



**PACIFIC CITY COUNCIL AGENDA**  
**Council Chambers - City Hall. 100 3<sup>rd</sup> Ave. SE**

**September 6, 2016**  
**Tuesday**

**Workshop**  
**6:30 p.m.**

- 1. CALL TO ORDER/PLEDGE OF ALLEGIANCE**
  - 2. ROLL CALL OF COUNCIL MEMBERS**
  - 3. ADDITIONS TO/APPROVAL OF AGENDA**
  - 4. DISCUSSION ITEMS**
- (3)      **A. AB 16-086: Resolution No. 2016-367:** Approval of the Administrative Sergeant Job Description. (10 min.)  
(John Calkins)
- (10)     **B. AB 16-087: Resolution No. 2016-368:** Authorizing the surplus of a 2009 Dodge Charger and 2007 Dodge Ram pickup previously utilized by the Police department. (5 min.)  
(John Calkins)
- (13)     **C. AB 16-088: Ordinance No. 2016-1936:** Amending Pacific Municipal Code Chapter 20.60 Light Industrial District related to sewage treatment facilities. (10 min.)  
(Jack Dodge)
- (19)     **D. AB 16-089: Ordinance No. 2016-1934:** Amending Pacific Municipal Code Chapter 20.09 prohibiting medical marijuana cooperatives. (5 min.)  
(Jack Dodge)
- (36)     **E. AB 16-090: Ordinance No. 2016-1937:** Amending Pacific Municipal Code Chapter 20.54 – Office Park (OP) District related to storage and Design standards.. (10 min.)  
(Jack Dodge)
- (45)     **F. AB 16-091: Ordinance No. 2016-1938:** Repealing Pacific Municipal Code Chapter 20.84 Sign Code and adopting a new Chapter 20.84 Sign Code. (10 min.)  
(Jack Dodge)

- (93)           **G. AB 16-092: Resolution No. 2016-369:** Authorizing the execution of an agreement with AV CaptureAll, LLC, in the amount of \$5,976.00, for the legislative/judicial combination of recording for on-demand streaming and archiving. (5 min.)  
(Richard Gould)
- (110)           **H. AB 16-093: Ordinance No. 2016-1939:** Amending the 2016 FTE schedule (10 min.)  
(Richard Gould)
- (115)           **I. AB 16-094: Resolution No. 2016-370:** Authorizing the Mayor to issue a request for proposals for a public defender services contract. (5 min.)  
(Richard Gould)
- (133)           **J. AB 16-095: Resolution No. 2016-371:** Authorizing the execution of Supplement No. 2 with KPG, Inc., in the amount of 58,251.83, for construction management services for Stewart Road. (10 min.)  
(Jim Morgan)
- (139)           **K. TBD Funding Source Discussion** (10 min.)  
(Jim Morgan)

## 5. ADJOURN

***Council may add other items not listed on this agenda unless specific notification period is required.***

Please turn off cell phones during meeting and hold your questions for staff until the meeting has been adjourned.

Meeting materials are available on the City's website at: [www.pacificwa.gov](http://www.pacificwa.gov) or by contacting the City Clerk's office at (253) 929-1105.



Agenda Bill No. 16-086

**TO:** Mayor Guier and City Council Members

**FROM:** John Calkins

**MEETING DATE:** September 6, 2016

**SUBJECT:** Resolution to approve the job description for the Police Administrative Sergeant.

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**ATTACHMENTS:**

- Resolution No. 2016-367
- Job Description for the Administrative Sergeant
- Communication from the Civil Service Secretary addressing the position.

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**Previous Council Review Date:** August 15, 2016

**Summary:** The 2016 Lieutenant test resulted with no eligible personnel to fill the position. In lieu of opening the Lieutenant position to outside applicants and reducing the promotion opportunities within the Pacific Police Department, the option of creating the position of Administrative Sergeant will fill the need for the Lieutenant's duties as well as allow upward mobility in the police department.

**Recommendation/Action:** Staff recommends the Council move this item forward to the September 12, 2016, regular meeting for approval.

**Motion for Consideration:** I move to approve Resolution No. 2016-367 adding the job description for the Police Administrative Sergeant position.

**Budget Impact:** Staff projections show these changes to not exceed the appropriated budget for 2016.

**Alternatives:**

**CITY OF PACIFIC  
WASHINGTON  
RESOLUTION NO. 2016-367**

**A RESOLUTION OF CITY COUNCIL OF THE CITY OF PACIFIC,  
WASHINGTON, ADOPTING THE JOB DESCRIPTION FOR THE POSITION  
OF  
POLICE ADMINISTRATIVE SERGEANT**

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**WHEREAS**, the City of Pacific Police Department would like to create a new position; and

**WHEREAS**, there is no job description for that position, and

**WHEREAS**, the Administrative Sergeant will perform like duties of the Lieutenant, and

**WHEREAS**, there is no Pacific Police employee currently available to fill the Lieutenant position, and

**WHEREAS**, non-sworn personnel need daily supervision and other administrative tasks are a daily occurrence;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, AS FOLLOWS:**

**Section 1.** The City Council of the City of Pacific adopts the Job Description for the position of Administrative Sergeant.

**Section 2.** This Resolution shall take effect and be in full force as of the date of approval and adoption.

**PASSED BY THE CITY OF PACIFIC CITY COUNCIL AT A REGULAR MEETING THEREOF ON SEPTEMBER 12, 2016.**

CITY OF PACIFIC

\_\_\_\_\_  
LEANNE GUIER, MAYOR

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
AMY STEVENSON-NESS, CMC  
CITY CLERK

APPROVED AS TO FORM:

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CAROL MORRIS, CITY ATTORNEY

LETTER OF AGREEMENT  
Regarding ADMINISTRATIVE SERGEANT

THIS Letter of Agreement ("LOA") is entered into by and between the City of Pacific, Washington ("City") and Teamsters Local No. 117 ("Union").

WHEREAS, the parties have met and bargained over instituting an Administrative Sergeant assignment in lieu of filling the Lieutenant rank at this time;

NOW, THEREFORE, in consideration of the mutual covenants, promises and conditions set forth herein, it is voluntarily agreed by and between the City and the Union as follows:

1. Effective as soon as practicable, the City will assign one Sergeant into an Administrative Sergeant assignment. The first Sergeant to be assigned will be Sgt. Bos. The scope of work of the Administrative Sergeant may include tasks previously performed by the Lieutenant, the Chief of Police/Public Safety Director, and by non-uniformed staff.
2. In approximately June 2017, the City will consider offering another promotional examination for the Lieutenant rank. If the City offers another examination and permanently appoints a new Lieutenant, the Administrative Sergeant assignment will terminate on the effective date of the Lieutenant's appointment. If the City does not offer a new examination or appoint a new Lieutenant, the Administrative Sergeant assignment will remain in effect.
3. An Administrative Sergeant will receive a 6% premium added to their base wage while assigned to be the Administrative Sergeant. The City determines who to assign as the Administrative Sergeant.
4. This LOA is effective when signed by both parties and will remain in effect until December 31, 2017. This LOA does not establish a past practice and may not be cited as precedent in any future dispute between the parties.

CITY OF PACIFIC

TEAMSTERS LOCAL NO. 117

\_\_\_\_\_  
Mayor Leanne Guier

\_\_\_\_\_  
Matthew House, Business Representative

Date: \_\_\_\_\_

Date: \_\_\_\_\_

# City of Pacific Police Department

## Position Description

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<b><u>Title</u></b>	<b>Administrative Sergeant</b>
Department:	Police Department
Reports To:	Police Chief
Compensation:	6% above Sergeant (including longevity and incentives)
FLSA Status:	Civil Service / Union Member

### **Position Purpose**

The position will manage and provide leadership to the Police Department to assure effective and efficient delivery of law enforcement services. The position will perform a variety of complex administrative, supervisory, and professional functions assisting the Chief of Police with specialized functions within the department.

### **Essential Functions**

Responsible for direct supervision of the Detective Division, Correction Sergeant and support staff and directs the investigation of major crime scenes within the City and in collaboration with the Coalition of Small Police Agency's (CSPA).

- Performs caseload management to include working casework overflow, employment background checks, monthly reports, case review approval, CPS referrals, sex offender reviews, and special investigative events.
- Background and hiring, coordinating with Human Resources qualified applicants, oral boards, managing the background investigations and preparing the final reports for hiring consideration. Investigates complaints (internal or criminal) against employees when assigned. Prepares findings of facts to the Chief of Police for appropriate action.
- Responds to emergency situations when called upon to provide supervisory, investigative, and logistical support for the Department. Operates as the commander of the Detective Division conducting an appropriate level of investigation as needed.

Responsible for the direct supervision of Support Services and directs the daily work of the records section and the support services and the evidence system.

- Performs audits and inspections as required by policy.
- Administrator of the Lexipol Policy system, maintaining up to date daily training bulletins, policy updates, and policy modifications. Assists with the planning, developing, and implementation of policies and procedures.

- Works closely with the Accreditation Manager, coordinating the implementation of accreditation standards, communications, training requirements, and adherence to those standards.
- Training Supervisor, ensuring up to date adherence for mandatory, in-service training, and tracking of department training received. Supervise and manage the field training program (FTO) Oversee the public disclosure requests for the police department and ensure the public disclosure officer tracks, maintains and fills those requests according to statute. Training Coordinator representative for CSPA.
- Website development, additions to site and assists with social media dissemination. Assist with I.T. needs of the police department, manage the technology needs and work with Auburn I.T. manager with those needs. Oversee the patrol laptop systems, manage and maintain issues with computer needs. Manage the police department forms and files for modification and maintenance.

Assists all other supervisory personnel with special assignments when needed. Performs the duties of all subordinate personnel and patrol sergeants, either by choice or necessity. Performs duties as assigned by the Chief of Police.

### **Knowledge, Skills, and Abilities**

Knowledge of modern law enforcement methods and investigation techniques. As the desire to stretch their knowledge base and bring to the department new and innovative methods of conduction business.

Knowledge of the principles and practices of supervision and personnel management.

Ability to communicate effectively, both orally and in writing, and maintain effective working relationships with the department, City staff, subordinates, and the general public.

Ability to establish a collaborative and motivated work environment that will attain and maintain a high level of work expectation and morale.

Ability to further the mission of the department and willingness to promote employee involvement/empowerment to ensure the best product possible.

Ability to work long hours if needed in a stressful and dangerous environment. Maintain the skills of a patrol officer and able to work in the field with the same requirements of a patrol officer.

Ability to have a strong knowledge and skills with computer technology. High skills in database management and report writing (Excel, Access, data mining and analytics).

### **Education, Experience, and Certification**

- Minimum of 12 months performing the duties of a police supervisor for a police department, sheriff's office, or state police/patrol agency.
- Possess a Washington State First Level Supervision Certification.
- Good understanding of the functions assigned.
- Must be able to communicate effectively with people who are in physical or emotional stress.
- Within one year of selection, attend appropriate investigative supervisory courses.

## John Calkins

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**From:** Gail Bennett [cityofpacgail@yahoo.com]  
**Sent:** Friday, August 12, 2016 9:46 AM  
**To:** John Calkins  
**Subject:** Rule 6.3

Good Morning!

I have reviewed rule 6.3 and believe that the class specification of Police Sergeant would include an "Administrative Sergeant". Rule 6.3 C., D. and E address this issue. page 19.

I don't believe the Commission needs to add an "Administrative Sergeant" as a separate class specification since it involves the same character of work but differing as to the level of responsibility as a Sergeant, and therefore I would not test specifically for this title or add the job description to the rule book. It would be up to the Chief and the Hiring Authority as to whom they would appoint if desired. Since it does involve an increase in pay, the union would probably be interested in the job description.

Hope this helps.

Gail



Agenda Bill No. 16-087

**TO:** Mayor Guier, City Administrator Gould and City Council Members  
**FROM:** John Calkins  
**MEETING DATE:** September 12, 2016  
**SUBJECT:** Surplus two police vehicles.

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**ATTACHMENTS:**

- Resolution No. 2016-368
- Exhibit A

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**Previous Council Review Date:** September 6, 2016

**Summary:** The police department has utilized a 2009 Dodge Charger for seven years and a 2007 Dodge Ram pickup for eight years. Both vehicles have well over 100,000 miles on them and they have already been replaced.

**Recommended Action:** Allow the department to surplus the vehicles according to the PMC 3.84, and move it forward to the regular meeting on September 12, 2016.

**Motion for Consideration:** "I move to approve Resolution No. 2016-368, authorizing the surplus of a 2009 Dodge Charger and 2007 Dodge Ram pickup previously utilized by the Police Department.

**Budget Impact:** Positive impact.

**Alternatives:** None

**City of Pacific  
Washington**

**RESOLUTION NO. 2016-368**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC,  
WASHINGTON AUTHORIZING THE PACIFIC POLICE DEPARTMENT TO  
SURPLUS A 2009 DODGE CHARGER AND A 2007 DODGE RAM PICKUP.**

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**WHEREAS**, the City of Pacific purchased the vehicles for police purposes, and

**WHEREAS**, the Police Department has utilized the vehicles for seven and eight years respectively, and

**WHEREAS**, both vehicles have over 100,000 miles of service on them, and

**WHEREAS**, the maintenance on each vehicle is becoming cost prohibitive to keep them in service.

**THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF PACIFIC, WASHINGTON**

**Section 1.** The City Council hereby authorizes the Pacific Police Department to surplus the two vehicles, marked as Exhibit A, as surplus to the City's needs.

**Section 2.** This Resolution shall take effect and be in full force upon passage and signatures hereon.

**PASSED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON  
THE 12th DAY OF SEPTEMBER, 2016.**

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**Leanne Guier, Mayor**

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**Amy Stevenson-Ness, CMC  
City Clerk**

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**Carol Morris, City Attorney**

**CITY OF PACIFIC  
WASHINGTON  
RESOLUTION NO. 2016-368  
EXHIBIT A**

<b>Item</b>	<b>Qty.</b>	<b>Mfg.</b>	<b>Description</b>	<b>VIN Number</b>	<b>Est. Value</b>
<b>2007 Dodge Ram Pickup</b>	<b>1</b>	<b>Dodge</b>	<b>Car 71</b>	<b>1D7HU18237S142544</b>	<b>\$6500</b>
<b>2009 Dodge Charger</b>	<b>1</b>	<b>Dodge</b>	<b>Car 93</b>	<b>2B3KA43T09H506568</b>	<b>\$3000</b>



AGENDA BILL NO. 16-088

**TO:** Mayor Guier and City Council Members  
**FROM:** Jack Dodge, Community Development Manager  
**MEETING DATE:** September 6, 2016  
**SUBJECT:** Proposed Revisions to Chapter 20.60 - Light Industrial (LI) District Related Sewage Treatment Facilities

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**ATTACHMENTS:** 1. Ordinance 2016-1936 Revisions to Chapter 20.60 Light Industrial District

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**Governance Committee:** 4/5/16  
**Planning Commission:** 3/22/16, 4/26/16, 6/28/16, 7/26/16 Public Hearing  
**Previous Council Review Date:** None

**Summary:** City Staff has recommended two changes to the development regulations applicable to the Light Industrial District in Chapter 20.60 of the Pacific Municipal Code. First, Staff is recommending that "Sewage Treatment Facilities" be removed as a "Conditional Use" in the LI zone. Sewage Treatment Facilities are defined as:

"Sewage treatment facilities" use type refers to facilities used to treat any liquid or waterborne waste of domestic origin or a combination of domestic, commercial, or industrial origin, and which by its design requires the presence of an operator for its operation, including alternative treatment works and package treatment plants. Also included are all of the various types of associated equipment, structures, and operations as they are currently constructed and operating or will result from technology; including, but not limited to, administrative offices, storage, laboratories, public walkways, recreational and educational uses, and parking lots. It shall not include any facility used exclusively by a single-family residence, septic tanks with subsoil absorption, industrial pretreatment facilities, privately owned treatment plants for industrial wastewater, or wastewater collection systems.

Under Land Use Policy LU-4.2.7, the Light Industrial designation is:

Intended for industrial uses, and compatible commercial uses designed to have minimal impact to the surrounding neighborhood. Light Industrial development should have a high degree of landscaping and buffering, especially adjacent to residential uses. Such uses generally include warehousing; fabrication;

resource based uses with adequate environmental controls to prevent off site impacts; equipment repair; and office and retail uses associated with these uses.

It is difficult for sewage treatment facilities to completely control odors leaving their sites and impacting adjacent residential and commercial properties. Such odor impacts may effect residential property values and deter other companies that provide family wage jobs from locating in the City. Commercial sewage treatment facilities should be removed as a potential use within the City.

In addition, Staff recommends the deletion from the list of conditional uses in the Light Industrial Zone, the following language: “any other buildings or uses determined to be similar to those listed in PMC 20.60.020 . . .” This language could be interpreted to allow a property owner to make application for any type of use, and so the Staff believes that it should be eliminated.

#### Planning Commission Recommendation

The Planning Commission conducted a public hearing regarding the proposed code revisions at their July 26, 2016 meeting. The Planning Commission’s and staff recommendation is that the City Council adopt Ordinance 2016-19xx revising Chapter 20.60 Light Industrial District of the (PMC), removing “sewage treatment facilities” as a conditional use and removing the provision to request a conditional use permit for almost any use.

#### **Recommended Action:**

1. Move the Planning Commission recommendation to the September 12, 2016 Council meeting for adoption.

Alternative:

2. Set a public hearing date to make changes to the Planning Commission’s recommendation under proposed Ordinance 2016-1936.

