this chapter.

C. The director shall also have all powers and remedies which may be available under state law, this chapter, and

procedures adopted under this chapter for securing the correction or discontinuance of any condition specified in this section.

D. The director is authorized to use any or all of the following methods in ordering correction or discontinuance of any such conditions, or activities as the director determines appropriate:

(1) Service of oral or written directives to the permittee or other responsible person requesting immediate correction or discontinuance of the specified condition;

(2) Service of a written notice of violation, ordering correction or discontinuance of a specific condition or activity within five days of notice, or such other reasonable period as the director may determine;

(3) Revocation of previously granted permits where the permittee or other responsible person has failed or refused to comply with requirements imposed or notices served;

(4) Issuance of an order to immediately stop work until authorization be received from the city to proceed with such work;

(5) Service of summons and complaint or service of a citation and notice to appear by a law enforcement officer upon the permittee or other responsible person who is in violation of this chapter or other city ordinances.

E. Any object which shall occupy any right-of-way without a permit is a nuisance. The department may attach a notice to any such object stating that if it is not removed from the right-of-way within 24 hours of the date and time stated on the notice, the object may be taken into custody and stored at the owner's expense. The notice shall provide an address and phone number where additional information may be obtained. If the object is a hazard to public safety, it may be removed summarily by the city. Notice of such removal shall be thereafter given to the owner, if known. This section shall not apply to motor vehicles.

F. All expenses incurred by the city in abating any violation or condition shall constitute a civil debt owing to the city jointly and severally by such persons who have been given notice or who own the object or who placed it in the right-of-way, which debt shall be collectible in the same manner as any other civil debt.

G. The city shall also have all powers and remedies which may be available under law or ordinance, this chapter, and procedures adopted under this chapter for securing the correction or discontinuance of any conditions specified by the city.

11.10.200 Warning and safety devices.

A. Warning lights, safety devices, signs, and barricades shall be provided on all rights-of-way when at any time there might be an obstruction or hazard to vehicular or pedestrian traffic. All obstructions on rights-of-way shall have sufficient barricades and signs posted in such manner as to indicate plainly the danger involved. Warning and safety devices may be removed when the work for which the right-of-way use permit has been granted is complete and the right-of-way restored to the conditions directed by the department.

B. As a condition of the issuance of any right-of-way use permit, the director or designee may require an applicant to submit a traffic detour plan showing the proposed detour routing and location and type of warning lights, safety devices, signs, and barricades intended to protect vehicular or pedestrian traffic at the site for which the right-of-way use permit is requested. If a traffic plan is required, no right-of-way use permit shall be issued until the traffic plan is approved.

C. Unless otherwise specified in adopted right-of-way use procedures, the current editions of the following standards manuals shall apply to the selection, location, and installation of required warning and safety devices, provided that the director or designee may impose additional requirements if site conditions warrant such enhanced protection of pedestrian or vehicular traffic:

(1) Manual of Uniform Traffic Control Devices for Streets and Highways;

(2) Development standards of the department of public works;

(3) Part VIII, "Regulations for Use of Public Streets and Projections over Public Property," Uniform Building Code.

D. Any right-of-way use permit that requires a partial lane or street closure may require a certified flagperson, properly attired, or an off-duty police officer for the purpose of traffic control during the construction.

E. All decisions of the director or designee shall be final in all matters pertaining to the number, type, locations, installation, and maintenance of warning and safety devices in the public right-of-way during any actual work or activity for which a duly authorized right-of-way use permit has been issued.

F. Any failure of a permit holder to comply with the oral or written directives of the director or designee related to the number, type, location, installation, or maintenance of warning and safety devices in the public right-of-way shall be cause for correction or discontinuance as provided in this chapter.

11.10.210 Protection of adjoining property and access.

The permittee shall at all times and at the permittee's expense, preserve, and protect from injury adjoining property by complying with such measures as the director or designee may deem reasonably suitable for such purposes. The permittee shall at all times maintain access to all property adjoining the excavation or work site.

11.10.220 Preservation of monuments.

The permittee shall not disturb any survey monuments or markers found on the line of excavation work until ordered to do so by the public works director. All street monuments, property corners, bench marks, and other monuments disturbed during the progress of the work shall be replaced by a licensed surveyor, at the expense of the permittee, to the satisfaction of the director or designee.

11.10.230 Protection from pollution and noise.

The permittee shall comply with all state laws, city ordinances, and the procedures adopted hereunder by the director to protect from air and water pollution and to protect from excessive noise. The permittee shall provide for the flow of all watercourses, sewers, or drains intercepted during the excavation work and shall replace the same in as good condition as the permittee found them, or shall make such provisions for them as the public works director may direct. The permittee shall not obstruct the gutter of any street, but shall use all proper measures to provide for the free passage of surface water. The permittee shall make provision to take care of all surplus water, muck, silt, slickings, or other runoff pumped from excavations or resulting from sluicing or other operations, and shall be responsible for any damage resulting from permittee's failure to so provide.

11.10.240 Excavated material.

All excavated material which is piled adjacent to any excavation shall be maintained in such manner so as not to endanger those working in the excavation or pedestrians or users of the right-of-way. When the confines of the area being excavated are too small to permit the piling of excavated material beside the excavation, the director shall have the authority to require the permittee to haul the excavated material to a storage site and then rehaul it to the excavation at the time of backfilling. It is the responsibility of the permittee to secure the necessary permission and make all necessary arrangements for any required storage and disposal of excavated material.

12.04.250 Backfilling.

Backfilling in a right-of-way opened or excavated pursuant to a permit issued under the provisions of this chapter shall be compacted to a degree equivalent to that of the undisturbed ground in which the excavation was begun, unless the director determines a greater degree of compaction is necessary to produce a satisfactory result. All backfilling

shall be accomplished according to city standards and specifications. All backfills shall be inspected and approved by the director or designee prior to any overlaying or patching.

11.10.260 Right-of-way restoration.

A. Permanent restoration of the right-of-way shall be made by the permittee in strict accordance with the standards and specifications of the city. Permanent restoration may include overlays of portions of the right-of-way which have been disrupted by excavation work.

B. The permittee shall guarantee conformance with the city's development standards and specifications as provided at Section 11.10.170 of this Chapter. Acceptance of any excavation work or right-of-way restoration shall not prevent the city from asserting a claim against the permittee and permittee's surety under the security device required by this chapter for incomplete or defective work, if such is discovered within the period of guarantee and maintenance. The presence of the director, or designee, during the performance of any excavation work shall not relieve the permittee of any responsibility under this chapter.

11.10.270 Coordination of right-of-way construction.

The permittee, at the time of receiving a Class C right-of-way use permit, shall notify all other public and private utilities known to be using or proposing to use the same right-of-way, of the applicant's proposed construction and the proposed timing of such construction. A utility so notified may, within seven days of such notification, request of the director a delay in the commencement of any proposed construction for the purpose of coordinating other right-of-way construction with that proposed by the permittee. The director may delay the commencement date of the permitte's right-of-way construction for up to 90 days, except in emergencies, if the director finds that such delay will reduce inconvenience to city right-of-way uses and if the director finds that from construction activities and he/she finds that such delay will not create undue economic hardship on the applicant

11.10.280 Billings and collections.

The department, jointly with the finance director, may establish administrative rules and procedures pertaining to the billing and collection of fees and charges adopted pursuant to this chapter. However, all fees shall be paid not later than 30 days following receipt of a billing statement from the city.