#### **Recommended Motion:**

None

CITY OF PACIFIC, WASHINGTON  
ORDINANCE NO. 2016-1936

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, RELATING TO LAND USE AND ZONING, AMENDING THE DEVELOPMENT REGULATIONS IN THE LIGHT INDUSTRIAL ZONING DISTRICT BY REMOVING SEWAGE TREATMENT FACILITIES AS A CONDITIONAL USE AND REMOVING A PROVISION ALLOWING A BLANKET REQUEST FOR A CONDITIONAL USE PERMIT FOR ALMOST ANY USE, AMENDING SECTION 20.60.030 OF THE PACIFIC MUNICIPAL CODE AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS; The Comprehensive Plan Land Use Policy LU-4.2.7 Light Industrial (LI) states that the LI zone is intended for “industrial uses, and compatible commercial uses designed to have minimal impact to the surrounding neighborhood”; and

WHEREAS; Sewage treatment facilities are allowed subject to obtaining a Conditional Use Permit (CUP); and

WHEREAS, it is difficult to control odors from this type of land use which leads to major impacts on adjacent properties, which does not meet the intent of Light Industrial District under Land Use Policy LU-4.2.7, of having minimal impacts on adjacent properties; and

WHEREAS, the proposed revisions to Chapter 20.60 will implement Comprehensive Plan Land Use Policy LU-4.2.7 Light Industrial (LI) by removing Sewage Treatment Facilities as a use allowed through a Conditional Use Permit in the LI zone; and

WHEREAS, the City SEPA Responsible Official issued a SEPA threshold determination of nonsignificance on this Ordinance, which was not appealed; and

WHEREAS, the City sent a copy of this Ordinance to the Washington Department of Commerce on April 26, 2016; and

WHEREAS, the City Planning Commission held a public hearing on this Ordinance on July 26, 2016, and recommended APPROVAL to the City Council; and

WHEREAS, the City Council considered this Ordinance during a regular City Council meeting on September 12, 2016; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Section 20.60.030 of the Pacific Municipal Code is hereby amended to read as follows:

**20.60.030 Conditional uses.**

In addition to the buildings and uses permitted conditionally in PMC [20.68.170](#), the city may grant a conditional use permit (CUP) for any of the following buildings and uses in accordance with the procedures set forth in Chapter [20.20](#) PMC:

- A. Animal production, boarding, slaughtering (level 1);
- B. Basic manufacturing (categories 3, 5);
- C. Billboards;
- D. Bulk fuel dealers;
- E. Commercial centers (not permitted in MICO);
- F. Communication or cellular facilities (levels 1, 2, 3);
- G. Community and cultural services;
- H. Electrical facilities;
- I. Educational facilities;
- J. Educational services;
- K. Fish hatcheries and aquaculture;
- L. Industrial service and repair (level 2);
- M. Intermediate manufacturing and intermediate/final assembly in accordance with PMC [20.06.110](#);
- N. Personal services\*;
- O. Public safety services (level 3);
- P. Recreation, nonprofit (level 4);

Q. Recycling processor (level 2);

R. Religious assembly;

S. Secure community transition facilities;

~~T. Sewage treatment facilities;~~

U. ~~I~~ Swap meets (levels 1, 2 and 3);

~~V~~U. Transportation (levels 2 and 3); and

~~W~~V. Waste transfer facilities (level 2). and

~~X. Any other buildings or uses determined to be similar to those listed in PMC 20.60.020. Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood areas than the specifically permitted buildings and uses.~~

\* Within MICO, limited to less than 10,000 square feet of gross floor area per development site unless it is an accessory use. (Ord. 1828 § 6, 2012; Ord. 1780 § 7, 2010; Ord. 1745 § 2, 2009; Ord. 1530 § 2, 2002; Ord. 1505 § 11, 2001; Ord. 1361 § 6, 1998; Ord. 1221 § 15, 1995; Ord. 485 § 9.03, 1971).

**Section 2. Severability.** If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

**Section 3. Publication.** This Ordinance shall be published by an approved summary consisting of the title.

**Section 4. Effective Date.** This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the City Council of Pacific this \_\_\_\_<sup>nd</sup> day of \_\_\_\_\_, 2016.

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Leanne Guier, Mayor

AUTHENTICATED:

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Amy Stevenson-Ness, CMC  
City Clerk.

APPROVED AS TO FORM:  
Office of the City Attorney

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Carol Morris, City Attorney

PUBLISHED:  
EFFECTIVE DATE:

DRAFT



AGENDA BILL NO. 16-089

**TO:** Mayor Guier and City Council Members

**FROM:** Jack Dodge, Community Development Manager

**MEETING DATE:** September 6, 2016

**SUBJECT:** Conducting a Public Hearing regarding the Planning Commissions Recommendation Amending Chapter 20.09 Prohibiting Medical Marijuana Cooperatives

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**ATTACHMENTS:**

1. Ordinance 2016-1934 Medical Marijuana Cooperatives
2. RCW 69.51A.010
3. RCW 69.50.101
4. RCW 69.59A.250

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**Governance Committee:** 5/4/16  
**Planning Commission:** 6/28/16, 7/26/16 Public Hearing  
**Previous Council Review Date:** 6/6/16, 6/13/16, 7/18/16, 7/25/16

**Summary:**

Background

The State legislature has amended the statutory definitions related to medical marijuana. The State eliminated the regulations applicable to “collective gardens” but added provisions regarding medical marijuana “cooperatives”. These provisions became effective July 1, 2016. The new definitions and regulations are included in RCW 69.51A.010 and RCW 69.50.101. The new regulations applicable to cooperatives are included in RCW 69.51A.250. Copies are attached to the proposed ordinance.

On June 13, 2016 the Council approved Interim Ordinance 2016-1930 which adopted interim zoning regulations prohibiting medical marijuana cooperatives under Chapter 20.09 of the Pacific Municipal Code (PMC). Under RCW 36.70A.390, the ordinance is effective for a period of 60 days and the Council must hold a public hearing regarding the Interim Ordinance within 60 days (on or before August 12). If the Council adopts Ordinance 2016-1934, then Interim Ordinance 2016-1930 will need to be repealed.,

Chapter 20.09 Medical Cannabis prohibits medical marijuana collective gardens, etc. but It does not currently prohibit cooperatives. The proposed code revisions would prohibit medical marijuana cooperatives. In addition, the proposed ordinance revises the definitions to be consistent with state law.

Planning Commission Recommendation

The Planning Commission conducted a public hearing regarding the proposed code revisions at their July 26, 2016 meeting. The Planning Commission's and staff recommendation is that the City Council adopt Ordinance 2016-1934 revising Chapter 20.09 Medical Cannabis of the (PMC), prohibiting medical marijuana cooperatives.

**Recommended Action:**

1. Open the public hearing to public comment regarding the Planning Commission's recommendation to City Council.
2. Close the public hearing and make a decision on proposed Ordinance 2016-1934

Alternative:

3. Close the public hearing and make changes to the proposed Ordinance 2016-1934. (Depending on the changes, the City Council may need to hold another public hearing. RCW 36.70A.035).

**Recommended Motion:**

I move that the City Council vote to adopt Ordinance 2016-1934, repealing interim zoning ordinance No. 2016-1930 and revising certain sections of Chapter 20.09 of the Pacific Municipal Code.

CITY OF PACIFIC, WASHINGTON  
ORDINANCE NO. 2016-1934

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, RELATING TO MEDICAL MARIJUANA, PROHIBITING MARIJUANA COOPERATIVES AS WELL AS COLLECTIVE GARDENS AND UPDATING THE DEFINITIONS RELATING TO MEDICAL MARIJUANA, IN ORDER TO CONFORM WITH RECENT LEGISLATIVE AMENDMENTS, REPEALING SECTION 20.09.020 AND ADDING A NEW SECTION 20.09.020, AMENDING SECTION 20.09.030, 20.09.040 AND 20.09.050 OF THE PACIFIC MUNICIPAL CODE AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS, the City of Pacific prohibits both medical and recreational marijuana uses in Pacific Municipal Code (PMC) chapter 20.08 and chapter 20.09; and

WHEREAS, the City's codes relating to medical marijuana included definitions that were consistent with Washington state law at the time the codes were adopted; and

WHEREAS, since that time, the Washington State Legislature has amended the statutory definitions relating to medical marijuana in RCW 69.51A.010; and

WHEREAS, the Legislature has also eliminated the regulations applicable to "collective gardens" in RCW 69.51A.085, effective July 1, 2016; and

WHEREAS, the Legislature adopted provisions allowing medical marijuana "cooperatives" in RCW 69.51A.250, effective July 1, 2016; and

WHEREAS, on June 13, 2016, the City Council adopted an interim zoning ordinance, No. 2016-1930, which prohibited medical marijuana cooperatives; and

WHEREAS, on August 8, 2016, the City Council held the 60 day hearing on Ordinance No. 2016-1930, and voted to continue its effectiveness for the duration of the term identified in the Ordinance, or until December 10, 2016; and

WHEREAS, the City SEPA Responsible Official issued a SEPA threshold determination of nonsignificance on this Ordinance, which was not appealed; and

WHEREAS, the City sent a copy of this Ordinance to the Washington Department of Commerce on May 9, 2016; and

WHEREAS, the City Planning Commission held a public hearing on this Ordinance on July 26, 2016, and provided a recommendation to the City Council; and

WHEREAS, the City Council conducted a public hearing regarding the Planning Commissions recommendation considering this Ordinance during a regular City Council meeting on August 8, 2016; and

WHEREAS, the federal government has not legalized marijuana and the Pacific City Council still desires that all marijuana uses including medical marijuana cooperatives be prohibited in the City of Pacific; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 2016-1930 is hereby repealed.

Section 2. Section 20.09.020 of the Pacific Municipal Code is hereby repealed.

Section 3. A new Section 20.09.020 is hereby added to the Pacific Municipal Code, to read as follows:

**20.09.020 Definitions.** For purposes of this chapter, the following definitions apply:

“Collective Garden” has the meaning set forth in RCW 69.51A.085.

“Cooperative” has the meaning set forth in RCW 69.51A.250.

“Cultivation” means the planting, growing, harvesting, drying or processing of marijuana plants or any part thereof.

“Deliver or delivery” means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

“Designated provider” has the meaning provided in RCW 69.51A.010.

“Dispense” means the interpretation of a prescription or order for medical cannabis or medical marijuana and pursuant to that order, the selection, measuring, compounding, labeling or packaging necessary to prepare the prescription or order for delivery.

“Dispensary” means any location that does not meet the definition of “collective” or “collective garden” and in which medical marijuana or medical cannabis is

processed, dispensed, selected, measured, compounded, packaged, labeled, sold, bartered or given away to any member of the public. It also includes any vehicle or other mode of transportation, stationary or mobile, which is used to transport, distribute, deliver, sell or give away medical cannabis or medical marijuana to any member of the public, including members of cooperatives as defined in RCW 69.51A.250.

“Marijuana” has the meaning provided in RCW 69.50.101.

“Marijuana concentrates” has the meaning provided in RCW 69.50.101.

“Marijuana infused products” has the meaning provided in RCW 69.50.101.

“Marijuana retailer” has the meaning provided in RCW 69.50.101.

“Marijuana processor” has the meaning provided in RCW 69.50.101.

“Marijuana producer” has the meaning provided in RCW 69.50.101.

“Marijuana retailer with a medical marijuana endorsement” has the meaning provided in RCW 69.51A.010.

“Marijuana infused products” has the meaning provided in RCW 69.50.101.

“Medical use of marijuana” has the meaning provided in RCW 69.51A.010.

“Qualifying patient” has the meaning provided in RCW 69.51A.010.

“Usable marijuana” has the meaning provided in RCW 69.50.101.

Section 4. Section 20.09.030 of the Pacific Municipal Code is hereby amended to read as follows:

**20.09.030 Prohibited activities.**

A. It is unlawful to own, establish, operate, use or permit the establishment or operation of a medical marijuana dispensary, or to participate as an employee, contractor, agent or volunteer or in any other manner or capacity in any marijuana business, even if the same is licensed by the State of Washington. ~~That does not have a license from the Liquor Control Board of the state of Washington.~~

B. It is unlawful to own, establish, operate, use, participate in or permit the establishment or operation of a medical marijuana collective garden or a cooperative, or to participate as an employee, contractor, agent or volunteer or in any other manner or capacity in any collective garden or cooperative, even if the same is licensed/registered with the State of Washington

C. It is unlawful to lease, rent, or otherwise allow any medical marijuana dispensary, or any medical marijuana collective garden or any cooperative, outdoors, indoors, in any building, structure, premises, location or land in the City, even if the same is licensed/registered with the State of Washington.

Section 5. Section 20.09.040 is hereby amended to read as follows:

**20.09.040 Use not permitted in any zone.** The use of any building, structure, location, premises or land for a medical marijuana dispensary or a collective garden or a cooperative is not currently allowed in the City and medical marijuana dispensaries and collective gardens and cooperatives are not permitted uses in any zone. So long as this chapter remains in effect, the City shall not determine, either through interpretation or otherwise, that the use of any building, structure, location, premises or land as a medical marijuana dispensary, or collective garden or cooperative may be permitted in any zone.

Section 6. Section 20.09.050 is hereby amended to read as follows:

**20.09.050 No vested or nonconforming rights.** This chapter prohibits medical marijuana dispensaries, and collective gardens and cooperatives. Neither this chapter nor any other City ordinance, City action, failure to act, statement, representation, certificate, approval or permit issued by the City or its departments, or their respective representatives, agents, employees, attorneys or assigns, shall create, confer, or convey any vested or nonconforming right or benefit regarding any medical marijuana business, marijuana business, cooperatives or collective garden.

Section 7. Statutes adopted by reference. Pursuant to RCW 35A.12.140, copies of the state laws adopted by reference in this ordinance (RCW 69.51A.010, RCW 69.51A.250 and RCW 69.50.101) are filed in the office of the City Clerk.

Section 8. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 9. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 10. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

ADOPTED by the City Council of the City of Pacific this \_\_\_\_<sup>nd</sup> day of \_\_\_\_\_, 2016.

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**Leanne Guierm Mayor**

**AUTHENTICATED:**

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**Amy Stevenson-Ness, CMC  
City Clerk**

**APPROVED AS TO FORM:  
Office of the City Attorney**

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**Carol Morris, City Attorney**

**PUBLISHED:  
EFFECTIVE DATE:**

DRAFT

## RCW 69.51A.010

### Definitions.

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1)(a) Until July 1, 2016, "authorization" means:

(i) A statement signed and dated by a qualifying patient's health care professional written on tamper-resistant paper, which states that, in the health care professional's professional opinion, the patient may benefit from the medical use of marijuana; and

(ii) Proof of identity such as a Washington state driver's license or identicaid, as defined in RCW [46.20.035](#).

(b) Beginning July 1, 2016, "authorization" means a form developed by the department that is completed and signed by a qualifying patient's health care professional and printed on tamper-resistant paper.

(c) An authorization is not a prescription as defined in RCW [69.50.101](#).

(2) "CBD concentration" means the percent of cannabidiol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product.

(3) "Department" means the department of health.

(4) "Designated provider" means a person who is twenty-one years of age or older and:

(a)(i) Is the parent or guardian of a qualifying patient who is under the age of eighteen and beginning July 1, 2016, holds a recognition card; or

(ii) Has been designated in writing by a qualifying patient to serve as the designated provider for that patient;

(b)(i) Has an authorization from the qualifying patient's health care professional; or

(ii) Beginning July 1, 2016:

(A) Has been entered into the medical marijuana authorization database as being the designated provider to a qualifying patient; and

(B) Has been provided a recognition card;

(c) Is prohibited from consuming marijuana obtained for the personal, medical use of the qualifying patient for whom the individual is acting as designated provider;

(d) Provides marijuana to only the qualifying patient that has designated him or her;

(e) Is in compliance with the terms and conditions of this chapter; and

(f) Is the designated provider to only one patient at any one time.

(5) "Health care professional," for purposes of this chapter only, means a physician licensed under chapter [18.71](#) RCW, a physician assistant licensed under chapter [18.71A](#) RCW, an osteopathic physician licensed under chapter [18.57](#) RCW, an osteopathic physicians' assistant licensed under chapter [18.57A](#) RCW, a naturopath licensed under chapter [18.36A](#) RCW, or an advanced registered nurse practitioner licensed under chapter [18.79](#) RCW.

(6) "Housing unit" means a house, an apartment, a mobile home, a group of rooms, or a single room that is occupied as separate living quarters, in which the occupants live and eat separately from any other persons in the building, and which have direct access from the outside of the building or through a common hall.

(7) "Low THC, high CBD" means products determined by the department to have a low THC, high CBD ratio under RCW [69.50.375](#). Low THC, high CBD products must be inhalable, ingestible, or absorbable.

(8) "Marijuana" has the meaning provided in RCW [69.50.101](#).

(9) "Marijuana concentrates" has the meaning provided in RCW [69.50.101](#).

(10) "Marijuana processor" has the meaning provided in RCW [69.50.101](#).

(11) "Marijuana producer" has the meaning provided in RCW [69.50.101](#).

(12) "Marijuana retailer" has the meaning provided in RCW [69.50.101](#).

(13) "Marijuana retailer with a medical marijuana endorsement" means a marijuana retailer that has been issued a medical marijuana endorsement by the state liquor and cannabis board pursuant to RCW [69.50.375](#).

(14) "Marijuana-infused products" has the meaning provided in RCW [69.50.101](#).