11.10.290 Appeals.

A decision of the director made in accordance with this chapter shall be considered a final administrative decision. A person aggrieved by such decision of the director may appeal such decision to the hearing examiner in accordance with the hearing examiner code by filing a written notice of appeal within 10 days of such decision.

11.10.300 Violation - Penalty.

Any person or entity who violates any provision of this chapter, or the provisions of any procedures adopted hereunder, by any act of commission or omission, or who aids or abets any such violation, shall be subject to a civil penalty in the sum of $500 per violation. Each and every day, or portion thereof, during which any violation is committed or continued shall be deemed a separate and distinct violation of this chapter.

Section 4. This Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this _____day of _____, 1996, and signed in authentication

thereof on this _____day of _____, 1996.

CITY OF SEATAC

_____

Don DeHan, Mayor

ATTEST:

_____

Judith L. Cary, City Clerk

Approved as to Form:

_____

Robert L. McAdams, Interim City Attorney

ORDINANCE NO. 96-1023

AN ORDINANCE of the City Council of the City of SeaTac, Washington amending the 1996 Budget.

WHEREAS, pursuant to the provisions of Chapter 35A.33 of the Revised Code of Washington, the City is required to adopt an annual budget and provide for procedures for filing of estimates, preliminary budgets, deliberations, public hearings and final fixing of the budget; and

WHEREAS, pursuant to the provisions of the Revised Code of Washington, a preliminary budget for the fiscal year 1996 was prepared and filed, requisite public hearings were held for the purpose of fixing a final budget and the City Council made deliberations and adjustments as deemed necessary and proper, and adopted the budget for the City of SeaTac for the fiscal year 1996, which budget was adopted through Ordinance No. 95-1029, on November 14, 1995; and

WHEREAS, because 1996 revenue is higher than anticipated in the 1996 Budget, and the City Council has determined to appropriate additional and available funds for non-budgeted uses.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN as follows:

1. The 1996 Budget for the City of SeaTac, covering the period from January 1, 1996 through December 31, 1996, as adopted by Ordinance No. 95-1029, and as amended by Ordinance No. 96-1005, be, and the same hereby is amended as shown on the attached exhibit.

2. That this Ordinance shall be in full force and effect for the fiscal year 1996, five (5) days after publication as required by law.

ADOPTED this day of , 1996, and signed in authentication thereof on this day of , 1996.

CITY OF SEATAC

_____

Kathy Gehring, Deputy Mayor

ATTEST:

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Judith L. Cary, City Clerk

Approved as to Form:

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Robert L. McAdams, Interim City Attorney

ORDINANCE NO. 96-1024

AN ORDINANCE of the City Council of the City of SeaTac, Washington amending the zoning map of the City, and providing for the City-wide rezone of property within the City to conform to the City of SeaTac Comprehensive Plan.

WHEREAS, after incorporation the City developed and implemented, through its zoning code, certain provisions for identification of zoning regulations, zoning districts and development standards to be operative within the City; and

WHEREAS, a zoning map was likewise developed, and officially adopted by Ordinance, identifying various regions and properties in the City, and identifying the zoning districts into which such properties fell; and

WHEREAS, subsequent to the adoption of the City's zoning code and zoning map, and pursuant to the requirements of the Washington State Growth Management Act, the City concluded an in-depth study of all elements of the Act and developed a City-wide Comprehensive Plan, which was likewise adopted by Ordinance; and

WHEREAS, in light of the provisions of the City Comprehensive Plan, it is appropriate that certain properties be re-zoned to conform more closely to the Comprehensive Plan; and

WHEREAS, at the invitation of the City, property owners requested rezones to conform with the Comprehensive Plan; and

WHEREAS, in connection with the City-wide rezone program, public hearings were held by the Planning Commission at which hearings all members of the public, including property owners seeking rezones, were permitted to speak and to address the issue of rezones; and

WHEREAS, after the public hearings and further study by the Planning Commission, and the Westside Ad Hoc Advisory Committee, a list of properties that are the subject of the City-wide rezone has been compiled, which identifies the property to be rezoned and the change of zoning which is being requested;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN, as a non-codified ordinance, as follows:

1. The parcels of property identified as Area 8 on the map attached hereto, marked as Exhibit "A", incorporated herein by this reference, be and the same hereby are re-zoned as indicated on said attached Exhibit "A".

2. The parcels of property, with tax lot numbers identified, listed on Exhibit "B", incorporated herein by this reference, be and the same hereby are re-zoned as indicated on said attached Exhibit "B".

3. The zoning map of the City is amended to reflect the changes provided in paragraphs 1 and 2 hereof, so that the zoning map of the City is as shown on the map attached hereto as Exhibit "A", the original of which shall be on file with the City Clerk.

4. A copy of this Ordinance shall be filed with the County Assessor's Office, King County, State of Washington.

5. This Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this day of , 1996, and signed in authentication thereof on this day of , 1996.

CITY OF SEATAC

_____

Kathy Gehring, Deputy Mayor

ATTEST:

_____

Judith L. Cary, City Clerk

Approved as to Form:

_____

Robert L. McAdams, Acting City Attorney

ORDINANCE NO. 96-1025

AN ORDINANCE of the City Council of the City of SeaTac, Washington declaring public use and necessity for property to be condemned as required as a part of the International Blvd. Improvement Project Phase II and authorizing the payment of funds from the City's 307-Transporation CIP fund.

WHEREAS, the City of SeaTac is involved in a project to make certain improvements to International Boulevard; and,

WHEREAS, Phase II of that total project is currently underway, and efforts have been made to have properties which need to be acquired in connection with Phase II of the project appraised and negotiate reasonable amounts of compensation to be paid for the property to be acquired; and,

WHEREAS, those efforts have not been successful in securing the acquisition of all of the property necessary for Phase II of the International Boulevard Improvement Project; and,

WHEREAS, because of the importance of International Boulevard as a part of the City's infrastructure system, and because the improvements are necessary to complete this phase of the project, and because of the importance of these improvements to be made, the property to be acquired is necessary for the project and for completion of the public uses of the project.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN as follows:

1. That the properties identified on the list attached hereto, marked as Exhibit "A" and incorporated herein by this reference, are necessary for the International Boulevard Project, and have a public use in connection with the improvements to be made to the International Boulevard Project.

2. That the City Manager and his designees are authorized to commence condemnation action to acquire the property identified on the Exhibit "A".

3. That the compensation to be paid to the owners of the property to be acquired by the condemnation action shall be paid from Fund 307 - Transportation CIP Fund of the City.

4. This Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this day of , 1996, and signed in authentication thereof on this day of , 1996.