(15) "Medical marijuana authorization database" means the secure and confidential database established in RCW [69.51A.230](#).

(16) "Medical use of marijuana" means the manufacture, production, possession, transportation, delivery, ingestion, application, or administration of marijuana for the exclusive benefit of a qualifying patient in the treatment of his or her terminal or debilitating medical condition.

(17) "Plant" means a marijuana plant having at least three distinguishable and distinct leaves, each leaf being at least three centimeters in diameter, and a readily observable root formation consisting of at least two separate and distinct roots, each being at least two centimeters in length. Multiple stalks emanating from the same root ball or root system is considered part of the same single plant.

(18) "Public place" has the meaning provided in RCW [70.160.020](#).

(19) "Qualifying patient" means a person who:

(a)(i) Is a patient of a health care professional;

(ii) Has been diagnosed by that health care professional as having a terminal or debilitating medical condition;

(iii) Is a resident of the state of Washington at the time of such diagnosis;

(iv) Has been advised by that health care professional about the risks and benefits of the medical use of marijuana;

(v) Has been advised by that health care professional that they may benefit from the medical use of marijuana;

(vi)(A) Has an authorization from his or her health care professional; or

(B) Beginning July 1, 2016, has been entered into the medical marijuana authorization database and has been provided a recognition card; and

(vii) Is otherwise in compliance with the terms and conditions established in this chapter.

(b) "Qualifying patient" does not include a person who is actively being supervised for a criminal conviction by a corrections agency or department that has determined that the terms of this chapter are inconsistent with and contrary to his or her supervision and all related processes and procedures related to that supervision.

(20) "Recognition card" means a card issued to qualifying patients and designated providers by a marijuana retailer with a medical marijuana endorsement that has entered them into the medical marijuana authorization database.

(21) "Retail outlet" has the meaning provided in RCW [69.50.101](#).

(22) "Secretary" means the secretary of the department of health.

(23) "Tamper-resistant paper" means paper that meets one or more of the following industry-recognized features:

(a) One or more features designed to prevent copying of the paper;

(b) One or more features designed to prevent the erasure or modification of information on the paper; or

(c) One or more features designed to prevent the use of counterfeit authorization.

(24) "Terminal or debilitating medical condition" means a condition severe enough to significantly interfere with the patient's activities of daily living and ability to function, which can be objectively assessed and evaluated and limited to the following:

(a) Cancer, human immunodeficiency virus (HIV), multiple sclerosis, epilepsy or other seizure disorder, or spasticity disorders;

(b) Intractable pain, limited for the purpose of this chapter to mean pain unrelieved by standard medical treatments and medications;

(c) Glaucoma, either acute or chronic, limited for the purpose of this chapter to mean increased intraocular pressure unrelieved by standard treatments and medications;

(d) Crohn's disease with debilitating symptoms unrelieved by standard treatments or medications;

(e) Hepatitis C with debilitating nausea or intractable pain unrelieved by standard treatments or medications;

(f) Diseases, including anorexia, which result in nausea, vomiting, wasting, appetite loss, cramping, seizures, muscle spasms, or spasticity, when these symptoms are unrelieved by standard treatments or medications;

(g) Posttraumatic stress disorder; or

(h) Traumatic brain injury.

(25) "THC concentration" has the meaning provided in RCW [69.50.101](#).

(26) "Useable marijuana" has the meaning provided in RCW [69.50.101](#).

## **RCW 69.50.101**

### **Definitions.**

The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(a) "Administer" means to apply a controlled substance, whether by injection, inhalation, ingestion, or any other means, directly to the body of a patient or research subject by:

- (1) a practitioner authorized to prescribe (or, by the practitioner's authorized agent); or
- (2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor, or dispenser. It does not include a common or contract carrier, public warehouseperson, or employee of the carrier or warehouseperson.

(c) "CBD concentration" has the meaning provided in RCW [69.51A.010](#).

(d) "Commission" means the pharmacy quality assurance commission.

(e) "Controlled substance" means a drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, or federal or commission rules.

(f)(1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance in Schedule I or II and:

(i) that has a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II; or

(ii) with respect to a particular individual, that the individual represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance included in Schedule I or II.

(2) The term does not include:

(i) a controlled substance;

(ii) a substance for which there is an approved new drug application;

(iii) a substance with respect to which an exemption is in effect for investigational use by a particular person under Section 505 of the federal Food, Drug and Cosmetic Act, 21 U.S.C. Sec. 355, to the extent conduct with respect to the substance is pursuant to the exemption; or

(iv) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(g) "Deliver" or "delivery," means the actual or constructive transfer from one person to another of a substance, whether or not there is an agency relationship.

(h) "Department" means the department of health.

(i) "Designated provider" has the meaning provided in RCW [69.51A.010](#).

(j) "Dispense" means the interpretation of a prescription or order for a controlled substance and, pursuant to that prescription or order, the proper selection, measuring, compounding, labeling, or packaging necessary to prepare that prescription or order for delivery.

(k) "Dispenser" means a practitioner who dispenses.

(l) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(m) "Distributor" means a person who distributes.

(n) "Drug" means (1) a controlled substance recognized as a drug in the official United States pharmacopoeia/national formulary or the official homeopathic pharmacopoeia of the United

States, or any supplement to them; (2) controlled substances intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in individuals or animals; (3) controlled substances (other than food) intended to affect the structure or any function of the body of individuals or animals; and (4) controlled substances intended for use as a component of any article specified in (1), (2), or (3) of this subsection. The term does not include devices or their components, parts, or accessories.

(o) "Drug enforcement administration" means the drug enforcement administration in the United States Department of Justice, or its successor agency.

(p) "Electronic communication of prescription information" means the transmission of a prescription or refill authorization for a drug of a practitioner using computer systems. The term does not include a prescription or refill authorization verbally transmitted by telephone nor a facsimile manually signed by the practitioner.

(q) "Immediate precursor" means a substance:

(1) that the commission has found to be and by rule designates as being the principal compound commonly used, or produced primarily for use, in the manufacture of a controlled substance;

(2) that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance; and

(3) the control of which is necessary to prevent, curtail, or limit the manufacture of the controlled substance.

(r) "Isomer" means an optical isomer, but in subsection (dd)(5) of this section, RCW [69.50.204\(a\)](#) (12) and (34), and [69.50.206\(b\)](#)(4), the term includes any geometrical isomer; in RCW [69.50.204\(a\)](#) (8) and (42), and [69.50.210\(c\)](#) the term includes any positional isomer; and in RCW [69.50.204\(a\)](#)(35), [69.50.204\(c\)](#), and [69.50.208\(a\)](#) the term includes any positional or geometric isomer.

(s) "Lot" means a definite quantity of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product identified by a lot number, every portion or package of which is uniform within recognized tolerances for the factors that appear in the labeling.

(t) "Lot number" must identify the licensee by business or trade name and Washington state unified business identifier number, and the date of harvest or processing for each lot of marijuana, marijuana concentrates, useable marijuana, or marijuana-infused product.

(u) "Manufacture" means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly or by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container. The term does not include the preparation, compounding, packaging, repackaging, labeling, or relabeling of a controlled substance:

(1) by a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's authorized agent under the practitioner's supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale.

(v) "Marijuana" or "marihuana" means all parts of the plant *Cannabis*, whether growing or not, with a THC concentration greater than 0.3 percent on a dry weight basis; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. The term does not include the mature

stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination.

(w) "Marijuana concentrates" means products consisting wholly or in part of the resin extracted from any part of the plant *Cannabis* and having a THC concentration greater than ten percent.

(x) "Marijuana processor" means a person licensed by the state liquor and cannabis board to process marijuana into marijuana concentrates, useable marijuana, and marijuana-infused products, package and label marijuana concentrates, useable marijuana, and marijuana-infused products for sale in retail outlets, and sell marijuana concentrates, useable marijuana, and marijuana-infused products at wholesale to marijuana retailers.

(y) "Marijuana producer" means a person licensed by the state liquor and cannabis board to produce and sell marijuana at wholesale to marijuana processors and other marijuana producers.

(z) "Marijuana products" means useable marijuana, marijuana concentrates, and marijuana-infused products as defined in this section.

(aa) "Marijuana researcher" means a person licensed by the state liquor and cannabis board to produce, process, and possess marijuana for the purposes of conducting research on marijuana and marijuana-derived drug products.

(bb) "Marijuana retailer" means a person licensed by the state liquor and cannabis board to sell marijuana concentrates, useable marijuana, and marijuana-infused products in a retail outlet.

(cc) "Marijuana-infused products" means products that contain marijuana or marijuana extracts, are intended for human use, are derived from marijuana as defined in subsection (v) of this section, and have a THC concentration no greater than ten percent. The term "marijuana-infused products" does not include either useable marijuana or marijuana concentrates.

(dd) "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(1) Opium, opium derivative, and any derivative of opium or opium derivative, including their salts, isomers, and salts of isomers, whenever the existence of the salts, isomers, and salts of isomers is possible within the specific chemical designation. The term does not include the isoquinoline alkaloids of opium.

(2) Synthetic opiate and any derivative of synthetic opiate, including their isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, and salts is possible within the specific chemical designation.

(3) Poppy straw and concentrate of poppy straw.

(4) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives or ecgonine or their salts have been removed.

(5) Cocaine, or any salt, isomer, or salt of isomer thereof.

(6) Cocaine base.

(7) Ecgonine, or any derivative, salt, isomer, or salt of isomer thereof.

(8) Any compound, mixture, or preparation containing any quantity of any substance referred to in subparagraphs (1) through (7).

(ee) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. The term includes opium, substances derived from opium

(opium derivatives), and synthetic opiates. The term does not include, unless specifically designated as controlled under RCW [69.50.201](#), the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). The term includes the racemic and levorotatory forms of dextromethorphan.

(ff) "Opium poppy" means the plant of the species *Papaver somniferum* L., except its seeds.

(gg) "Person" means individual, corporation, business trust, estate, trust, partnership, association, joint venture, government, governmental subdivision or agency, or any other legal or commercial entity.

(hh) "Plant" has the meaning provided in RCW [69.51A.010](#).

(ii) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(jj) "Practitioner" means:

(1) A physician under chapter [18.71](#) RCW; a physician assistant under chapter [18.71A](#) RCW; an osteopathic physician and surgeon under chapter [18.57](#) RCW; an osteopathic physician assistant under chapter [18.57A](#) RCW who is licensed under RCW [18.57A.020](#) subject to any limitations in RCW [18.57A.040](#); an optometrist licensed under chapter [18.53](#) RCW who is certified by the optometry board under RCW [18.53.010](#) subject to any limitations in RCW [18.53.010](#); a dentist under chapter [18.32](#) RCW; a podiatric physician and surgeon under chapter [18.22](#) RCW; a veterinarian under chapter [18.92](#) RCW; a registered nurse, advanced registered nurse practitioner, or licensed practical nurse under chapter [18.79](#) RCW; a naturopathic physician under chapter [18.36A](#) RCW who is licensed under RCW [18.36A.030](#) subject to any limitations in RCW [18.36A.040](#); a pharmacist under chapter [18.64](#) RCW or a scientific investigator under this chapter, licensed, registered or otherwise permitted insofar as is consistent with those licensing laws to distribute, dispense, conduct research with respect to or administer a controlled substance in the course of their professional practice or research in this state.

(2) A pharmacy, hospital or other institution licensed, registered, or otherwise permitted to distribute, dispense, conduct research with respect to or to administer a controlled substance in the course of professional practice or research in this state.

(3) A physician licensed to practice medicine and surgery, a physician licensed to practice osteopathic medicine and surgery, a dentist licensed to practice dentistry, a podiatric physician and surgeon licensed to practice podiatric medicine and surgery, a licensed physician assistant or a licensed osteopathic physician assistant specifically approved to prescribe controlled substances by his or her state's medical quality assurance commission or equivalent and his or her supervising physician, an advanced registered nurse practitioner licensed to prescribe controlled substances, or a veterinarian licensed to practice veterinary medicine in any state of the United States.

(kk) "Prescription" means an order for controlled substances issued by a practitioner duly authorized by law or rule in the state of Washington to prescribe controlled substances within the scope of his or her professional practice for a legitimate medical purpose.

(ll) "Production" includes the manufacturing, planting, cultivating, growing, or harvesting of a controlled substance.

(mm) "Qualifying patient" has the meaning provided in RCW [69.51A.010](#).

(nn) "Recognition card" has the meaning provided in RCW [69.51A.010](#).

(oo) "Retail outlet" means a location licensed by the state liquor and cannabis board for the retail sale of marijuana concentrates, useable marijuana, and marijuana-infused products.

(pp) "Secretary" means the secretary of health or the secretary's designee.

(qq) "State," unless the context otherwise requires, means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or insular possession subject to the jurisdiction of the United States.

(rr) "THC concentration" means percent of delta-9 tetrahydrocannabinol content per dry weight of any part of the plant *Cannabis*, or per volume or weight of marijuana product, or the combined percent of delta-9 tetrahydrocannabinol and tetrahydrocannabinolic acid in any part of the plant *Cannabis* regardless of moisture content.

(ss) "Ultimate user" means an individual who lawfully possesses a controlled substance for the individual's own use or for the use of a member of the individual's household or for administering to an animal owned by the individual or by a member of the individual's household.

(tt) "Useable marijuana" means dried marijuana flowers. The term "useable marijuana" does not include either marijuana-infused products or marijuana concentrates.

**RCW 69.51A.250**

**Cooperatives—Qualifying patients or designated providers may form—Requirements—Restrictions on locations—State liquor and cannabis board may adopt rules. (Effective July 1, 2016.)**

\*\*\* CHANGE IN 2016 \*\*\* (SEE [2520.SL](#)) \*\*\*

(1) Qualifying patients or designated providers may form a cooperative and share responsibility for acquiring and supplying the resources needed to produce and process marijuana only for the medical use of members of the cooperative. No more than four qualifying patients or designated providers may become members of a cooperative under this section and all members must hold valid recognition cards. All members of the cooperative must be at least twenty-one years old. The designated provider of a qualifying patient who is under twenty-one years old may be a member of a cooperative on the qualifying patient's behalf.

(2) Qualifying patients and designated providers who wish to form a cooperative must register the location with the state liquor and cannabis board and this is the only location where cooperative members may grow or process marijuana. This registration must include the names of all participating members and copies of each participant's recognition card. Only qualifying patients or designated providers registered with the state liquor and cannabis board in association with the location may participate in growing or receive useable marijuana or marijuana-infused products grown at that location.

(3) No cooperative may be located in any of the following areas:

(a) Within one mile of a marijuana retailer;

(b) Within the smaller of either:

(i) One thousand feet of the perimeter of the grounds of any elementary or secondary school, playground, recreation center or facility, child care center, public park, public transit center, library, or any game arcade that admission to which is not restricted to persons aged twenty-one years or older; or

(ii) The area restricted by ordinance, if the cooperative is located in a city, county, or town that has passed an ordinance pursuant to RCW [69.50.331](#)(8); or

(c) Where prohibited by a city, town, or county zoning provision.

(4) The state liquor and cannabis board must deny the registration of any cooperative if the location does not comply with the requirements set forth in subsection (3) of this section.

(5) If a qualifying patient or designated provider no longer participates in growing at the location, he or she must notify the state liquor and cannabis board within fifteen days of the date the qualifying patient or designated provider ceases participation. The state liquor and cannabis board must remove his or her name from connection to the cooperative. Additional qualifying patients or designated providers may not join the cooperative until sixty days have passed since the date on which the last qualifying patient or designated provider notifies the state liquor and cannabis board that he or she no longer participates in that cooperative.

(6) Qualifying patients or designated providers who participate in a cooperative under this section:

(a) May grow up to the total amount of plants for which each participating member is authorized on their recognition cards, up to a maximum of sixty plants. At the location, the qualifying patients or designated providers may possess the amount of useable marijuana that

can be produced with the number of plants permitted under this subsection, but no more than seventy-two ounces;

(b) May only participate in one cooperative;

(c) May only grow plants in the cooperative and if he or she grows plants in the cooperative may not grow plants elsewhere;

(d) Must provide assistance in growing plants. A monetary contribution or donation is not to be considered assistance under this section. Participants must provide nonmonetary resources and labor in order to participate; and

(e) May not sell, donate, or otherwise provide marijuana, marijuana concentrates, useable marijuana, or marijuana-infused products to a person who is not participating under this section.

(7) The location of the cooperative must be the domicile of one of the participants. Only one cooperative may be located per property tax parcel. A copy of each participant's recognition card must be kept at the location at all times.

(8) The state liquor and cannabis board may adopt rules to implement this section including:

(a) Any security requirements necessary to ensure the safety of the cooperative and to reduce the risk of diversion from the cooperative;

(b) A seed to sale traceability model that is similar to the seed to sale traceability model used by licensees that will allow the state liquor and cannabis board to track all marijuana grown in a cooperative.

(9) The state liquor and cannabis board or law enforcement may inspect a cooperative registered under this section to ensure members are in compliance with this section. The state liquor and cannabis board must adopt rules on reasonable inspection hours and reasons for inspections.



AGENDA BILL NO. 16-090

**TO:** Mayor Guier and City Council Members  
**FROM:** Jack Dodge, Community Development Manager  
**MEETING DATE:** September 5, 2016  
**SUBJECT:** Proposed Revisions to Chapter 20.54-Office Park (OP) District Related to Storage and Design Standards

- 
- ATTACHMENTS:**
1. **Ordinance 2016-1937 Revisions to Chapter 20.54 Office Park District**
  2. **Aerial Photo of OP Zoned Properties**
- 

**Governance Committee:** 4/5/16  
**Planning Commission:** 3/22/16, 4/26/16, 6/28/16, 7/26/16 Public Hearing  
**Previous Council Review Date:** None

**Summary:**

Background

***Chapter 20.54 Office Park District***

1. Design Standards

The Office Park (OP) zone is intended to provide land uses and design considerations to provide a buffer between the single-family neighborhoods to the north and the Light Industrial (LI) land uses to the south (See Attachment 2 – Aerial Photo). This is reflected in Policy LU-4.2.6 in the Land Use Element of the Comprehensive Plan provided below:

**Policy LU-4.2.6: Office Park (OP)** - This land use category is intended for light industrial uses, including fabrication, small manufacturing plants with minimal impacts to the surrounding neighborhood. Warehousing, distribution, and related office and retail uses may be combined with light industrial uses in the same development, and may serve the occupants of the Park and surrounding uses. The Office Park land use shall provide a buffer between residential and the more intensive industrial uses through ***enhanced landscaping, building orientation and design, and other site design standards*** (emphasis added).

To implement this policy new design standards are proposed relative to building design and orientation. These are included in a new subsection 20.54.085 Design Standards in the proposed revisions.

## 2. Conditional Uses

- A. Sub-section 20.54.030 Conditional Uses have been revised. “Storage” as a conditional use has been removed and the provision to allow a property owner to request a “conditional use permit” for almost any use has been removed.

As discussed previously with the City Council, the City’s Comprehensive Plan is out of compliance with the Growth Management Act (GMA). One of the main reasons for noncompliance is that the City could not meet its employment forecasts in the Pierce County portion of the City. Under the Pierce County “buildable lands study” the City was deficient by 3,525 employees. The Pierce County study indicated that based on the uses listed in the Office Park zone only 8.25 employees per acre were generated.

As part of the update to the Land Use Element, the City hired BERK Consultants to review the Pierce County assumptions regarding the employees per acre. BERK Consultants found that the potential employees per acre in the OP zone was higher, being approximately 29 employees per acre. This was backed by business license information that provided the approximate number of employees employed by the businesses located in the OP zone. This is predicated on the fact that storage is not a use permitted in the OP zone.

In April the Puget Sound Regional Council (PSRC) granted a “conditional certification” of the City’s Comprehensive Plan. This conditional certification in part required the City to take one of the following steps to resolve the employment forecast assumptions from Pierce County.

1. The City could work with Pierce County and potentially, the City of Sumner, to adjust the growth targets, consistent with the Regional Growth Strategy, to reflect future growth in Pacific that can be accommodated by the land use plan over the planning period. Once the shift in target has been resolved, the plan should be amended to reflect the new planning number, demonstrating sufficient capacity in the City to accommodate its targets.
2. Alternatively, the City Could amend the plan, including land, transportation and other relevant elements, to reflect and affirmatively plan for the targeted growth, including through provision of sufficient land uses and densities.

The City will be pursuing the first alternative to adjust the growth targets with Pierce County and the City of Sumner. Storage, as a stand alone use does not generate the number of employees necessary to meet the employment

forecasts generated by BERK Consultants. Therefore, this use is proposed to be stricken as a conditional use in the OP zone.

- B. Electronics computers, computer hardware, etc. has been added as a “Conditional Use in the OP zone under Sub-section 20.06.110.

Planning Commission Recommendation

The Planning Commission conducted a public hearing regarding the proposed code revisions at their July 26, 2016 meeting. The Planning Commission’s and staff recommendation is that the City Council adopt Ordinance 2016-19xx revising Chapter 20.54 Office Park District of the (PMC), adding design standards, removing storage as a conditional, removing the provision to request a conditional use for almost any use, and adding a new conditional use regarding electronic assembly.

**Recommended Action:**

- 1. Move the Planning Commission recommendation to the September 12, 2016 Council meeting for adoption.

Alternative:

- 2. Set a public hearing date to make changes to the Planning Commission’s recommendation under proposed Ordinance 2016-1937.

**Recommended Motion:**

None

CITY OF PACIFIC, WASHINGTON  
ORDINANCE NO. 2016-1937

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, RELATING TO DESIGN STANDARDS AND LAND USES IN THE OFFICE PARK ZONE, PROVIDING DESIGN STANDARDS FOR NEW DEVELOPMENT, DELETING STORAGE AS A CONDITIONAL USE, DELETING A PROVISION ALLOWING A BLANKET REQUEST FOR A CONDITIONAL USE FOR ALMOST ANY USE AND ADDING ELECTRONIC-COMPUTER MANUFACTURING AS A CONDITIONAL USE, AMENDING SECTION 20.06110 AND 20.54.030 AND ADDING A NEW SECTION 20.54.085 TO THE PACIFIC MUNICIPAL CODE AND PROVIDING AN EFFECTIVE DATE.

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WHEREAS; the City's Comprehensive Plan Land Use Policy, LU-4.2.6 Office Park (OP), expresses the need to buffer industrial areas from residential areas through enhanced landscaping, building orientation and design and other design standards; and

WHEREAS; the Puget Sound Regional Council (PSRC), in their conditional certification of the Pacific Comprehensive Plan has stated that the City must resolve the employment forecast shortfall in the Pierce County portion of the City; and

WHEREAS, the City hired BERK Consultants to review the Pierce County employment forecasts for the City, and determined that based on the size of lots in the OP zone and appropriate land uses, [together with using the methodology King County used in their forecasts](#), the potential [increase in](#) employees generated per acre could help the City significantly meet the City's employment forecasts mandated by [the Pierce County Regional Council \(PCRC\)](#); and

WHEREAS, storage uses [as a stand alone use of property](#), by their nature do not generate the number of employees necessary to meet employment forecasts mandated by [the PCRC and therefore should not be allowed as either a permitted or conditional use](#); and

[WHEREAS, design standards will enhance the look of a building façade thereby enhancing the overall quality of the neighborhood and helping to preserve or enhance property values of nearby office park and residential properties; and](#)

WHEREAS, The proposed revisions to Chapter 20.54 PMC implement Land Use Policy LU-4.2.6 Office Park (OP) and will help the City to meet the employment forecasts mandated by [the PCRC](#) and meeting a condition of conditional certification for the City Comprehensive Plan by the PSRC;

WHEREAS, the City SEPA Responsible Official issued a SEPA threshold determination of nonsignificance on this Ordinance, which was not appealed; and

WHEREAS, the City sent a copy of this Ordinance to the Washington Department of Commerce on April 26, 2016; and

WHEREAS, the City Planning Commission held a public hearing on this Ordinance on July 26, 2016, and provided a recommendation of [APPROVAL](#) to the City Council; and

WHEREAS, the City Council considered this Ordinance during a regular City Council meeting on September 12, 2016; Now, Therefore,

THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, ORDAINS AS FOLLOWS:

Section 1. Section 20.06.110 is hereby amended to read as follows:

**20.06.110 Intermediate manufacturing and intermediate/final assembly.**

“Intermediate manufacturing and intermediate/final assembly” use type refers to uses that involve intermediate processing of semi-processed material into a consumer good and to uses that involve the assembly of semi-processed and/or intermediate processed products into a consumer good. This use type refers to the production, manufacture, fabrication or assembly of one or more of the following product types:

<b>USE CATEGORIES</b>	<b>OP</b>	<b>LI</b>	<b>C</b>	<b>HC</b>	<b>NB</b>	<b>HI</b>
Clothing and fabricated products	P	P	P	P		P
Products manufactured by predominantly chemical processes and which are to be used for ultimate consumer consumption		C	C			P
Products manufactured by predominantly chemical processes and which are to be used for further manufacture of other products		C	C			P
Electronic computers, computer hardware components and related equipment, and other machine apparatus and supplies for the generation, storage, transmission, transformation and utilization of electrical energy	<u>C</u>	P	P			P
Industrial and commercial machinery and equipment		P	P			P
Finished products made entirely or mainly from wood for use in construction		P	P			P
Paper and paperboard and its conversion into other paperboard products		P	P			P
Ferrous and nonferrous metal products and a variety of metal and wire products manufacturing		P	P			P
Products manufactured or assembled from plastic resins and from natural,		C	C			P

<b>USE CATEGORIES</b>	<b>OP</b>	<b>LI</b>	<b>C</b>	<b>HC</b>	<b>NB</b>	<b>HI</b>
synthetic or reclaimed rubber						
Paving and roofing materials, compounding lubricating oils and greases, rubber reclaiming, manufacture of synthetic rubber						P
Instruments for measuring, testing, analyzing and controlling optical instruments, medical instruments and equipment, photographic equipment, watches and clocks, and supplies associated with the previous products	C	P	P			P
Glass and glass products, clay products, pottery		P	P			P
Concrete and gypsum products, abrasive and asbestos products and other secondary products from materials taken principally from the earth in the form of stone, clay and sand		C	C			P
Woven and knit fabrics, and carpets and rugs from yarn	C	P	P	P		P
Dyeing, finishing, coating, waterproofing and other treating of fiber, yarn and fabrics		P	P			P
Felt, lace goods, non-woven fabrics, and miscellaneous textiles	C	P	P	P		P
Equipment for transportation of people or cargo by land, air, rail or water		P	P			P
Other manufacturing and/or assembly processes in which processed or semi-processed materials are made or assembled into consumer products and supplies associated with the previous products		P	P			P

Section 2. Section 20.54.030 of the Pacific Municipal Code is hereby amended to read as follows:

**20.54.030 Conditional uses.**

In addition to the buildings and uses permitted conditionally listed in PMC [20.68.170](#), the city may grant a conditional use permit (CUP) for any of the following buildings and uses in accordance with the procedures set forth in Chapter [20.20](#) PMC:

- A. Agricultural services;
- B. Community and cultural services;
- C. Crop production (level 1);
- D. Eating and drinking establishments;
- E. Educational facilities;
- F. Educational services;

- G. Electrical facilities;
- H. Food stores (level 2);
- I. Intermediate manufacturing and intermediate/final assembly in accordance with PMC [20.06.110](#);
- J. Motion picture/television and radio production studios;
- K. Personal services (level 1);
- L. Religious assembly;
- ~~M. Storage;~~
- ~~NM.~~ Utilities or public maintenance facilities (level 1);
- ~~ON.~~ Water supply facilities (level 2); and
- ~~P. Any other buildings or uses determined to be similar to those listed in PMC [20.54.020](#). Such other uses shall not have any different or more detrimental effect upon the adjoining neighborhood areas than the specifically permitted buildings and use. (Ord. 1505 § 11, 2001; Ord. 1361 § 4, 1998).~~

Section 3. A new Section 20.54.085 is hereby added to the Pacific Municipal Code, to read as follows:

**20.54.085 Design Standards.** Development in the Office Park zone shall comply with all of the following design standards:

- A. **Where feasible**, development shall **combine** open space and pedestrian facilities **with** other developments within the same and adjoining street blocks.
- B. There shall be offsets of a minimum of ten (10) feet in the building facade facing a right-of-way, if the facade is more than fifty (50) feet in length.
- C. Earth tone colors shall be used on all exterior building surfaces.
- D. Nonreflective glass shall be used for all development. It shall be the responsibility of the applicant and/or the property owner to provide the City documentation as to the nonreflectibility of the glass.
- E. All outdoor lighting fixtures shall be screened to prevent glare from being visible from residential properties and from rights-of-way. It shall be the responsibility of

the applicant and/or the property owner to provide the documentation of how the outdoor lighting will be screened.

F. Loading bays shall not be oriented towards or visible from residential properties or adjacent rights-of-way.

G. Roof top mechanical equipment shall be screened with materials in the same architectural character of the structure.

H. Prefabricated pre-engineered metal buildings shall not be permitted. Metal building components may be incorporated as an exterior finish; provided, that the components fit the overall design concept for the structure.

Section 4. Severability. If any section, sentence, clause or phrase of this Ordinance should be held to be unconstitutional or unlawful by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this Ordinance.

Section 5. Publication. This Ordinance shall be published by an approved summary consisting of the title.

Section 6. Effective Date. This Ordinance shall take effect and be in full force and effect five days after publication, as provided by law.

PASSED by the City Council of Pacific this \_\_\_\_<sup>nd</sup> day of \_\_\_\_\_, 2016.

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Leanne Guier, Mayor

AUTHENTICATED:

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Amy Stevenson-Ness, CMC  
City Clerk.

APPROVED AS TO FORM:  
Office of the City Attorney

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Carol Morris, City Attorney

PUBLISHED:  
EFFECTIVE DATE:

Aerial Photo - Office Park (OP) Zoning District





AGENDA BILL NO. 16-091

**TO:** Mayor Guier and City Council Members  
**FROM:** Jack Dodge, Community Development Manager  
**MEETING DATE:** September 6, 2016  
**SUBJECT:** Adoption of a new Sign Code, repeal of existing Sign Code

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**ATTACHMENTS:** 1. **Ordinance 2016-1938 Revisions to Chapter 20.84 Sign Code**

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**Governance Committee:** 5/14/16  
**Planning Commission:** 6/28/16, 7/26/16 Public Hearing  
**Previous Council Review Date:** None

**Background:**

In June of 2015, the US Supreme Court decided a case that had the effect of invalidating sign codes adopted by local governments throughout the nation. In this case (*Reed v. Town of Gilbert*, 135 S.Ct. 2218 (2015)), the Court decided a sign code which regulated signs based on the subject matter, or bearing a particular message, was unconstitutional. In the Town’s sign code, signs that communicated “a message or ideas” were limited as to size but had no placement or time restrictions. Political signs were limited as to size but could only be placed during election season. There were other restrictions on other types of signs, but the problem identified by the Court was that the Town regulated signs based on the content of the sign.

Under the First Amendment to the US Constitution, a municipal government has no power to restrict expression because of its message, ideas, subject matter or content. Therefore, content-based laws which target speech based upon its communicative content are unconstitutional, unless the government can prove that they are narrowly tailored to serve compelling government interests. In *Reed*, the Town could not show that the regulations were narrowly tailored to achieve the usual governmental interests implicated by sign codes (aesthetics, threat to safety, etc.), because there was no reason to believe that political signs posed a greater threat to these interests than ideological or directional signs (or vice versa).

**Summary:**

The City of Pacific’s sign code, like practically all other sign codes, suffered from the same defects. Therefore, the City Attorney and Community Development Manager

worked together to modify a model sign code written by the City Attorney, Carol Morris.

### Summary of the Sign Code Changes

- The format of the Sign Code has been changed.
- Adds a significant number of new figures to illustrate the sign code requirements.
- Adds code language that regulates the size and brightness of digital signs, neon signs, and electronic message center (EMC) signs.
- Now allows canopy signs which were previously prohibited (20.84.160).
- Signs are regulated according to a number of non-content based factors, such as permanence, type of sign (*i.e.*, projecting, awning, canopy, etc.) rather than the message (*i.e.*, political, real estate, etc.).
- Revises the code regarding “Temporary Signs” to conform to the US Supreme Court decision (20.84.260).

### Planning Commission Recommendation

The Planning Commission conducted a public hearing regarding the proposed code revisions at their July 26, 2016 meeting. The recommendation of the Planning Commission’s and staff is that the City Council adopt Ordinance 2016-19xx adopting a new Chapter 20.84 Sign Code of the (PMC).

### **Recommended Action:**

1. Move the Planning Commission recommendation to the September 12, 2016 Council meeting for adoption.

Alternative:

2. Set a public hearing date to make changes to the Planning Commission’s recommendation under proposed Ordinance 2016-1938. (If the Council decides to make substantive changes to the attached ordinance, another public hearing is required under RCW 36.70A.035(2).)

### **Recommended Motion:**

“I move that the draft Ordinance adopting a new Sign Code in Chapter 20.84 to the Pacific Municipal Code, be placed on the September 12, 2016 Council meeting for consideration and adoption”.

CITY OF PACIFIC, WASHINGTON  
ORDINANCE NO. 2016-1938

AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON, RELATING TO LAND USE AND ZONING, ADOPTING A NEW SIGN CODE, DESCRIBING EXEMPTIONS, PROHIBITED SIGNS, REQUIRING SIGN PERMITS, ALLOWING FOR SIGN VARIANCES, ESTABLISHING SIGN STANDARDS SUCH AS ALLOWED HEIGHTS, PLACEMENT AND LOCATIONS, DESCRIBING SIGN TYPES AND THE REGULATIONS APPLICABLE TO EACH, SETTING FORTH DEFINITIONS; REPEALING CHAPTER 20.84 AND ADDING A NEW CHAPTER 20.84 TO THE PACIFIC MUNICIPAL CODE.

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WHEREAS, the U.S. Supreme Court issued a decision (*Reed v. Gilbert*, 135 S. Ct. 2218 (2015)) which required that the City substantially revise its existing sign code; and

WHEREAS, the SEPA Responsible Official issued a SEPA DNS (determination of non-significance) on the attached Ordinance on May 20, 2016, which was not appealed; and

WHEREAS, the City submitted the attached Ordinance to the Department of Community Development on May 9, 2016, as required by RCW 36.70A.106; and

WHEREAS, the City Planning Commission held a public hearing on this Ordinance on July 26, 2016, and recommended APPROVAL to the City Council;

WHEREAS, the City Council considered this ordinance during its regular meeting on September 12, 2016; Now, Therefore,

IT IS HEREBY ORDAINED BY THE PACIFIC CITY COUNCIL AS FOLLOWS:

Section 1. Chapter 20.84 of the Pacific Municipal Code is hereby repealed.