CITY OF SEATAC

_____

Don DeHan, Mayor

ATTEST:

_____

Judith L. Cary, City Clerk

Approved as to Form:

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Robert L. McAdams, City Attorney

ORDINANCE NO. 96-1026

AN ORDINANCE of the City Council of the City of SeaTac, Washington adopting the Annual Budget for the year 1997 and appropriating funds for the estimated expenditures.

WHEREAS, State law, Chapter 35A.33 RCW requires the City to adopt an annual budget and provides procedures for the filing of estimates, a preliminary budget, deliberations, public hearings, and final fixing of the budget; and

WHEREAS, a preliminary budget for the fiscal year 1997 has been prepared and filed; a public hearing has been held for the purpose of fixing the final budget; and the City Council has deliberated and has made adjustments and changes deemed necessary and proper;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN as follows:

Section 1. The 1997 budget for the City of SeaTac, covering the period from January 01, 1997 through December 31, 1997, is hereby adopted by reference with appropriations in the amount of $35,033,900.

Section 2. The budget sets forth totals of estimated appropriations for each separate fund, and the aggregate totals for all such funds. The said budget appropriations in summary by funds and aggregate total of the City of SeaTac are as follows:

Fund Number	Fund Name	Appropriations
001	General	$ 17,145,510
101	City Street	482,680
102	Arterial Street	1,841,310
201	LTGO City Hall Bond	447,220
202	Transportation Bond	896,630
306	Municipal Facilities CIP	250,000
307	Transportation CIP	10,535,100
403	Surface Water Management	1,289,060
406	Surface Water Construction	2,055,000
501	Equipment Rental	91,390
	Total All Funds	$ 35,033,900

Section 3. A complete copy of the final budget as adopted herein shall be transmitted to the Division of Municipal Corporations in the Office of the State Auditor, and to the Association of Washington Cities.

Three complete copies of the final budget as adopted herein shall be filed with the City Clerk and shall be available for use by the public.

Section 4. This Ordinance shall be in full force and effect for the fiscal year 1997 five (5) days after passage and publication as required by law.

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ADOPTED this day of , 1996, and signed in authentication thereof on this day of , 1996.

CITY OF SEATAC

_____

Kathy Gehring, Deputy Mayor

ATTEST:

_____

Judith L. Cary, City Clerk

Approved as to Form:

_____

Robert L. McAdams, Interim City Attorney

ORDINANCE NO. 96-1027

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON, GRANTING TO METRICOM, INC., A NONEXCLUSIVE FRANCHISE TO INSTALL AND MAINTAIN A WIRELESS DIGITAL COMMUNICATIONS RADIO NETWORK WITHIN, CERTAIN RIGHTS-OF-WAY.

WHEREAS, Metricom Inc., has applied to the City for a non-exclusive franchise for the attachment, installation, operation, and maintenance of a wireless digital communications radio network on, upon, along and across certain public rights-of-way and easements within the City; and

WHEREAS, it has been found desirable for the welfare of the City that such **a** non-exclusive radio network franchise be issued to Metricom Inc., by enactment of an ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY SEATAC, WASHINGTON DO ORDAIN, AS A NON-CODIFIED ORDINANCE, as follows:

1. Definitions.

1.1 "Agency" means any governmental agency or quasi-governmental agency other than the City, including the FCC and the WUTC.

1.2 "City" means the City of SeaTac, Washington.

1.3 "Effective Date" means the date that Metricom files written acceptance of this Franchise with City's City Clerk.

1.4 "FCC" means the Federal Communications Commission.

1.5 "Fee" means any assessment, license, charge, fee, imposition, tax (but excluding any utility users' tax or franchise fee), or levy lawfully imposed by any governmental body.

1.6 "Franchise" means the terms of this ordinance under which Metricom is permitted to attach, install, operate, maintain, remove, reattach, reinstall, relocate, and replace the Radios in the Public Right of Way.

1.7 "Gross Revenues" means the gross dollar amount accrued on Metricom's books for Services provided to its customers with billing addresses in the City, excluding (i) the franchise fee required by Section 4.3 below, (ii) local, state, or federal taxes collected by Metricom that have been billed to the subscriber and separately stated on such bill, and (iii) revenue uncollectible from subscribers (i.e., bad debts) with billing addresses in the City that were previously included in Gross Revenues.

1.8 "Law" or "Laws" means any and all judicial decisions, statutes, constitutions, ordinances, resolutions, regulations, rules, tariffs, administrative orders, certificates, orders, or other requirements of the City or other Agency having joint or several jurisdiction over the parties to this Franchise, in effect either at the time of adoption of this Franchise or at any time during the presence of Radios in the Public Right-of-Way, but excluding any tariffs or regulations approved after the effective date of this Ordinance or any extensions thereof. If Metricom shall file with the WUTC any tariff affecting the City's rights arising under this Franchise, Metricom shall give the City written notice thereof not later than five (5) days after such filing.

1.9 "Metricom" means Metricom, Inc., a corporation duly organized and existing under the laws of the State of

Delaware, and its lawful successors, assigns, and transferees.

1.10 "Person" means an individual, a corporation, a limited liability company, a general or limited partnership, a sole proprietorship, a joint venture, a business trust, and any other form of business association.

1.11 "Provision" means any agreement, clause, condition, covenant, qualification, restriction, reservation, term, or other stipulation in this Franchise that defines or otherwise controls, establishes, or limits the performance required or permitted by either party to this Franchise. All Provisions, whether covenants or conditions, shall be deemed to be both covenants and conditions.

1.12 "Public Right-of-Way" means in, upon, above, along, across, and over the public streets, roads, lanes, courts, ways, alleys, boulevards, and places, including, without limitation, all public utility easements and public service easements, as the same now or may thereafter exist that are under the jurisdiction of the City. This term shall not include any property owned by any Person or Agency other than the City except as provided by applicable Laws or pursuant to an agreement between the City and any such Person or Agency.

1.13 "Radio Month" means a calendar month during which a Radio occupies space on a City-owned pole or other property, even if such occupancy is less than the entire month.

1.14 "Radios" means that radio equipment to be installed and operated by Metricom hereunder.

1.15 "Ricochet" means Ricochet MicroCellular Digital Network, a wireless digital communications microcellular radio network owned and operated by Metricom.

1.16 "Services" means the wireless digital communications services provided through Ricochet by Metricom.

1.17 "WUTC" means the Washington Utilities and Transportation Commission.

2. TERM.

This Franchise shall be for a term of five (5) years, unless it is earlier terminated by either party in accordance with the provisions herein, and shall commence on the "Effective Date". This Franchise shall automatically be renewed for three (3) successive (5) five-year terms by Metricom on the same terms and conditions as set forth **herein unless either party** notifies the other of its intention not to renew at least sixty (60) days prior to commencement of a succeeding renewal term.