Section 2. A new Chapter 20.84 is hereby added to the Pacific Municipal Code, which shall read as follows:

**Chapter 20.84**  
**Sign Code**

**Part I. General Provisions.**

- 20.84.010 Intent and Purpose.
- 20.84.020 Applicability and Interpretations.
- 20.84.030 Exemptions.
- 20.84.040 Prohibited Signs.

**Part II. Permitting.**

- 20.84.050 Sign Permits.
- 20.84.060 Master Sign Plans
- 20.84.070 Sign Variances.
- 20.84.080 Nonconforming Signs, Maintenance, Removal and Enforcement.

**Part III. Sign Standards Applicable to All Signs.**

- 20.84.090 Sign Illumination.
- 20.84.100 Sign Materials.
- 20.84.110 Sign Placement and Location Restrictions.
- 20.84.120 Sign Area Measurements.
- 20.84.130 Sign Height Measurements.
- 20.84.140 Sign Structure and Installation.

**Part IV. Sign Types.**

- 20.84.150 Accessory Signs.
- 20.84.160 Awning or Canopy Signs.
- 20.84.170 Building Mounted Wall Signs.
- 20.84.180 Changeable Copy Signs.
- 20.84.190 Digital Signs.
- 20.84.200 Electronic Message Center (EMC) Signs.
- 20.84.210 Freestanding Signs.
- 20.84.220 Portable Signs.
- 20.84.230 Projecting Signs.
- 20.84.240 Service Island Signs.
- 20.84.250 Sign Walkers.
- 20.84.260 Temporary Signs.
- 20.84.270 Window Signs

**Part V. Definitions**

- 20.84.290 Definitions.
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**Part I. General Provisions.**

**Section 20.84.010 Intent and Purpose.**

A. Intent. Signs have a strong visual impact on the character and quality of the community. As a prominent part of the scenery, they attract or repel the viewing public, affect the safety of vehicular traffic, and their suitability or appropriateness helps to set the tone for the neighborhood. The City also relies upon its scenery and physical beauty to attract commerce, so aesthetic considerations assume economic value. It is the intent of the City, through this Chapter, to protect and enhance the City’s historic and residential character and its economic base through the provision of appropriate and aesthetic signage. In addition, it is the intent of the City to limit the size, type and location of signs in order to minimize their distracting effect on drivers and thereby improve traffic safety.

B. Purpose. The purpose of this Chapter is to promote the public health, safety and welfare through a comprehensive system of reasonable, effective, consistent, content-neutral and nondiscriminatory sign standards and requirements. This Chapter has also been adopted to:

1. Promote and accomplish the goals, policies and objectives of the City's Comprehensive Plan and Zoning Code;
2. To provide minimum standards in order to safeguard life, health, property and public welfare, and promote traffic safety by controlling the design, quality of materials, construction, illumination, size, location and maintenance of sign and sign structures;
3. Recognize free speech rights by regulating signs in a content-neutral manner;
4. Promote the free flow of traffic and protect pedestrians and motorists from injury and property damage caused by, or which may be fully or partially attributable to, cluttered, distracting and/or illegible signage;
5. Protect the beauty of the City's built environment by encouraging signs that are compatible with the architectural style, characteristics and scale of the building to which it may be attached, and to encourage signs that are compatible with adjacent buildings and businesses;
6. Protect property values, the local economy, and the quality of life by preserving and enhancing the appearance of the streetscape;
7. Provide consistent sign design standards;
8. Protect encourage creative and innovative approaches to signage, and signs that are of a quality design, pleasing in appearance and are appropriate in size, materials and illumination to the surrounding neighborhood;
9. Provide an improved visual environment for the citizens of and visitors to the City; and
10. Adopt clear, understandable regulations which enable the fair and consistent enforcement of this Chapter.

**Section 20.84.020 Applicability and Interpretations.**

A. This Chapter applies to all signs as defined in Section 20.84.290 (Definitions), within the City which are visible from any street, sidewalk or public place, regardless of the type or nature.

B. This Chapter is not intended to, and shall not be interpreted to, restrict speech on the basis of its content, viewpoint, or message. Any classification of signs in this Chapter which purports to permit speech by reason of the type of sign, identity of the sign user or otherwise, shall be interpreted to allow commercial or non-commercial speech on the sign. No part of this Chapter shall be construed to favor commercial speech over non-commercial speech. To

the extent that any provision of this Chapter is ambiguous, the term shall be interpreted not to regulate speech on the basis of the content of the message.

**Section 20.84.030 Exemptions.** The following signs or activities relating to signs are exempt from the permitting requirements of this Chapter.

- A. Changes to the face or copy of changeable copy signs, digital signs, electronic messaging signs, provided such changes do not change the material or appearance of the sign as originally permitted by the City.
- B. The normal repair and maintenance of conforming or legal nonconforming signs.
- C. Temporary signs on private property or public property, meeting the requirements in Section 20.84.270 (Temporary Signs).
- D. Building identification numbers as required pursuant to this Code (Chapter 8.16) or any other City or State regulation.
- E. Governmental signs. Signs installed by the City, County, or a federal or State governmental agency for the protection of the public health, safety and general welfare, including, but not limited to, the following:
  - 1. Emergency and warning signs necessary for public safety or civil defense;
  - 2. Traffic and/or wayfinding signs erected and maintained by an authorized public agency;
  - 3. Signs required to be displayed by law;
  - 4. Signs showing the location of public facilities; and
  - 5. Any sign, posting, notice, or similar sign placed by or required by a governmental agency in carrying out its responsibility to protect the public health, safety and general welfare.
- F. Flags. Any flags, provided that they conform to all provisions of this chapter for signs.
- G. Certain historic and architectural features. "Stone or cement plaques and cornerstones with engraved or cast text or symbols and permanently embedded in the building's foundation or masonry siding materials, provided that none of these exceed four (4) square feet in area."
- H. Interior signs. Signs or displays located entirely inside of a building and located at least three (3) feet away from transparent doors and windows.
- I. Non-visible signs. Signs not visible beyond the boundaries of the lot or parcel upon which they are located, or from any public right-of-way.
- J. Vehicle with signs. Any sign on a vehicle, unless such vehicle is parked or stationed near an activity for the primary purpose of attracting public attention to such activity, or

unless such vehicle or mobile unit is regularly parked in any prominently visible location for the primary purpose of attracting public attention to the sign.

K. Temporary signs in windows. Any temporary sign taped or otherwise affixed to the inside of a window, in such a manner as to be easily removed, provided that the total area of such sign in any one window does not exceed the square footage limitations in Section 20.84.280 (Window Signs) and Section 20.84.270 (Temporary Signs).

L. Bench signs. Any outdoor bench or furniture with any signs other than plaques one square foot or less in area.

M. Privately-maintained traffic control signs in a subdivision with private roads or signs in a parking lot.

**Section 20.84.040 Prohibited Signs.** No person shall erect, alter, maintain or relocate any of the following signs in the City.

A. Animated signs. A rotating or revolving size, or signs where all or a portion of the sign moves in some manner. This includes any sign animated by any means, including fixed aerial displays, balloons, pennants, spinners, propellers, whirling, or similar devices designed to flutter, rotate or display other movement under the influence of the wind, including flag canopies not otherwise allowed in Section 20.84.160 (Awning or Canopy Signs), streamers, tubes, or other devices affected by the movement of air or other atmospheric or mechanical means. This does not include historic signs and historic replica signs where the applicant is able to prove, through documentation or other evidence, that the original historic sign produced the same motion/movement and is proposed in the same location.

B. Rotating signs. Any sign in which the sign body or any portion rotates, moves up and down, or any other type of action involving a change in position of the sign body or any portion of the sign, whether by mechanical or any other means.

C. Nuisance signs. Any signs which emit smoke, visible particles, odors and sound, except that speakers in drive-through facilities shall be permitted.

D. Bench signs greater than one (1) square foot in area.

E. Flashing signs or lights. A sign that contains an intermittent or flashing light source, or a sign that includes the illusion of intermittent or flashing light by means of animation, or an externally mounted intermittent light source. Flashing light sources are prohibited. Signs with an exposed light source, including clear light bulbs which do not flash on a theater marquee except for neon incorporated into the design of the sign are also prohibited. Electronic message center signs and digital signs are allowed under the provisions of Section 20.84.200 (Electronic Message Center Signs).

F. Hazardous signs. Any sign that constitutes a traffic hazard or detriment to traffic safety by reason of its size, location, movement or method of illumination, or by obstructing the vision of drivers, or by distracting from the visibility of an official traffic control device by diverting or tending to divert the attention of drivers or moving vehicles from traffic movements on streets, roads, intersections or access facilities. No sign shall be erected so

that it obstructs the vision of pedestrians or by glare or method of illumination constitutes a hazard to pedestrians or traffic. No sign may interfere with, mislead or confuse traffic.

G. No sign may impede free ingress and egress from any door, window or exit way required by building and fire regulations.

H. Permanent signs on vacant lots, parcels or easements. No permanent sign shall be located on a vacant lot, parcel or easement. No permanent sign shall be located on a lot, parcel or easement as the principal use of that lot, parcel or easement. Signs may only be established as an accessory use to a principally permitted use.

I. Portable signs on wheels (trailer signs).

J. Abandoned signs.

K. Signs on utility poles, fences, on poles or trees.

L. Off-site controlled signs. Any sign that is programmed and/or controlled off-site.

M. Roof Signs.

N. Festoons.

O. Signs which exceed the top of the roof or parapet on which they are attached.

P. Signs on vehicles, trailers, boats, or other similar property parked on private property, except as provided under PMC 20.84.110.

## **Part II. Permitting.**

### **Section 20.84.050 Sign permits.**

A. **Permit Required.** No person shall erect, alter or relocate any sign requiring a permit under this Chapter without first submitting a sign permit application and receiving approval of the sign permit from the City, unless the sign is identified as exempt under Section 20.84.030 (Exemptions). Some sign types may be regulated under other codes adopted by the City, which may require additional permits that are subject to additional regulations, including, but not limited to, the Building Code (Title 17) and Right-of-Way Use Permits (Chapter 13.12). Signs for which permits are not required shall nonetheless comply with all applicable provisions of this Chapter.

B. **Review Procedures.** The following steps shall be followed in the processing of sign permit applications:

1. Determination of Complete application (Section 16.22.020)
2. Notice of Decision by Community Development Manager (Section 16.22.040)
3. Administrative Appeal – (open record hearing, to Hearing Examiner) Section 16.22.050)

C. Application Requirements. A complete sign permit application shall consist of the following:

1. Application form. A completed sign permit application, including the applicant's name, address, phone number, and e-mail address. If the applicant is not the property owner, then the property owner must be identified, and the application must include an affidavit from the property owner, verifying that the property owner has given permission to the applicant for the submission of the sign permit application and for the installation/posting of the sign on the property owner's property.

2. Other permit applications. A completed building permit application, if required under the City's Building Code; a completed Right of Way Use permit application, if required under Chapter 13.12; a completed Temporary Use Permit application, if required under Chapter 16.10.

3. Building elevation/site plan. Signs proposed to be mounted on a building require a building elevation drawn to scale that specifies the location of the sign and drawings or photographs which show the scale of the sign in context with the building. Free-standing signs require a site plan indicating the proposed sign location as it relates to property lines, adjacent streets, and adjacent buildings.

4. Scaled design drawing. A colored rendering or scaled drawing including dimensions of all sign faces, and descriptions of materials to be used, including color samples.

5. Scaled installation drawing. A scaled drawing that includes the sign description, proposed materials, size, weight, manner of construction and method of attachment, including all hardware necessary for proper sign installation.

6. Lighting. A drawing indicating the location and fixture type of all exterior lighting for the proposed signs. The drawing shall specify wattage and bulb type to ensure compatibility with the lighting standards in Section 20.84.090 (Sign Illumination).

7. Master Sign Plan. If the sign is subject to a Master Sign Plan as described in Section 20.84.060 (Master Sign Plans), a Master Sign Plan must be included as part of a complete sign permit, unless a Master Sign Plan for the site or building has already been approved and is on file with the City.

8. Fees. Payment of the appropriate sign permit fee.

D. Criteria for Approval.

1. Sign permit applications shall be reviewed by the Community Development Manager for consistency with the standards in this Chapter, according to sign type and other applicable regulations. A sign permit shall not issue unless the Manager makes findings that the criteria applicable to each sign type, as well as the general standards in this Chapter, are satisfied. Building permit applications associated with signs shall be reviewed by the Building Official for consistency with the Building Code. If the sign uses electrical wiring and connections, a licensed electrician must submit a copy of the electrical permit application

to the Community Development Department, with the original submitted for approval to the State of Washington. If the sign requires a Right-of-Way Use or Temporary Use permit, the application shall be submitted with the sign permit application for review by the Public Works or Community Development Manager.

E. Notice of Final Decision. A Notice of Decision incorporating the decision on the sign permit application shall issue not more than 120 days after issuance of the Determination of Completeness. This deadline shall not apply if Master Sign Plan approval, Right-of-Way Use permit or Special Event permit is required.

F. Expiration of Sign Permit. Once the sign permit for the sign issues, the sign must be installed within 180 days or the sign permit will expire. Building permits and street Right-of-Way Use permits shall expire in accordance with other applicable code provisions. No sign may be erected if the sign permit has expired, even if the associated building permit and/or street Right-of-Way Use permit has not expired.

#### **Section 20.84.060 Master Sign Plans.**

A. Approval required. Before the City will issue any sign permit relating to space in a proposed nonresidential, multi-tenant building(s), or multi-tenant site development, the City must first approve a Master Sign Plan for the building(s). In addition, a Master Sign Plan may be voluntarily developed and maintained by the owner or agent of any new or existing non-residential use.

B. Review procedures. The Community Development Manager shall make the decision on the Master Sign Plan without a hearing. The following steps shall be followed in the processing of a Master Sign Plan.

1. Determination of Complete application (Section 16.22.020)
2. Notice of Decision by Manager (Section 16.22.040)
3. Administrative Appeal (if any) (open record hearing, Hearing Examiner).

C. Application requirements. A complete Master Sign Plan application shall consist of the following:

1. A complete Master Sign Plan application, including the applicant's name, address, phone number and e-mail address. If the applicant is not the property owner(s), then the property owner(s) must be identified and the application must include an affidavit from the property owner(s), verifying that the property owner(s) has given permission to the applicant for the submission of the Master Sign Plan application. No sign may be placed upon real property without the consent of the real property owner(s).

2. A site plan drawn to legible scale, indicating the location of all buildings, driveways and pavement areas, landscape areas, abutting streets and proposed freestanding signs on the site;

3. Elevation drawings of each building on a site that indicates proposed sign locations on each of the buildings;

4. Maximum allowable signage on each elevation based upon a five (5) percent calculation of all facades;
5. The Master Sign Plan application shall identify the sign features and sign types proposed to be used on each building and the proposed location;
6. A narrative description of the development to demonstrate that the master sign plan meets the required design standards of this Section; and
7. Fees. Payment of the appropriate fee for a Master Sign Plan.

D. Criteria for Approval. All signs in the Master Sign Plan must meet the criteria for approval in Section 20.84.050 (Sign Permits). In addition, all of the signs in the Master Sign Plan:

1. Shall be architecturally similar and visually related to each other through the incorporation of common design elements. Up to two sign types may be used on any one building. All sign cabinets, trim caps and all sign supports such as poles and braces shall be of a common color;
2. Shall be architecturally integrated with the buildings included in the Master Sign Plan; and
3. Must not obscure the view of other signs which are consistent with this Chapter.

E. Notice of Final Decision. See, Section 20.84.050(E) (Sign permits).

F. Expiration of Master Sign Plan. Once a Master Sign Plan is approved, the signs depicted in the approved Plan must be installed within 180 days or the Master Sign Plan will expire. Building permits and street Right-of-Way permits for any signs shown in the Master Sign Plan shall expire in accordance with other applicable code provisions. No sign may be erected under an expired Master Sign Plan, even if the associated sign permit, building permit or street Right-of-Way Use permit has not expired.

G. Amendment to Master Sign Plan. An application for an amendment to an approved Master Sign Plan may be made at any time, subject to the same limitations, requirements and procedures as those that apply to an original application in this Section. Tenants whose signs are included in the amendment application need the property owner's consent to file such application. In order to approve any such Amendment, the Manager shall consider the existing signs on the building(s) subject to the approved Plan when determining whether the application meets the criteria for approval in subsection D of this Section.

#### **Section 20.84.070 Sign Variances.**

A. Approval Required. A variance may be granted from the strict application of the regulations in this Chapter which apply to: (a) sign placement on a parcel or building frontage; (b) sign area; or (3) sign height, as regulated in this Chapter. A variance may not be granted to allow any prohibited signs or prohibited sign features, as described in Section

20.84.040, or for any other purpose not listed in this subsection A. The variance procedure in this Section does not apply to any street Right-of-Way Use permit or Building permit.

B. Need for Sign Permit, Consolidation of Processing. A sign variance application may be submitted before or concurrent with the associated sign permit application. No sign permit application requiring a variance for issuance will be processed without a sign variance application unless the applicant specifically requests the application be proceeded without the variance.

C. Review Procedures. The following steps shall be followed in the processing of sign variance applications:

1. Determination of Complete Application (Section 16.22.020)
2. Notice of Decision by Community Development Manager (Section 16.22.040)
3. Administrative Appeal, if any (open record hearing, Hearing Examiner)

D. Application Requirements. A complete sign variance application shall consist of the following:

1. Application form. A completed sign variance application, including the applicant's name, address, phone number and e-mail address. If the applicant is not the property owner, then the property owner must be identified and the application must include an affidavit from the property owner, verifying that the property owner has given permission to the applicant for the submission of the sign variance application and for the installation/posting of the sign on the property owner's property.