3. SCOPE OF FRANCHISE.

3.1 Any and all rights expressly granted to Metricom under this Franchise, which shall be exercised at Metricom's sole cost and expense, shall be subject to the prior and continuing right of the City under applicable Laws to use any and all parts of the Public Rightof-Way, exclusively or concurrently, with any other Person or Persons, and further shall be subject to all deeds, easements, dedications, conditions, covenants, restrictions, encumbrances and claims of title which may affect the Public Right-of-Way. Nothing in this Franchise shall be deemed to grant, convey, create, or vest a perpetual real property interest in land in Metricom, including any fee or leasehold interest, or easement.

3.2 The City hereby authorizes and permits Metricom to attach, install, operate, maintain, remove, reattach, reinstall, relocate, and replace Radios on City street light poles, lighting fixtures, electroliers, or other City-owned property located within the Public Right-of-Way for the purposes of providing Services to Persons located within or without the limits of the City. Any work performed pursuant to the rights granted under this Franchise may, at the City's option, be subject to the prior review and approval of the City. During the term of this Franchise, the location of each Radio installed by Metricom or its designee shall be disclosed, in writing, to the City by Metricom within thirty (30) days after its installation, removal, or relocation. Such identifications shall be incorporated in Exhibit A to this Franchise.

3.3 The City hereby further authorizes and permits Metricom to attach, install, operate, maintain, remove, reattach, reinstall, relocate, and replace such number of Radios on street light poles, power poles or other property owned by public utility companies or other property owners located within the Public Right-of-Way as may be permitted by the public utility company or property owner, as the case may be. Metricom shall furnish to the city documentation of said permission from the individual utility/property owner responsible.

3.4 Except as permitted by applicable Laws or this Franchise, in the performance and exercise of its rights and obligations under this Franchise, Metricom shall not interfere in any manner with the existence and operation of any and all public and private rights-of-way, sanitary sewers, water mains, storm drains, gas mains, poles, aerial and underground electric and telephone wires, electroliers, cable television, and other telecommunications, utility, and municipal property without the express written approval of the owner or owners of the affected property or properties.

3.5 Metricom shall comply with all applicable Laws in the exercise and performance of its rights and obligations under this Franchise.

3.6 The City further reserves the right to modify the service voltage delivered to or at any street light pole, utility pole or other property on which a Radio may be located. Metricom shall replace or modify any Radio that will be affected by such voltage modifications within thirty (30) days of receiving notice of voltage modifications. In the event that Metricom fails to replace or modify any Radio within the thirty-day notice period before the voltage modification, the City may disconnect any such Radio until Metricom performs and completes the necessary work and advises the City accordingly.

4. FE ES AND TAXES.

4.1 Metricom acknowledges and agrees that the City may require users of revenue producing services such as the Services to pay a utility users' tax ("Utility Tax") to the City pursuant to City's Municipal Code. If the Services are subject to the Utility Tax, Metricom agrees to collect the tax from Service users and remit such tax to the City in accordance with City's Municipal Code.

4.2 Metricom shall be solely responsible for the payment of all lawful Fees and utility charges in connection with the exercise of Metricom's right, title, and interest in, and the attachment, installation, operation, and maintenance of Radios, and the rendering of Services under this Franchise.

4.3 As compensation for this Franchise, Metricom shall pay to the City, on an annual basis, an amount equal to five percent (5%) of Metricom's Gross Revenues which amount will be collected from subscribers of the Services and remitted to City as provided herein. The compensation required by this section shall be due on or before the 45th day after the end of each calendar year, or fraction thereof. Within 45 days after the termination of this Franchise, compensation shall be paid for the period elapsing since the end of the last calendar year for which compensation has been paid. Metricom shall furnish to the City with each payment of compensation required by this section a statement, executed by an authorized officer of Metricom or his or her designee, showing the amount of Gross Revenues for the period covered by the payment. If Metricom discovers that it has failed to pay the entire or correct amount of compensation due, the City shall be paid by Metricom within fifteen (15) days of discovery of the error or determination of the correct amount. Any overpayment to the City through error or

otherwise shall be offset against the next payment due from Metricom. Acceptance by the City of any payment due under this section shall not be deemed to be a waiver by the City of any breach of this Franchise occurring prior

thereto, nor shall the acceptance by the City of any such payments preclude the City from later establishing that a larger amount was actually due, or from collecting any balance due to the City.

4.4 Metricom shall keep accurate books of account at its principal office in Los Gatos or such other location of its choosing for the purpose of determining the amounts due to the City under Section 4.3. The City may inspect Metricom's books of account at any time during regular business hours on five (5) days' prior written notice and may audit the books from time to time at City's sole expense, but in each case only to the extent necessary to confirm the accuracy of payments due under Section 4.3. Metricom's books of account shall be maintained available for inspection as just described for a period of three (3) years. The City may require annual reports from Metricom relating to its operations and revenues within the City. City agrees to hold in confidence any non-public information it learns from Metricom in accordance with applicable law.

4.5 Metricom shall reimburse the City at City's standard rates for all reasonable expenses relating to the preparation, issuance, implementation and administration of this Franchise, not to exceed Two Thousand Dollars ($2,000) in the aggregate.

4.6 As additional compensation for this Franchise, Metricom shall pay to the City an annual fee (the "Annual Fee") in the amount of Sixty Dollars ($60.00) for the use of each City-owned pole or other property upon which a Radio has been installed pursuant to this Franchise. The initial Annual Fee shall be due and payable not later than the date of installation of the first Radio on a City-owned pole or other property pursuant to this Franchise (the "Installation Date"), and shall equal the total number of Radios Metricom then estimates it will install on City-owned poles or other property during the succeeding twelve (12) months multiplied the Annual Fee. The Annual Fee for subsequent years shall be due and payable not later than thirty (30) days following each anniversary of the Installation Date and shall equal the number of Radios then installed on City-owned poles or other property pursuant to this Franchise multiplied by the Annual Fee, adjusted for the Prior Year Adjustment, as described immediately below The Prior Year Adjustment shall either increase or decrease a subsequent year's Annual Fee to account for the installation or removal of Radios during the prior year, and shall equal the difference between (i) the total number of Radios used to calculate the prior year's Annual Fee multiplied by twelve (12), and (ii) the actual number of Radio Months which occurred during such year, multiplied by one-twelfth of the Annual Fee

4.7 The Annual Fee shall be increased effective January of the first year of each renewal term hereof based on the percentage change in the U. S Department of Labor, Bureau of Labor Statistics, Consumer Price Index of all items, Base 1982-1984, for the Seattle-Tacoma Metropolitan Statistical Area which occurred during the previous term or renewal term.

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5. REMOVAL AND RELOCATION OF RADIOS.

5.1 Metricom understands and acknowledges that City may require Metricom to relocate, and Metricom shall, at City's direction, relocate upon fifteen (15) business days' prior written notice in situations described in subsection (a) below, and immediately in situations described in subsections (b) and (c) below, at Metricom's sole cost and expense, a Radio whenever City reasonably determines that the relocation is needed (a) to facilitate or accommodate the construction, completion, repair, relocation or maintenance of a City project, (b) because the Radio is interfering with or adversely affecting proper operation of City light poles, traffic signals or other City facilities, or (c) to protect or preserve the public health, safety, or welfare If Metricom shall fail to relocate any Radios as requested by the City in accordance with the foregoing sentence, City shall be entitled to relocate the Radios at Metricom's sole cost and expense.