2. Sign Permit Application (all of the materials required by Section 20.84.050, Sign Permits). However, the applicant may submit a variance application without a sign permit application as provided in subsection B above.

3. A narrative report which describes the requested variance in detail. The report shall identify all of the sections of this Chapter from which the applicant is requesting the variance, as well as the nature and extent of the variance (in size, area, location on the property, height).

4. The narrative report shall also include the applicant's description of the manner in which the sign variance satisfies all of the variance criteria in subsection E below.

5. Fees. Payment of the appropriate sign variance application fee.

E. Variance Criteria for Approval. Sign variance applications shall be reviewed by the Community Development Manager to determine whether all of the following criteria are satisfied. In order to approve any sign variance, the Manager must make written findings to show that all of the following criteria have been met:

1. The request for a sign variance is due to unusual conditions pertaining to sign visibility needs for a specific building or lot; and

2. The sign will not create a hazard; and

3. The sign will not violate any state statute or any City Code provision (other than the ones identified in this Chapter relating to signs); and
4. The sign will not negatively affect adjacent property; and
5. The sign will be in keeping with the general character of the surrounding area and the granting of the variance would not result in an alteration of the essential character of the surrounding area; and
6. The proposed variance is consistent with the purposes and intent of the Zoning Code and the purposes of this Chapter; and
7. The variance is consistent with the City's Comprehensive Plan; and
8. The applicant has established that there are practical difficulties in complying with the provision(s) of this Chapter and that the proposed sign is a reasonable use of the property. (Economic considerations alone do not constitute practical difficulties.); and
9. The plight of the applicant is due to circumstances unique to the property, which were not created by the applicant or landowner; and
10. The variance will not permit any sign or use that is not allowed in the zoning district where the affected land is located, nor will it allow any sign or sign feature prohibited under Section 20.84.040.

F. First Amendment Exception/Variance. Where an applicant can demonstrate that the strict application of the regulations in this Chapter would violate his/her First Amendment rights, the City may grant a variance that does not conform to all of the variance criteria in subsection E above. The applicant must still submit an application which conforms to this Section 20.84.070. In order to approve such an exception/variance, the City need not make findings that all of the variance criteria in Subsection E above have been satisfied, but if not all criteria have not been satisfied, the variance may only be granted to the extent reasonably necessary to protect the applicant's First Amendment rights. If a First Amendment exception/variance is granted, it shall be treated as an approval of a variance for the purposes of this Chapter.

G. Notice of Final Decision. A Notice of Decision incorporating the decision on the variance application shall issue not more than 120 days after issuance of the Determination of Complete Application.

H. Expiration of Variance. If the variance is approved, the sign identified in the variance must be installed within 180 days or the variance will expire. No sign may be erected without a sign permit, or if the variance or the sign permit has expired, even if the applicant has received associated building permits or street Right-of-Way Use permits, and the latter have not expired.

**Section 20.84.080 Nonconforming signs, Maintenance, Removal and Enforcement.**

A. Nonconforming signs. Any lawful nonconforming sign may be continued, as long as it is maintained only in the manner and to the extent that it existed at the time it became

nonconforming. Illegal signs shall not be considered nonconforming signs. Nonconforming signs are subject to the provisions of (Zoning Code) Chapter 20.12 (Nonconforming Uses and Structures).

B. Maintenance. It is unlawful for any owner of record, lessor, lessee, manager or other person having lawful possession or control over a building, structure or parcel of land to fail to maintain any signs on the building, structure or parcel in compliance with this Chapter and the Zoning Code. Failure to maintain a sign constitutes a violation of this Chapter, and shall be subject to enforcement under the provisions of Code Enforcement, Chapter 20.82.

1. Sign maintenance. All signs, whether or not in existence prior to adoption of this Chapter, shall be maintained. Maintenance of a sign shall include periodic cleaning, replacement of flickering, burned out or broken light bulbs or fixtures, repair or replacement of any faded, peeled, cracked or otherwise damaged or broken parts of a sign, and any other activity necessary to restore the sign so that it continues to comply with the requirements and contents of the sign permit issued for its installation and provisions of this Chapter.

2. Landscape maintenance. Required landscaped areas associated with an approved sign shall receive regular repair and maintenance. Plant materials that do not survive after installation in required landscape areas are required to be replaced within six (6) months of the plant's demise or within the next planting season, whichever event first occurs.

3. Removal. Any vacant and/or unused sign support structures, angle irons, sign poles or other remnants of old signs which are currently not in use, or are not proposed for immediate reuse by a sign permit application for a permitted sign, shall be removed. In addition to the remedies in Code Enforcement, chapter 20.82, the Manager shall have the authority to require the repair, maintenance or removal of any sign or sign structure which has become dilapidated or represents a hazard to the safety, health or welfare of the public, at the cost of the sign and/or property owner.

4. Enforcement. Violations of the provisions of this Chapter shall be enforced according to Code Enforcement, chapter 20.82.

### **Part III. Sign Standards Applicable to All Signs.**

#### **Section 20.84.090 Sign illumination.**

A. General. No temporary sign may be illuminated. No sign located in a residential zone may be illuminated, except that on parcels two (2) acres in size or greater, signs may be halo illuminated or illuminated as necessary for allowable digital signs. Permanent signs allowed by this Chapter may be non-illuminated, or illuminated by internal light fixtures, halo illuminated, or have external indirect illumination, unless otherwise specified. All illuminated signs shall comply with the time limitations of subsection 20.84.090(D) below.

B. Externally illuminated signs.

1. Except as provided in this Subsection, externally illuminated signs shall be illuminated only with steady, stationary, fully shielded light sources directed solely onto the sign without causing glare. Light shielding shall ensure that the lamp or light source is not

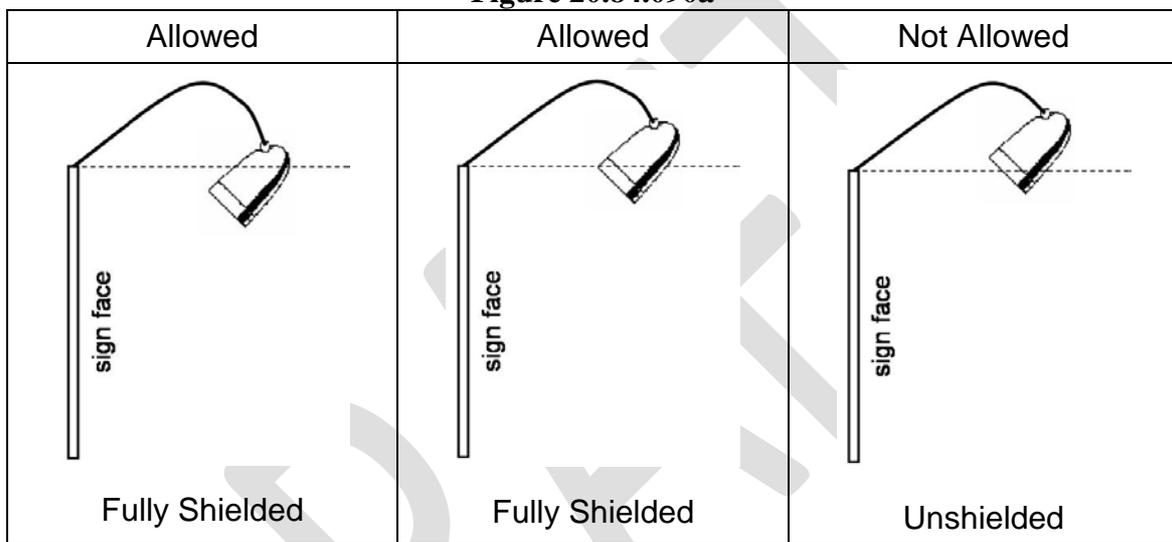
visible beyond the premises and shall further ensure that the light is contained within the sign face.

2. A light fixture mounted above the sign face may be installed with its bottom opening tilted toward the sign face, provided:

(a) The bottom opening of the light fixture is flat (*i.e.*, it could be covered by a flat board allowing no light to escape); and

(b) The uppermost portion of the fixture's opening is located no higher than the top of the sign face, as shown in Figure 20.84.090a below. Light fixtures aimed and installed in this fashion shall be considered fully shielded.

**Figure 20.84.090a**



C. Internally illuminated signs.

1. Internally illuminated signs shall be constructed with an opaque background and translucent text and symbols. If the sign owner desires to have the entire sign face visible at night, an external light source may be used to illuminate the sign, subject to the illumination standards in this Chapter.
2. No digital, neon (figure 20.84.090c), or electronic message center sign shall exceed a brightness level of 0.3 foot-candles above ambient light as measured using a foot-candle (Lux) meter at a pre-set distance provided in Table 20.84.090b in accordance with the following procedure:
  - a. At least 30 minutes past sunset, record the ambient light while the sign is off or displaying all black copy, or with the sign's illumination blocked.
  - b. The light meter shall be held five feet above the finished grade in front of the sign.

- c. The meter shall be aimed toward the center of the electronic message center sign.

From the same location, a second reading shall be recorded while the sign is on and not blocked.

- 3. If the difference between the measurements is 0.3 foot candles or less, the brightness is properly adjusted; otherwise, the EMC must be adjusted to comply with the brightness adjustment standard set forth above.

**Table 20.84.090b**

Area of electronic message center in square feet	Measurement distance in linear feet
10	32
20	45
30	55

**Figure 20.84.090c  
Neon Sign**



D. Time limitations. All signs over three (3) square feet in area shall be turned off by 11:00 p.m., or when the business closes, whichever is later. Signs subject to time limitations are required to have functioning and properly adjusted automatic shut-off timers.

**Section 20.84.100. Sign Materials.**

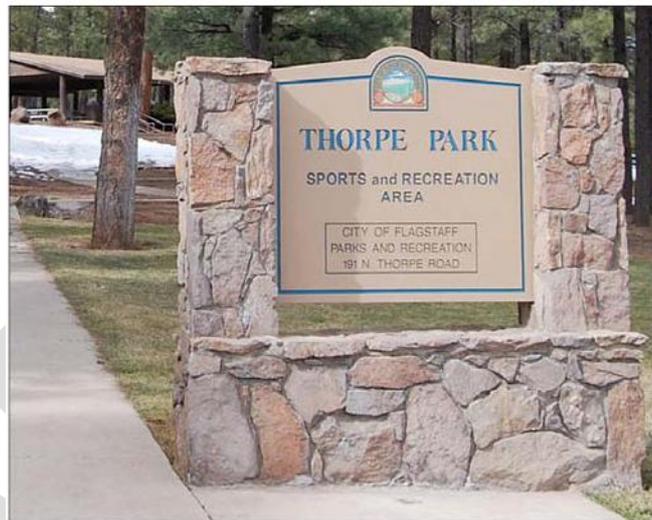
A. Temporary signs. The construction of temporary signs is limited to the materials described in the definition of “temporary sign,” (Section 20.84.290, Definitions). In addition, the temporary sign must also conform to the requirements of this Chapter, including, but not limited to Section 20.84.270 (Temporary signs).

B. Permanent signs. Permanent signs must be manufactured of durable materials that withstand the effects of water and wind. The following additional requirements apply to any permanent signs larger than thirty (30) square feet, except for window signs located inside glass:

1. Paper-faced sign, including vinyl-coated paper and those applied with adhesives, are not allowed. Canvas or vinyl signs must be made of minimum twenty (20) oz. materials with polymeric plasticizers for durability.

2. Sign faces made of canvas, fabric, vinyl or similar pliable materials that are attached to permanent sign structures must be mounted behind a perimeter frame or trim cap so that the edges of the sign face are not exposed, except that flags made of 100% spun polyester are exempt from this requirement.

#### Sign Structure Materials



#### Sign Structure Which Blends with Development Site



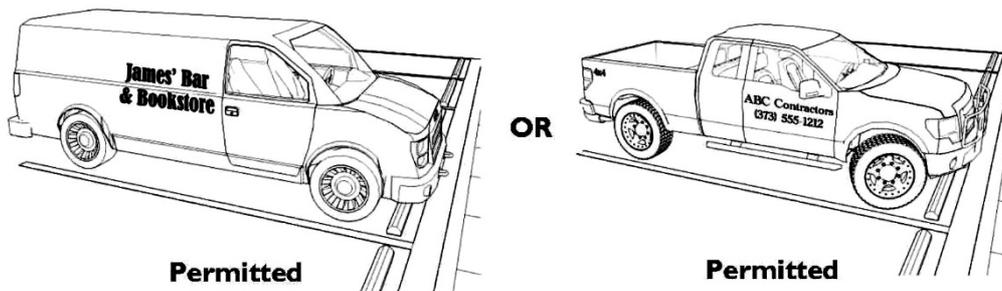
**Section 20.84.110. Sign Placement and Location Restrictions.**

A. City right-of-way. No sign may be placed within the City Right-of-Way (*see*, Section 20.84.270(F) for restrictions on temporary signs outside of the Roadway) except as otherwise permitted with a City Right-of-Way use or Special Event permit.

B. Attached to vehicles on private premises. No sign may be mounted, attached or painted on a trailer, boat or motor vehicle, which is parked, stored or displayed conspicuously on private premises in a manner intended to attract the attention of the public. (This excludes signs that are permanently painted or wrapped on the surface of the vehicle, or adhesive vinyl film affixed to the interior or exterior surface of a vehicle window, or signs magnetically attached to motor vehicles or rolling stock that are actively used in the daily conduct of business. However, such vehicles shall be operable and parked in a lawful or authorized manner.)

**Figure 20.84.110a**

**Signs on Vehicles Used for Business Purposes**



C. Attached to other fixtures. No sign may be painted, attached or mounted on fuel tanks, storage containers and/or solid waste receptacles or their enclosures, except for information required by law.

D. Freeway-oriented signs.<sup>1</sup> Freeway-oriented signs are prohibited, except in the following instances:

1. Building mounted wall signs (Section 20.48.170), window signs (Section 20.84.280) and temporary signs (Section 20.84.280) as otherwise allowed by this Chapter may be oriented toward the freeway if:

(a) they are installed by a business that has its primary customer entrance facing the freeway; and

(b) the wall, window or temporary sign also faces an intervening parking lot or frontage road that serves the business.

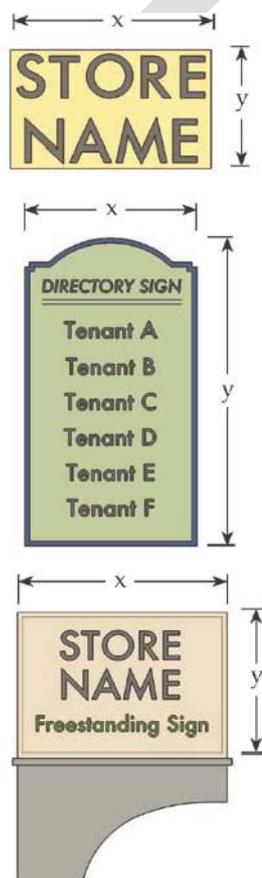
<sup>1</sup> *Worldwide Rush, LLC v. City of Los Angeles*, 606 F.3d 687 (9<sup>th</sup> Cir. 2010) (content-neutral exceptions to freeway-facing sign ban did not undermine city's interests in aesthetics and safety).

2. Free-standing signs as otherwise allowed by this Chapter are allowed for businesses located on and facing frontage roads along freeways, even if such signs are incidentally visible from the freeway.

**Section 20.84.120 Sign Area Measurements.** Sign area for all sign types is measured as follows:

A. Background panel or surface. Sign copy mounted, affixed or painted on a background panel or surface distinctively painted, textured or constructed as a background for the sign copy, is measured as that area contained within the smallest rectangle, parallelogram, triangle, or circle that will enclose the sign copy and the background, as shown in Figures 20.84.120a, 20.84.120b, 20.84.120c and 20.84.120d.

**Figure 5 20.84.120a**  
**Sign Area for Signs on Background Panel**

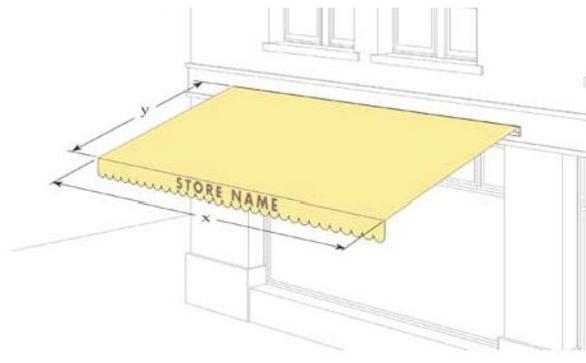


B. Individual letters or graphics. Sign copy mounted as individual letters or graphics against a wall, fascia, mansard or parapet of a building or surface of another structure, that has not been painted, textured or otherwise altered to provide a distinctive background for the sign copy, is measured as the sum of the smallest square, rectangle, parallelogram, triangle or circle that will enclose each word, name, sentence and complete message, and each graphic in the sign.

C. Illuminated surface. Sign copy mounted, affixed or painted on an illuminated surface or illuminated element of a building or structure, is measured as the entire illuminated surface or illuminated element, which contains sign copy, as shown in Figure 20.84.120b. Such elements may include, but are not limited to, lit canopy fascia signs and/or interior lit awnings.

**Figure 20.84.120b**

**Sign Area for Signs with Illuminated Surfaces**



D. Backlit translucent panels. Backlit translucent panels and spandrels, with or without text or graphics, are measured as the area of the height and width of any internally illuminated panel, including the side panels if the structure or spandrel is greater than six (6) inches in width.

E. Multi-face signs. Multi-face signs, as shown in Figure 20.84.120c, are measured as follows:

1. Two face signs: If the interior angle between the two sign faces is 45 degrees or less, the sign area is of one sign face only. If the angle between the two sign faces is greater than forty-five (45) degrees, the sign area is the sum of the areas of the two sign faces.

2. Three or four face signs: The sign area is fifty (50) percent of the sum of the areas of all sign faces.

3. Spherical, free-form, sculptural or other non-planar sign area is measured as fifty (50) percent of the sum of the areas using only the four (4) vertical sides of the smallest four (4) – sided polyhedron that will encompass the sign structure, as show in Figure 20.84.120c below. Signs with greater than four polyhedron faces are prohibited.

F. Odd Shaped Signs

The area of a odd shaped sign having no continuous border shall mean the entire area within a single continuous perimeter formed by no more than eight (8) straight lines enclosing the extreme limits of writing, representations, emblem, or any figure or similar character, together with any frame or other material or color forming an integral part of the display or used as a border excluding the necessary supports or uprights on which such sign is placed (See Figure 20.84.120d).).

Figure 20.84.120c

Sign Area for Multi-face Signs or Free Form Signs

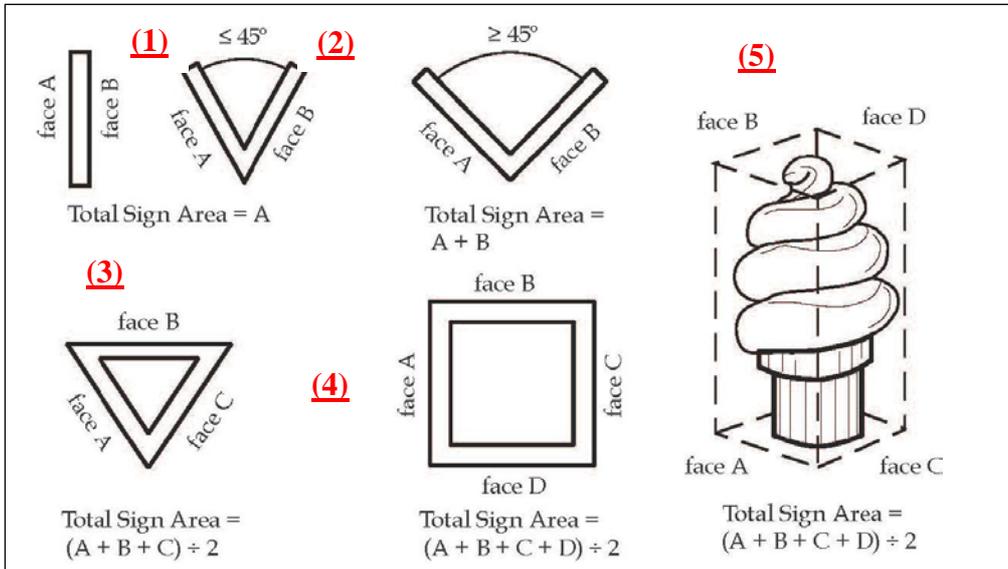
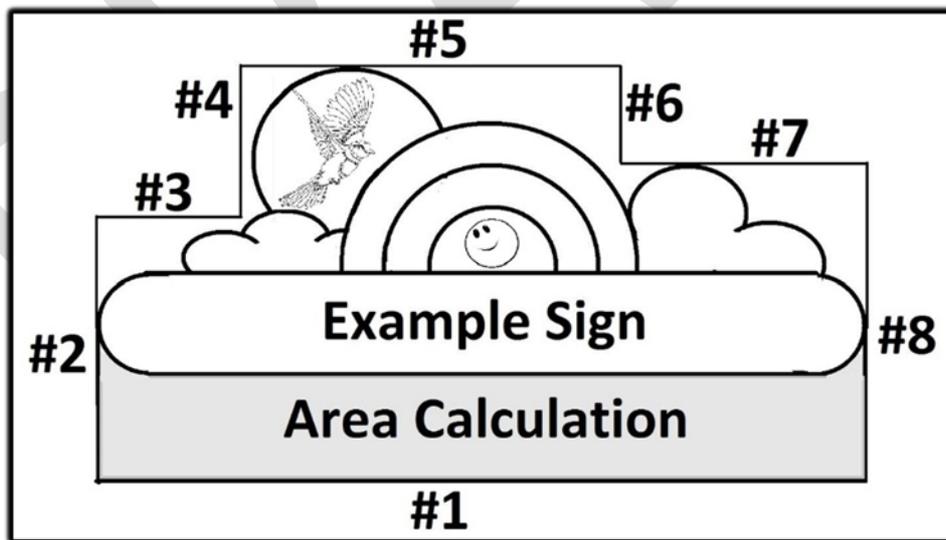


Figure 20.84.120d – Sign Surface Area, Odd Shaped Sign

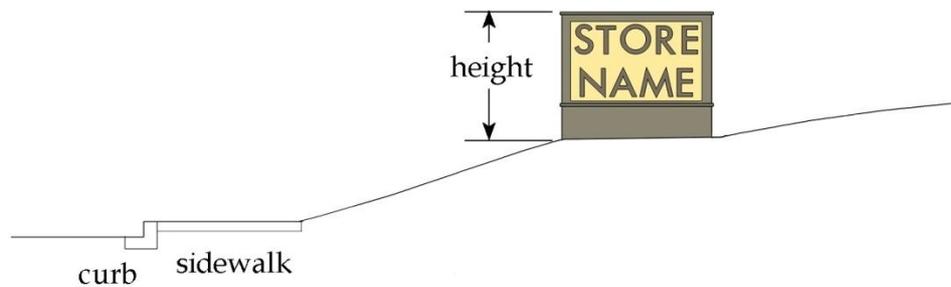


**Section 20.84.130 Sign height measurement.** Sign height is measured as follows:

A. Freestanding signs. Sign height is measured as the vertical distance from natural grade at the base of a sign to the top of the sign, including the sign support structure; except that signs within twenty-five (25) feet of an adjacent road may be measured as follows:

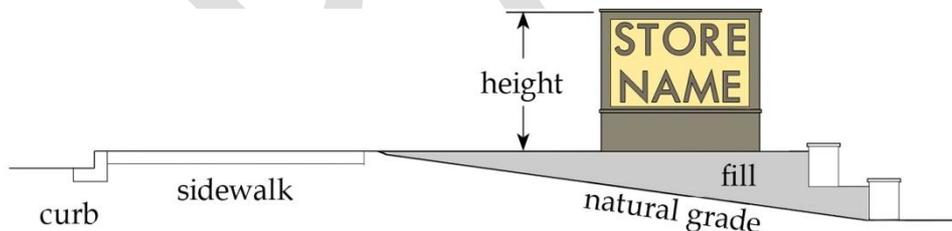
1. If natural grade at the base of a sign is higher than the grade of the adjacent road, sign height shall be measured from the base of the sign as shown in Figure 20.84.130a.

**Figure 20.84.130a**  
**Freestanding Sign Height –**  
**Signs Higher than the Grade of an Adjacent Road**



2. If natural grade at the base of the sign is lower than the grade of an adjacent road, the height of the sign shall be measured from the top of curb or road-grade elevation, provided that fill is placed between the curb and the sign and extends at least five (5) feet beyond the base of the sign in all directions, as shown in Figure 20.84.130b.

**Figure 20.84.130b**  
**Freestanding Sign Height –**  
**Sign Lower than the Grade of an Adjacent Road**



**Section 20.84.140 Sign Structure and Installation.**

A. Support elements. Any angle iron, bracing, guy wires or similar features used to support a sign shall not be visible.

B. Electrical service. When electrical service is provided to freestanding signs or landscape wall signs, all such electrical service is required to be underground and concealed. Electrical service to building mounted wall signs, including conduit, housings and wire, shall be concealed or, when necessary, painted to match the surface of the structure upon which they are mounted. A building permit (electrical) must be issued prior to the installation of any new signs requiring electrical service.

C. Raceway cabinets. Raceway cabinets, where used as an element of building mounted wall signs, shall match the building color at the location of the building where the sign is located. Where a raceway cabinet provides a contrast background to sign copy, the colored area is considered part of the sign face and is counted in the aggregate sign area permitted for the site or business. Examples of raceway cabinets are shown in Figure 20.84.140a.

**Figure 20.84.140a**

**Raceway Cabinets**



D. Limitation on attachments and secondary uses. All permitted sign structures and their associated landscape areas shall be kept free of supplemental attachments or secondary uses including, but not limited to, supplemental signs not part of a permitted sign, light fixture, newspaper distribution racks or trash container. The use of sign structures and associated landscape areas as bicycle racks or support structures for outdoor signs is prohibited.

**Part IV. Sign Types.**

**Section 20.84.150 Accessory Signs.** No permit shall issue for an accessory sign which does not comply with the following standards:

- A. Number. A maximum of one (1) sign at each vehicle point of entry or egress, not to exceed four (4) accessory signs per parcel.
- B. Location. Flexible, provided that the number of signs in Subsection A is not exceeded and provided that the signs comply with the setback standards for freestanding signs in Section 20.84.210.
- C. Zones. Not allowed in residential zones, except on sites two acres or larger.
- E. Design. Non-illuminated or internal illumination only. Any accessory sign with electronic display must conform to all EMC and/or digital sign standards in Section 20.84.190 (Digital signs) or 20.84.200 (EMC signs).
- F. Size. Maximum sign area: three (3) square feet per face; may be double-sided.
- G. Height: Mounting height:

1. Building Mounted Wall sign (Section 20.84.170): Maximum of eight (8) feet; must be flat against a wall of the building.
2. Freestanding sign (Section 20.84.210): Maximum of three (3) feet from grade.

**Figure 20.84.150a**

**Accessory Signs**



H. Drive-Through Large Accessory Signs. In addition to the accessory signs allowed for vehicle points of entry and in addition to free-standing signs otherwise allowed under Section 20.84.210, large accessory signs are allowed for each point of entry to a drive-up window, subject to the following standards:

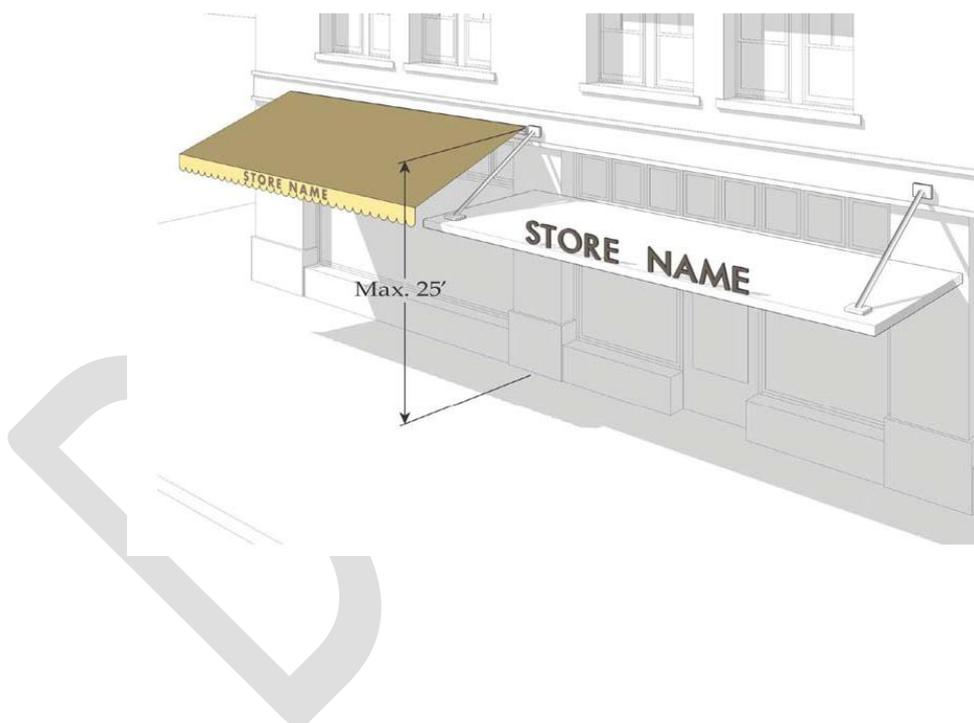
1. Maximum sign area per drive-up point of entry: forty-five (45) square feet.
2. Maximum sign size: fifty (50) square feet.
3. Maximum sign height: Five (5) feet, six (6) inches, including the associated sign structure.
4. Orientation: Large accessory signs must be oriented so that the sign face is not visible from the view of the street or public-right-of way.
5. Screening: All sides of large accessory signs must be screened from the view of the street or public right-of-way with landscaping or walls of brick, stone or siding materials that match the principal walls of the building to which the sign applies. If landscaping is used for screening, it must provide full screening at maturity and must be large enough at planting to provide at least seventy (70) percent screening of the sign.
6. Audio. No sound or amplification may be emitted that is audible beyond the site.

**Section 20.84.160 Awning or Canopy Signs.** No permit shall issue for an awning or canopy sign which does not comply with the following standards:

A. Number. One (1) awning or canopy sign is allowed for each primary entrance to a building or tenant space. In addition, one (1) awning or canopy sign may be allowed on a secondary entrance which faces a public street or on-site parking area. (As used in this subsection, “street” shall include freeways, but exclude alleys and service ways.) The awning/canopy sign may only be placed on the ground floor level facade of the building.

B. Area. The sign area on the primary elevation shall not exceed one (1) square foot of sign area per lineal foot of awning or canopy width. A maximum of forty (40) percent of an awning or canopy on which signage is proposed may be of an angle greater than sixty (60) degrees from horizontal.

**Figure 20.84.160a  
Awning/Canopy Sign**



C. Location.

1. An awning/canopy sign may not be mounted higher than a maximum of twenty-five (25) feet above the ground floor.

2. An awning/canopy sign shall not project above, below or beyond the edges of the face of the building wall or architectural element on which it is located.

3. No part of the sign, as a part of, or displayed on the vertical surface of an awning/canopy, shall project beyond the edges of the awning/canopy surface on which it is displayed. If an awning/canopy is placed on multiple store fronts, each business or tenant space is permitted signage no greater than sixty (60) percent of the store width or tenant space.

4. The awning/canopy shall not extend horizontally a distance greater than sixty (60) percent of the width of the awning/canopy or valance on which it is displayed.

D. Zone. Not allowed in residential zones.

E. Design. If sign letters or logos are placed on an awning/canopy, only the face area containing the letters or logos may be illuminated. All illumination must be internal behind the surface of the awning/canopy. The sign may also be non-illuminated.

**Section 20.84.170 Building Mounted Wall signs.** No permit shall issue for a building mounted wall sign which does not comply with the following standards:

A. Residential Zones. The maximum building mounted wall signage allowed in residential zones is as follows:

1. *Size of Parcel or Site*. Wall signs are not allowed on sites smaller than two (2) acres, except for address numbers as required by law.

2. *Area*. One hundred (100) square feet total, not to exceed three (3) percent of the area the façade upon which the sign is placed. Width: Not to exceed sixty (60) percent of the width of the wall plane upon which the sign is placed.

3. *Design*. Non-illuminated.

B. Non-residential Zones.

1. *Size of Parcel or Site*. No restrictions.

**Figure 20.84.170a**  
**Standards for Building Mounted Signs**



2. *Area.* The total signage may be up to five (5) percent of the area of the façade or twenty-five (25) square feet, whichever is greater, up to a maximum of one hundred (100) square feet. Width: Not to exceed sixty (60) percent of the width of the wall plane upon which the sign is placed or the width of the tenant space. Height: Not to exceed seventy (70) percent of the height of the blank wall space or fascia on which the sign is mounted (See Figure 20.84.170a).

3. *Location on Building.* Signs may not cover or obscure important architectural details of a building, such as stair railings, windows, doors, decorative louvers or similar elements intended to be decorative features of a building design. Signs must appear to be a secondary feature of the building façade.

4. *Illumination, flush or tight mounted.* All individual letter signs shall be installed to appear flush-mounted. If the letters are illuminated and require a raceway, the letters shall be installed tight against the raceway, which shall be painted to match the color of the surface to which the raceway is mounted. Where possible – especially on new construction – the raceway should be recessed to allow letters to be flush with the wall surface.

5. *Design.* Where more than one (1) sign is allowed for a business, all signs shall be consistent in design, style, color and method of illumination. Where there are multiple businesses or tenants on a site, all signs shall conform to a Master Sign Plan, consistent with Section 20.84.060.

6. *Signs Facing Residential Zones.* Signs facing residential zones shall have dark backgrounds with light lettering.

**Section 20.84.180 Changeable Copy Sign.** No permit shall issue for a changeable copy sign which does not comply with the following standards:

A. Number. No more than one (1) changeable copy sign shall be allowed for each parcel, except that additional changeable copy signs are permitted as follows:

1. the additional changeable copy sign(s) must be placed at least one hundred (100) feet from abutting streets or rights-of-way; and

2. the additional changeable copy sign(s) must not exceed the maximum area, height, and quantity standards otherwise applicable to any free-standing or building mounted wall signs on the parcel.

B. Area. No more than twenty (20) percent of the allowed wall sign area or fifty (50) percent of a free standing sign face may be changeable copy (this does not apply to signs required by law). Wall mounted changeable copy signs placed at least one hundred (100) feet from abutting streets may be a maximum of fifty (50) percent of permitted wall sign area.