5.2 In the event Metricom desires to relocate any Radios from one City-owned pole or other property to another City-

owned pole or other property, Metricom shall so advise City. City will use its best efforts to accommodate Metricom by making another functionally equivalent City-owned pole or other property available for use in accordance with and subject to the terms and conditions of this Franchise.

5.3 In the event that any Radio subject to this Franchise is abandoned and no longer placed in service for a period-of six (6) months or more, Metricom promptly shall notify the City, and the City, at its option, may require Metricom to promptly remove the abandoned Radio(s) at Metricom's sole cost and expense or dedicate the same to the City. The City shall not issue notice to Metricom that the City intends to exercise the option to require removal or dedication of Radios, unless and until the City first gives fifteen (15) days' prior written notice to Metricom to remove the Radios. If Metricom shall fail to remove the Radios as required by the City, the City shall be entitled to remove the Radios at Metricom's sole cost and expense. Metricom shall execute such documents of title as will convey all right, title, and interest in the abandoned Radios, but in no other Metricom property, intellectual or otherwise, to the City.

5.4 Whenever the removal or relocation of Radios is required under this Franchise, and such removal or relocation shall cause the Public Right-of-Way to be damaged, Metricom, at its sole cost and expense, promptly shall repair and return the Public Right-of-Way, in which the Radios are located, to a safe and satisfactory condition in accordance with applicable Laws, normal wear and tear excepted. If Metricom does not repair the site as just described, then the City shall have the option to perform or cause to be performed such reasonable and necessary work on behalf of Metricom and charge Metricom for the proposed costs to be incurred, or the actual costs incurred by the City, at City's standard rates. Upon the receipt of a demand for payment by the City, Metricom shall reimburse the City for such costs.

6. CONSTRUCTION PERMIT

6.1 In the event that the attachment, installation, operation, or maintenance of Radios shall require any construction work in the Public Right-of-Way, Metricom shall apply for the appropriate Right-of-Way Use permits and shall pay the usual fees applicable thereto.

6.2 Upon the completion of construction work, Metricom promptly shall furnish to the City, in hard copy and Metricom's electronic format, suitable documentation showing the exact location of the Radios in the Public Right-of-Way.

7. INDEMNIFICATION AND WAIVER.

7.1 Metricom agrees to indemnify, protect, defend (with counsel acceptable to the City) and hold harmless the City, its council members, officers, employees, and agents, from and against any and all claims, demands, losses, damages, liabilities, fines, charges, penalties, administrative and judicial proceedings and orders, judgments, remedial actions of any kind, and all costs and cleanup actions of any kind, all costs and expenses incurred in connection therewith, including, without limitation, reasonable attorney's fees and costs of defense (collectively, the "Losses") arising, directly or indirectly, in whole or in part, out of the activities or facilities described in this Franchise, except to the extent arising from or caused by the sole or gross negligence or willful misconduct of the City, its council members, officers, employees, agents or contractors.

7.2 The waiver by the City of any breach or violation of any Provision of this Franchise by Metricom shall not be deemed to be a waiver or a continuing waiver by the City of any subsequent breach or violation of the same or any other Provision of this Franchise by Metricom.

7.3 Metricom waives any and all claims, demands, causes of action, and rights it may assert against the City on account of any loss, damage, or injury to any Radio or any loss or degradation of the Services as a result of a sudden

or gradual loss or change of electrical power caused by, among others, an Act of God, an event or occurrence which is beyond the reasonable control of the City, a power outage, a lightning strike, or occasioned by the installation, maintenance, replacement or relocation of any City-owned facility to which such Radio is attached.

7.4 The City shall be liable only for the cost of repair to damaged Radios arising from the sole or gross negligence or willful misconduct of City or its employees or agents, and the City shall not be responsible for any damages, losses, or liability of any kind occurring by reason of anything done or omitted to be done by the City or by any third party, including, without limitation, damages, losses, or liability arising from the issuance or approval by the City of a permit to any third party or any interruption in Services.

8. INSURANCE

8.1 Metricom shall obtain and maintain at all times during the term of this Franchise comprehensive general liability insurance and comprehensive automotive liability insurance protecting Metricom in an amount of not less than one million dollars ($1,000,000) per occurrence (combined single limit), including bodily injury and property damage, and not less than one million dollars ($1,000,000) aggregate, for each personal injury liability, products completed operations, and each accident. Such insurance shall name the City, its council members, officers, employees, agents, and contractors as additional insureds as respects any liability arising out of Metricom's performance of work under this Franchise, or suitable additional insured endorsement acceptable to the City. Coverage shall **be provided in** accordance with the limits specified and the Provisions indicated herein. Claims-made policies are not acceptable. When an umbrella or excess coverage is in effect, coverage shall be provided in following form. Such insurance shall not be canceled or materially altered to reduce coverage until the City has received at least thirty (30) days advance written notice of such cancellation or change. Metricom shall be responsible for notifying the City of such change or cancellation.

8.2 Metricom shall file the required original certificate(s) of insurance with endorsements with the City, subject to the City's prior approval, which shall clearly state:

8.2.1 Policy number; name of insurance company; name, address and telephone number of the agent or authorized representative; name, address and telephone number of insured; project name and address; policy expiration date; and specific coverage amounts;

8.2.2 That thirty (30) days prior notice of cancellation is unqualified as to the acceptance of liability for failure to notify the City; and

8.2.3 That Metricom's insurance is primary as respects any other valid or collectible insurance that the City may possess, including any self-insured retentions the City may have, and any other insurance the City does possess shall be considered excess insurance only and shall not be required to contribute with this insurance.

8.3 Metricom shall obtain and maintain at all times during the term of this Franchise statutory workers' compensation and employer's liability insurance in an amount not less than five hundred thousand dollars ($500,000) or such other amounts as required by Washington law, and furnish the City with a certificate showing proof of such coverage.

8.4 Any insurance provider of Metricom shall be admitted and authorized to do business in Washington and shall be rated at least A:X in A. M. Best and Company's Insurance Guide. Insurance certificates issued by non-admitted insurance companies are not acceptable.

8.5 Prior to the execution of this Franchise, any-deductibles or self-insured retentions must be stated on the certificate(s) of insurance, which shall be sent to and approved by the City. "Cross liability", "severability of interest" or "separation of insureds" clauses shall be made a part of the comprehensive general liability and comprehensive automobile liability policies.

9. NOTICES.

All notices which shall or may be given pursuant to this Franchise shall be in writing and delivered personally or transmitted: (i) through the United States mail, by registered or certified mail, postage prepaid; (ii) by means of prepaid overnight delivery service; or (iii) by facsimile transmission, if a hard copy of the same is followed by delivery through the U. S. mail or by overnight delivery service as just described, as follows:

City City Clerk

City of SeaTac

17900 International Blvd., Suite 401

SeaTac, WA 98188-4236

Metricom Metricom, Inc.

980 University Avenue

Los Gatos, CA 95030

Attn: Property Manager

Notices shall be deemed given upon receipt in the case of personal delivery, three (3) days after deposit in the mail, or the next day in the case of overnight delivery. Either party may from time to time designate any other address for this purpose by written notice to the other party in the manner set forth above.

1 0. TERMINATION.

This Franchise may be terminated by either party upon forty five (45) days' prior written notice to the other party upon a default of any material covenant or term hereof by the other party, which default is not cured within forty five (45) days of receipt of written notice of default (or, if such default is not curable within forty five (45) days, if the defaulting party fails to commence such cure within forty five (45) days or fails to thereafter diligently prosecute such cure to completion), provided that the grace period for any monetary default is ten (10) days from receipt of notice

MISCELLANEOUS PROVISIONS.

11.1 This Franchise shall not be assigned by Metricom without the express written consent of the City, which consent shall not be unreasonably withheld. Any attempted assignment in violation of this Section shall be void. The transfer of the rights and obligations of Metricom to a parent, subsidiary, or other affiliate of Metricom, or to any successor-in-interest or entity acquiring fifty-one percent (51 %) or more of Metricom's stock or assets, shall not be deemed an assignment. Metricom shall give to the City thirty (30) days' prior written notice of any such transfer.

11.2 City understands that Metricom will be operating in the 902 to 928 MHz band of the radio spectrum for which no license from the FCC is required. Metricom understands that this Franchise does not provide Metricom with exclusive

use of any City-owned poles or property and that City shall have the right to permit other providers of telecommunications services to install equipment or devices in the Public Right of Way. However, City agrees to promptly notify Metricom of the receipt of a proposal for the installation of communications equipment or devices in the Public Right of Way, irrespective of whether a license is required by the FCC for the operation thereof. In addition, City agrees to advise such other providers of telecommunications services of the presence or planned deployment of the Radios in the Public Right of Way.

11.3 This Franchise contains the entire understanding between the parties with respect to the subject matter herein. There are no representations, agreements or understandings (whether oral or written) between or among the parties relating to the subject matter of this Franchise which are not fully expressed herein.

11.4 This Franchise may not be amended except pursuant to a written instrument signed by both parties .

11.5 If any one or more of the Provisions of this Franchise is for any reason held illegal, invalid, or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the legality, validity, or constitutionality of the remaining portions hereof. The Council hereby declares that it would have passed this Franchise and each Provision hereof irrespective of the fact that any one or more Provisions be declared illegal, invalid, or unconstitutional.

11.6 Metricom shall be available to the staff employees of any City department having jurisdiction over Metricom's activities 24 hours a day, 7 days a week, regarding problems or complaints resulting from the attachment, installation, operation, maintenance, or removal of the Radios. The City may contact by telephone the network control center operator at telephone number (800) 556-6123 regarding such problems or complaints.

11.7 This Franchise shall be governed and construed by and in accordance with the laws of the State of Washington, without reference to its conflicts of law principles. In the

event that suit is brought by a party to this Franchise, the parties agree that trial of such action shall be vested exclusively in the state courts of Washington, County of King, or in the United States District Court for the Western District of Washington.

11.8 All exhibits referred to in this Franchise and any addenda, attachments, and schedules which may, from time to time, be referred to in any duly executed amendment to this Franchise are by such reference incorporated in this Franchise and shall be deemed a part of this Franchise.

11.9 This Franchise is binding upon the successors and assigns of the parties hereto.

11.10 Metricom acknowledges that the City may develop rules, regulations, and specifications for the attachment, installation, and removal of Radios and any similar purpose radios on the City-owned facilities, including poles, and such rules, regulations, and specifications, and when finalized, shall govern Metricom's activities hereunder as if they were in effect at the time this Franchise was executed by the City; provided, however, that in no event shall such rules, regulations or specifications materially interfere with or affect Metricom's right to install Radios, or Metricom's ability to transmit or receive radio signals from Radios installed, pursuant to and in accordance with this Franchise.

11.11 To the extent the City has actual knowledge thereof, the City will attempt to inform Metricom of the displacement of any City-owned pole or other property on which any Radio is located.

11.12 In any case where the approval or consent of one party hereto is required, requested or otherwise to be given

under this Franchise, such party shall not unreasonably delay or withhold its approval or consent.

11.13 This Franchise shall not become effective until written acceptance thereof has been filed by Metricom with City's City Clerk. By accepting this Franchise, Metricom covenants and agrees to perform and be bound by each and all of the terms and conditions imposed by the Code of the City and this Franchise. Acceptance by Metricom must occur within ninety (90) days of the enactment of this Franchise by ordinance or else the Franchise is void.

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11.14 Metricom agrees to make available to the City the Services provided through this Franchise at the lowest rate available to any other governmental entity.

ADOPTED is 26th day of November 1996 and signed in authentication

thereof on this 26th of November 1996.

CITY OF SEATAC

Kathy Gehring, Deputy/Mayor

ATTEST:

Judith L. Cary, City Clerk

APPROVED AS TO FORM:

Robert L. McAdams, Interim City Attorney

The Provisions of the Franchise granted by City of SeaTac Ordinance No. 96-1027are agreed to and hereby accepted. By accepting this Franchise, Metricom, Inc. covenants and agrees to perform and be bound by each and every term and condition imposed by the Code of the City and by this Franchise.

Dated: 12/16, 1996

METRICOM: METRICOM, INC.

By:

Kirk Wampler

Director of Right of Way

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[Rev: 2-7-96]

10/11/96

ORDINANCE NO. 96-1028

AN ORDINANCE of the City Council of the City of SeaTac, Washington amending certain Sections of Chapter 7.10 of the SeaTac Municipal Code relating to litter control and recycling.

WHEREAS, the City Council, by Ordinance No. 90-1058, now codified as Chapter 7.10 of the SeaTac Municipal Code, recognized the need to accomplish litter control, increase waste reduction and stimulate all components of recycling, and thus implemented the Model Litter Control Act, Chapter 70.93 RCW; and

WHEREAS, the Model Litter Control Act has been renamed the Waste Reduction, Recycling, and Model Litter Control Act and has been amended, to include decriminalization of littering offenses; and

WHEREAS, it is appropriate to amend the Municipal Code so as to comply with the amended Act and also to address littering at City recycling centers and bins;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN as follows:

Section 1. Section 7.10.010 of the SeaTac Municipal Code is hereby amended to read as follows:

7.10.010 Declaration of purpose.

The purpose of this chapter is to accomplish litter control throughout the City and to provide additional impetus to state-wide efforts to reduce waste and promote recycling. ~~by recognizing the anti-litter authority and programs of the State Department of Ecology and by delegating to the Department of Public Works the authority to conduct a permanent and continuous program to control and remove litter from the City to the maximum practical extent possible.~~ The intent of this chapter is to add to, and to coordinate existing litter control, waste reduction and to promote recycling in coordination with the Department of Ecology.

Section 2. Section 7.10.020 of the SeaTac Municipal Code is hereby amended to read as follows:

7.10.020 Definitions.

As used in this chapter, unless the context indicates otherwise, the following words shall have the meanings set forth below:

A. "Litter" means all waste material including but not limited to disposable packages or containers thrown or deposited as herein prohibited but not including the waste of the primary processes of mining, logging, sawmilling, farming, or manufacturing;

B. "Litter bag" means a bag, sack, or other container made of any material which is large enough to serve as a receptacle for litter insides the vehicle or watercraft of any person it is not necessarily limited to the State approved litter bag but must be similar in size and capacity;

C. "Litter receptacle" means those containers adopted by the Department of Ecology and which may be standardized as to size, shape, capacity, and color and which shall bear the state anti-litter symbol, as well as any other receptacles suitable for the depositing of litter;

D. "Person" means any political subdivision, government agency, municipality, industry, public or private corporation, copartnership, association, firm, individual or other entity whatsoever;

E. "Public place" means any area that is used or held out for use by the public whether owned or operated by public or private interests;

F. "Recycling" means transforming or remanufacturing waste materials into a finished product for use other than landfill disposal or incineration;

G. "Recycling center" means a central collection point for recycling materials;

~~F.~~ H. "Vehicle" includes every devise capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, excepting devises moved by human or animal power or used exclusively upon stationary rails or tracks;

~~G.~~ I. "Watercraft" means any boat, ship, vessel, barge, or other floating craft.

Section 3. Section 7.10.030 of the SeaTac Municipal Code is hereby amended to read as follows:

7.10.030 Enforcement.

City police officers, code enforcement officers, and those employees otherwise vested with police powers all shall enforce the provisions of this chapter and all rules and regulations adopted hereunder and are hereby empowered to issue notices of civil infraction ~~citations~~ to ~~and/or arrest without warrant,~~ persons violating any provisions of this chapter or any of the rules and regulations adopted hereunder and to arrest without warrant any person who refuses to sign a notice of civil infraction. ~~All of the foregoing enforcement officers may serve and execute all warrants, citations, and other process in enforcing the provisions of this chapter and rules and regulations adopted hereunder.~~ In addition, mailing by certified mail of such ~~warrant~~ notice, ~~citation~~ or other process to the last known address of residence of a ~~period~~ person charged shall be deemed a personal service upon that person. The City shall also have the authority to contract with the Department of Ecology for purposes of providing to that Department law enforcement services and personnel reasonably necessary to carry out the enforcement provisions of the state Act.

Section 4. Section 7.10.040 of the SeaTac Municipal Code is hereby amended to read as follows:

7.10.040 Littering prohibited - Penalties.

A. No person shall throw, drop, deposit, discard, or otherwise dispose of litter upon any public property in the City or upon private property in the City not owned by him or her or in the waters of this City whether from a vehicle or otherwise including but not limited to any public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street, ~~or~~ alley, or recycling center or recycling bin, except:

1. When such property is designated by the City for the disposal of garbage and refuse, and such person is authorized to use such property for such purpose;

2. Into a litter receptacle in such a manner that the litter will be prevented from being carried away or deposited by the elements upon any part of said private or public property or waters.

3. At a recycling center or into a recycling bin provided that the litter is of a type specifically approved for recycling and is properly placed in a recycling bin.

B. ~~Any person violating the provisions of this section shall be guilty of a misdemeanor and the fine or bail forfeiture for such violation shall not be less than ten dollars ($10.00) for each offense, and, in addition thereto, in the sound discretion of any court in which conviction is~~

~~obtained, such person may be directed by the judge to pick up and remove from any public place or any private property with prior permission of the legal owner upon which it is established by competent evidence that such person has deposited litter, any or all litter deposited thereon by anyone prior to the date of the execution of sentence.~~ It is a class 3 civil infraction as defined in RCW 7.80.120 for a person to litter in an amount less than or equal to one cubic foot. It is a class 1 civil infraction as defined in RCW 7.80.120 for a person to litter in an amount greater than one cubic foot. Unless suspended or modified by a court, the person shall also pay a litter cleanup fee of twenty-five dollars per cubic foot of litter. The court may, in addition to or in lieu of part or all of the cleanup fee, order the person to pick up and remove litter from the property, with prior permission of the legal owner or, in the case of public property, of the agency managing the property.

Section 5. Section 7.10.050 of the SeaTac Municipal Code is hereby amended to read as follows:

7.10.050 Notice to public - Contents of chapter - Required.

Pertinent portions of this chapter, or pertinent notices, any be posted along the public streets and highways of the City and at all entrances to City parks, recreational areas, at all public beaches, at all recycling centers and recycling bins, and at all other public places in the City where persons are likely to be informed of the existence and content of this chapter and the penalties for violating its provisions.

Section 6. Section 7.10.090 of the SeaTac Municipal Code is hereby amended to read as follows:

7.10.090 Coordination with the Department of Ecology.

The City shall coordinate with and shall support the efforts of the State Department of Ecology in accomplishing local anti-litter and recycling efforts; shall, together with the Department of Ecology, encourage, organize and coordinate all voluntary local anti-litter and recycling campaigns seeking to focus the attention of the public on the programs of the State and City to control and remove litter and to foster recycling; and to investigate the availability of, and to apply for funds available from any private or public source to be used in programs to control and remove litter; and, together with the Department of Ecology, to develop programs to increase public awareness of and participation in recycling and to stimulate and encourage local private recycling centers, public participation in recycling and research and development in the field of litter control, and recycling, removal, and disposal of litter-related recycling materials.

Section 7. Section 7.10.900 of the SeaTac Municipal Code is hereby amended to read as follows:

7.10.900 Violations - Penalties.

Every person convicted of a violation of this chapter for which no penalty is specially provided for shall be punished by a ~~fine~~ penalty of not more than ~~ten dollars ($10.00)~~ fifty dollars ($50.00) for each violation.

Section 8. This Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this ____ day of _____, 1996, and signed in authentication thereof on this _____ day of _____, 1996.

CITY OF SEATAC

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Kathy Gehring, Deputy Mayor

ATTEST:

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Judith L. Cary, City Clerk

Approved as to Form:

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Robert L. McAdams, Interim City Attorney

ORDINANCE NO. 96-1029

AN ORDINANCE of the City Council of the City of SeaTac, Washington relating to ad valorem property taxes; establishing the amount to be levied in 1997 by taxation on the assessed valuation of the property of the City; and setting the levy rate for the year 1997.

WHEREAS, State law, RCW 35A.33.135, requires the City Council to consider the City's total anticipated financial requirements for the ensuing fiscal year, and to determine and fix, by ordinance, the amount to be levied by ad valorem taxes; and,

WHEREAS, the said statute further requires that, upon fixing of the amount to be so levied, the City Clerk shall certify the same to the Clerk of the King County Council; and,

WHEREAS, the King County Assessor, as ex officio assessor for the City pursuant to RCW 35A.84.020, has now certified the assessed valuation of all taxable property situated within the boundaries of the City at $ 2,370,373,775;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON DO ORDAIN as follows:

SECTION 1. Levy Rate Fixed.

The regular ad valorem levy for the fiscal year of 1997 is hereby set at $2.90 per thousand dollars of assessed value of all taxable property situated within the boundaries of the City.

SECTION 2. Estimated Amount to be Levied by Ad Valorem Taxation.

The amount of revenue to be levied by the City in the fiscal year 1997 by taxation on theassessed valuation of all taxable property situated within the boundaries of the City is estimated to be the sum of $6,874,084.

SECTION 3. Effective Date.

This Ordinance shall be in full force and effect five (5) days after passage and publication of the Ordinance as required by law.

ADOPTED this 17th day of December, 1996, and signed in authentication thereof on this 17th day of December, 1996.

CITY OF SEATAC

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Don DeHan, Mayor

ATTEST:

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Judith L. Cary, City Clerk

Approved as to Form:

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Robert L. McAdams, Interim City Attorney

ORDINANCE NO. 96-1030

AN ORDINANCE of the City Council of the City of SeaTac, Washington amending portions of the City of SeaTac Comprehensive Plan.

WHEREAS, pursuant to the requirements of the Washington State Growth Management Act, the City is required to continue to evaluate and review its Comprehensive Land Use Plan; and

WHEREAS, pursuant to substantial study by the City of SeaTac Planning Department, the City of SeaTac Planning Commission and by consultants whose services were secured by the City to assist in development of the Comprehensive Plan, a Comprehensive Plan was developed to address the goals of the State Growth Management Act and to provide for continuity and consistency among the various regulations affecting the City of SeaTac; and

WHEREAS, the Comprehensive Plan may be amended, with public participation, after consolidated consideration of all proposed amendments, but not more frequently than once per year; and

WHEREAS, after a public hearing to consider proposed amendments to the Comprehensive Plan, the Planning Commission has recommended to the City Council adoption of certain proposed amendments; and

WHEREAS, the Council finds that the land use plan map change pertaining to the property identified as Map 1 of Exhibits A and B, should be made subject to an agreement by the owners, running with the land, imposing conditions on development and the said property owners have agreed to such conditions pursuant to a Memorandum of Understanding;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON, DO ORDAIN as follows:

Section 1. The City's Comprehensive Land Use Plan, adopted December 20, 1994, ishereby amended as set forth in Exhibits A through C attached hereto.

Section 2. The City Manager is authorized to enter into a form of development agreement pursuant to the Memorandum of Understanding relating to the property identified as Map 1 of Exhibit A and B.

Section 3. A copy of this Ordinance shall be transmitted to the Department of Community, Trade and Economic Development pursuant to RCW 36.70A.106(3).

Section 4. This Ordinance shall be in full force and effect thirty (30) days after passage.

ADOPTED this 17th day of December, 1996, and signed in authentication

thereof on this 17th day of December, 1996.

CITY OF SEATAC

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Don DeHan, Deputy Mayor

ATTEST:

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Judith L. Cary, City Clerk

Approved as to Form:

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Robert L. McAdams, Interim City Attorney

ORDINANCE NO. 96-1031

AN ORDINANCE of the City Council of the City of SeaTac, Washington amending the Right-of-Way Use Code.

WHEREAS, Ordinance No. 96-1022 established a Right-of-Way Use Code within Chapter 11.10 of the SeaTac Municipal Code; and

WHEREAS, the definition of frequent use hauling set forth at Section 11.10.080E(2) is flawed and would permit much frequent hauling without a requirement for the Class E permit; and

WHEREAS, the said Section should be amended to accurately reflect the intent of the Council; and

WHEREAS, the adoption of a fee schedule, as set forth at Section 11.10.100, should be allowed by motionor resolution of the Council; and

WHEREAS, the Council finds that the changes must be made effective immediately in order to prevent frequent use hauling which could commence at any time without a permit, and to avoid applications for permits which might give rise to vested rights and thus avoid the spirit and intent of the original Ordinance;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SEATAC, WASHINGTON, DO ORDAIN as follows:

Section 1. Section 11.10.080E is hereby amended to read as follows:

E. Class E - Potential Disturbance of City Right-of-Way.

(1) Class E permits may be issued for use of a right-of-way, for a period not in excess of 180 days, for those activities that have the potential of altering the appearance of or disturbing the surface or subsurface of the right-of-way on a temporary or permanent basis.

(2) Class E permits include but are not limited to:

(a) Frequent use hauling involving an average of six loaded vehicles per hour during any 8 hour period in one day, for two or more consecutive days; ~~every ten (10) minutes or less over any continuous 48 hour period;~~

(b) Any hazardous waste hauling.

(3) Class E permits may be issued to a general contractor to authorize construction and fill hauling activities by the said general contractor and by subcontractors.

Section 2. Section 11.10.100 of the SeaTac Municipal Code is hereby amended to read as follows:

11.10.100 Permit fees and charges.

The fee for each permit shall be set forth in a fee schedule to be adopted by motionor resolution of the city council. Such fee schedule may include a sliding scale for indigent applicants.

A. Application Fee. A nonrefundable application fee shall be charged for each right-of-way use permit application that is accepted for processing, counter service, and record-keeping.

B. Processing of Application Fee. A fee for the processing of applications may be charged. The amount of the fee shall be determined based upon the time and costs required to review, inspect, research, and coordinate the applicant's data for each permit application. The processing fee may be different depending upon the class of right-of-way use permit involved.

C. Daily Use Fee. Permits may include a fee for each day (or part thereof) for use of the right-of-way. The fee will compensate the city for monitoring and inspecting the site or activity. The daily use fee may be different depending upon the class of right-of-way use permit involved.

D. Reimbursement of Actual Expenses. When a permit is issued, the city may impose a charge based on the actual cost to compensate for its time and expenses. These costs may include street crews, signal crews, and police, if required to assist in the activity. A refundable deposit or other security device may also be required. Costs of damage to city property, or expense of assistance by city employees, may be deducted from the deposit, charged against the security device, or billed to the permittee directly.

E. Repair and Replacement Charges. If the city should incur any costs in repairing or replacing any property as the result of the permittee's actions, the costs of repair and replacement shall be charged to the permittee. These charges will be for the actual costs to the city.

F. Utilities shall be charged at an hourly rate for city inspections and other services pursuant to the adopted fee schedule.

G. Waiver of Fees. Franchised utilities which must apply for permits because of city-initiated construction projects may be granted a waiver by the director of normal permit fees. This provision shall only apply to work that would not normally have been done by the utility.

Section 3. This Ordinance is necessary for the immediate preservation of public peace, health, and safety, and for the support of city government and its existing public institutions and, therefore, this Ordinance, being passed by unanimous vote of the entire Council, shall take effect and be in full force and effect upon its adoption and publication of a summary of its contents pursuant to law.

ADOPTED this 17th day of December, 1996, and signed in authentication

thereof on this 17th day of December, 1996.

CITY OF SEATAC

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Don DeHan, Mayor

ATTEST:

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Judith L. Cary, City Clerk

Approved as to Form:

Robert L. McAdams, Interim City Attorney