**Figure 20.84.180a**  
**Changeable Copy Sign**



C. Height above grade. Fifteen (15) feet maximum. For wall signs, limited to the maximum height for freestanding signs.

D. Placement/Location. Allowed only as an integral part of a building mounted sign or a freestanding sign.

E. Zones. Changeable copy signs are allowed in all zones.

F. Design. Non-illuminated in all zones. Internally or indirectly illuminated in non-residential zones applicable to the illumination standards in Section 20.84.090.

**Section 20.84.190 Digital Signs.** Digital signs are not separately allowed signs. No permit shall be issued for a Digital Sign which does not comply with the following standards:

A. Maximum size: thirty (30) square feet. The area of a Digital Sign shall be counted as part of the allowable sign area for a freestanding or building sign. The Digital Sign shall be incorporated as an integral component in either a permitted freestanding or building mounted sign.

B. Density: One Digital Sign per one hundred (100) feet of street frontage in non-residential zones. One Digital Sign per two hundred (200) feet of street frontage in residential zones, not to exceed one (1) sign per parcel.

C. Zoning: Allowed in residential and non-residential zones only.

D. Maximum brightness: See Section 20.84.090 of this Chapter.

E. Motion limits: No motion except for instantaneous change of message.

F. Minimum hold between messages: eight (8) seconds.

G. Programming: to ensure that digital signs are programmed and continue to operate according to local standards, digital signs shall be designed for local on-site control and programming.

**Section 20.84.200 Electronic Message Center (EMC) Signs.** Electronic Message Center (EMC) signs are not separately allowed signs. No permit shall be issued for a EMC which does not comply with the following standards:

A. Maximum size: Thirty (30) square feet. The area of an Electronic Message Center sign shall be counted as part of the allowable sign area for a freestanding or building sign. The EMC shall be incorporated as an integral component in either a permitted freestanding or building mounted sign.

B. Density: One EMC per one hundred (100) feet of street frontage, not to exceed one (1) per business and tenant space. Electronic Message Center signs shall not be a sign separate from a freestanding or building sign.

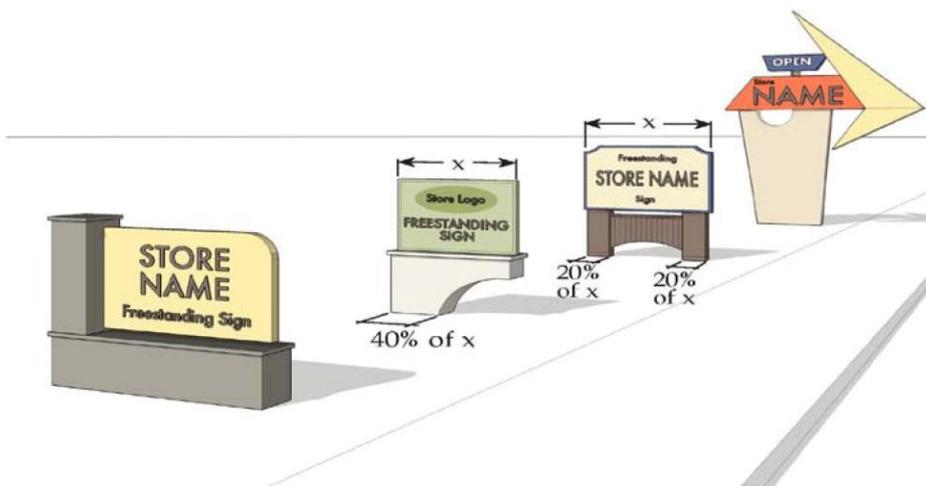
C. Zoning: Prohibited in residential zones.

D. Minimum parcel per sign. One acre.

- E. Maximum Brightness. See Section 20.84.090 of this Chapter.
- F. Motion limits: No motion except for a fade in of the next message with the fade transition being no more nor less than 1.5 seconds. Fade transition is required rather than instantaneous message changes to avoid sudden or startling flashes of light.
- G. Minimum hold between messages: ten (10) seconds, plus 1.5 second transition fade.
- H. Programming. To ensure that EMC's are programmed and continue to operate according to local standards, EMC's shall be designed for local on-site control and programming. The applicant shall provide a written certificate from the sign manufacturer that the nighttime light intensity has been factory pre-set not to exceed allowable levels under this Section, and that this setting is protected from end-user modification by password-protected software or other method that ensures compliance.

**Section 20.84.210 Freestanding Signs.** No sign permit shall issue for a freestanding sign which does not comply with the following standards:

- A. Number.
  1. The number and type of freestanding signs for single and multiple tenant uses are derived from the use, zone, location and length of development site frontage as described in this Section.
  2. One freestanding sign is allowed for each site frontage up to a maximum of two (2) signs. Flag lot sites with frontage on a public street are permitted one (1) sign on the frontage providing primary access to the site.
  3. Where more than one (1) freestanding sign is proposed on a site with multiple frontages, a minimum of one hundred (100) feet as measured in a straight line, shall separate each sign.
  4. The permanent sign base shall have a minimum aggregate width of forty (40) percent of the width of the sign cabinet or face.



B. Location.

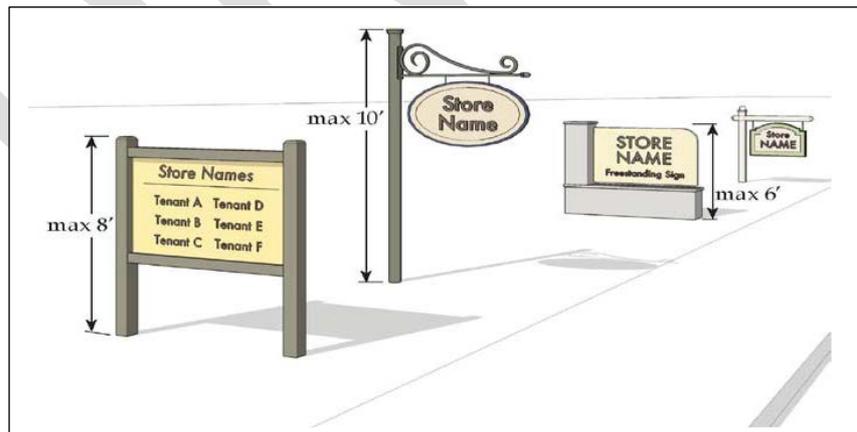
1. No freestanding sign shall be permitted on any site that does not have street frontage.
2. Freestanding signs shall be set back from side and front property lines as provided in Table 20.84.210a.

**Table 20.84.210a  
Sign Location/Setbacks for Freestanding Signs**

	<b>NB</b>	<b>C</b>	<b>OP</b>	<b>LI</b>	<b>HC</b>	<b>HI</b>
Sign Setback - Front Property Line Interior Lot	5 ft.					
Sign Setback -Side Property Line Interior Lot	10 ft.					
Sign Setback – Corner Lots	5 ft. from all property lines					

3. No freestanding sign shall be located in the triangular area(s) measured fifteen (15) feet by fifteen (15) feet where a driveway enters onto a street, or in any other area which may obstruct the vision of motorists so as to create a safety hazard. Additionally, all signs are subject to the Public Works Standards regarding sight distances.

**Freestanding Sign**



C. Height and Area.

The height and area of a freestanding sign shall be governed by the maximum height and area requirements provided in Table 20.84.210b and Table 20.84.210c.

**Table 20.84.210b  
Sign Height by Zoning District for Freestanding Signs**

	<b>NB</b>	<b>C</b>	<b>OP</b>	<b>LI</b>	<b>HC</b>	<b>HI</b>
Maximum Height of Freestanding Signs	5 ft.	15 ft.  20 ft. for Multiple Occupancy or Building Complexes	10 ft.  15 ft. for Multiple Occupancy or Building Complexes	15 ft.  20 ft. for Multiple Occupancy or Building Complexes	15 ft.  20 ft. for Multiple Occupancy or Building Complexes	15 ft.  20 ft. for Multiple Occupancy or Building Complexes

**Table 20.84.210c  
Sign Area by Zoning District for Freestanding Signs**

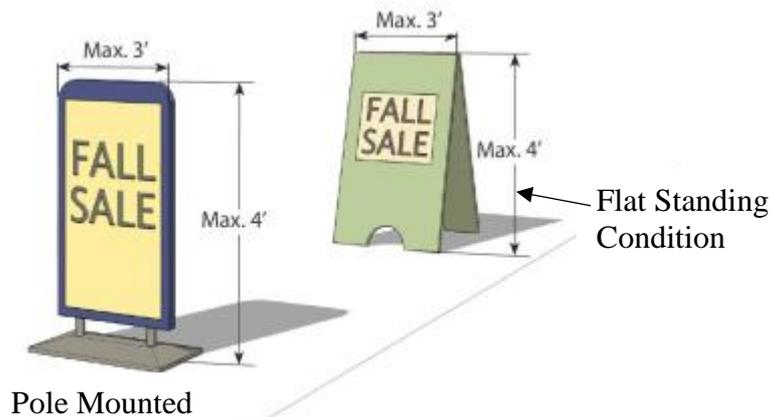
	<b>NB</b>	<b>C</b>	<b>OP</b>	<b>LI</b>	<b>HC</b>	<b>HI</b>
Maximum Sign Area of Freestanding Signs per face	15 sq. ft. per face	85 sq. ft. per face  100 sq. ft. per face for Multiple Occupancy or Building Complexes	40 sq. ft. per face  48 sq. ft. per face for Multiple Occupancy or Building Complexes	85 sq. ft. per face  100 sq. ft. per face for Multiple Occupancy or Building Complexes	85 sq. ft. per face  100 sq. ft. per face for Multiple Occupancy or Building Complexes	85 sq. ft. per face  100 sq. ft. per face for Multiple Occupancy or Building Complexes

D. Signs Facing Residential Zones. Signs facing residential zones shall have dark backgrounds with light lettering.

**Section 20.84.220. Portable Signs.** No permit shall be issued for a portable sign (includes sandwich board and pole mounted signs) which does not comply with the following standards:

A. Zone: Allowed only in non-residential zones, except that temporary portable signs are allowed in residential zones, subject to the provisions of Section 20.84.270 (temporary signs).

B. Design and Materials: Must be designed with durable materials, otherwise they will be regulated as temporary signs under Section 20.84.270. Portable signs must be designed to withstand wind and include a heavy weighted base for pole-mounted signs, and a heavy weight suspended between the opposing faces of a sandwich board sign.



C. Size and Height. Sandwich board signs: Maximum of four (4) feet in height, maximum of three (3) feet in width. (Note: sandwich board sign height is measured in the flat standing position, rather than in open standing position.) Pole-mounted signs: Maximum of three (3) square feet per side, four (4) feet high.

E. Number: Not more than one (1) portable sign may be displayed per business, per tenant space.

F. Location: Must be located no further than ten (10) feet from the primary building of the business, or, if there is only one business or tenant space on the site, it may be located not farther than then (10) feet from the site's driveway entrance. No portable sign may be located on the City right-of-way (which includes the sidewalk), without a Street right-of-way use permit.

G. Display Hours: Portable signs, including temporary portable signs may be displayed during business or operating hours only.

**Section 20.84.230 Projecting signs.** No permit shall issue for any projecting sign which does not comply with the following standards.

A. Number. One (1) projecting sign may be allowed per tenant space or building frontage. Projecting signs are permitted in addition to allowable wall signage.

B. Sign size.

1. Non-residential zones: The face of a projecting sign shall not exceed twelve (12) square feet in area.

2. Residential zones: The face of a projecting sign shall not exceed one and one-half (1.5) square feet in area.

## Projecting Sign



### C. Location.

1. No part of any projecting sign shall be located lower than eight (8) feet above the grade of sidewalk, walkway or driveway which is directly below the sign, or within three (3) feet of the sign.
2. Projecting signs may extend a maximum of four (4) feet from the building and shall be hung a minimum of six (6) inches away from the building.
3. No projecting sign shall be located within twenty-five (25) feet of another projecting sign on the same site or on the same building.
4. No projecting sign shall be located higher than the first story level of the building.
5. No projecting sign shall extend into the right-of-way, including the sidewalk, without an approved Right-of-Way use permit under Chapter 13.12.

### D. Design.

1. Non-residential zones: May be illuminated, internally or indirectly. In residential zones, projecting signs may not be illuminated.
2. Projecting signs shall be perpendicular to the building wall to which it is affixed.
3. Projecting signs shall not exceed four (4) inches in thickness.
4. Projecting signs shall be supported by or suspended from solid rods or otherwise tethered or reinforced to avoid movement in wind.

- E. Zone. Residential and nonresidential zones: as limited above.

**Section 20.84.240 Service Island Signs.** No permit shall issue for a service island sign which does not comply with the following standards:

- A. Number and Size.

1. Island canopies. One (1) sign on the canopy fascia per street frontage, not to exceed 20 percent of the area of canopy fascia to which the sign is mounted.

2. Spandrel signs and canopy support signs. Spandrel signs shall not exceed twenty (20) percent of the spandrel area, and both spandrel signs and signs attached to canopy support columns shall be deducted from allowable wall signage on the associated principle building on the site.

- B. Zone. Not allowed in residential zones.

C. Design. Spandrel signs may be internally illuminated, subject to the illumination standards of 20.84.090. Signs attached to canopy support columns shall not be illuminated.

**Section 20.84.250 Sign walkers.** Sign walkers are allowed, subject to the following standards:

A. Permit. A permit is not required for a sign walker, but the sign walker shall comply with all the applicable requirements of this Chapter.

B. Number. No limit.

C. Area. The sign walker's sign shall not exceed eight (8) square feet in area, and shall not exceed eight (8) feet in height when held in place.

D. Zone. Allowed in nonresidential zones only.

E. Design. The sign walker's sign cannot be illuminated. Sign walkers shall be limited to daylight hours only. A sign walker's sign may not include any element of a prohibited sign as described in Section 20.84.040.

F. Location. Sign walkers are restricted to a minimum of thirty (30) feet from a street or driveway intersection, measured from the back of the curb or edge of pavement if no curb exists, and shall not be located in any of the following places:

1. On any public property or within public right-of-way, although sign walkers are allowed on public sidewalks;
2. In parking aisles or stalls;
3. In driving lanes;

4. On fences, walls, boulders, planters, other signs, vehicles, utility facilities or other structures; or
5. In a manner which results in a sign walker physically interfering with motorists; pedestrians or bicyclists.

**Section 20.84.260 Temporary Signs.**

- A. No Permit required. No sign permit is required for temporary signs.
- B. Removal. Temporary signs shall be removed if the sign is in need of repair, is worn, dilapidated or creates a public nuisance.
- C. Materials. See Section 20.84.100 (sign materials) and the definition of “temporary sign” in Section 20.84.290.
- D. City property (excluding City right-of-way). Temporary signs on City-owned property (excluding City right-of-way) are allowed only in conjunction with an approved Special Event permit. No sign may be placed in the roadway.
- E. City Right-of-Way outside of the Roadway. Temporary signs on City Right-of-Way placed outside of the Roadway, must comply with the following requirements:
  1. *Location.* Allowed only between the property line and the back of the nearest curb, or where no curb exists, between the property line and the nearest edge of the pavement. Signs may not be placed on sidewalks, driveways or other paved areas designed for pedestrian or vehicular use, or as conditioned in a right-of-way use permit.
  2. *Approval of abutting owner.* Approval of the abutting owner is recommended.
  3. *Type.* Signs on stakes that can be manually pushed or hammered into the ground are allowed. All other signs are prohibited, unless specifically allowed by a right-of-way use permit.
  4. *Size and height.* Limited to four (4) square feet, and three (3) feet in height.
  5. *Dilapidated or Nuisance signs.* Any temporary sign in the right-of-way that is dilapidated or a nuisance, shall be removed by the person responsible for placement of the sign.
  6. *Other signs.* The City may allow other signs in City right-of-way with a Right-of-Way use permit.
- F. Residential zones. Temporary signs may be placed on property residentially zoned in accordance with the requirements of this Section and the following:
  1. *Window signs.* Limited to no more than one temporary window sign per residential unit, not to exceed four (4) square feet.

2. *Freestanding signs (includes post-mounted, stake and portable signs).*
  - (a) Single-family zones: Temporary free-standing signs shall not exceed four (4) square feet in size and five (5) feet in height, if the sign is mounted on the ground, and not to exceed three (3) feet in height if the sign is stake-mounted or portable.
  - (b) Multi-family zones: Temporary free-standing signs shall not exceed six (6) square feet in size and five (5) feet in height if the sign is post mounted on the ground, and not to exceed three (3) feet in height if the sign is stake-mounted or portable.

3. *Surface-mounted signs. Limited to sites two (2) acres or larger:*
  - (a) Size. No larger than thirty-two (32) square feet.
  - (b) Location. Must be flatly affixed to walls below the fascia or parapet line, or flatly affixed to on-site fences either facing or abutting the street, or facing inward to the subject site. Signs shall not be attached or tethered to other site improvements.

G. Non-residential zones. Temporary signs are allowed on non-residentially zoned property in accordance with the requirements of this Section and the following:

1. *Window signs.* Limited to twenty-five (25) percent of the window area, subject to the window sign requirements of Section 20.84.240.
2. *Freestanding signs (including post-mounted, stake and portable signs):* Size/height. Limited to four (4) square feet and five (5) feet in height if the temporary sign is mounted in the ground, and not to exceed three (3) feet in height if the temporary sign is portable
3. *Surface-mounted signs:*
  - (a) Size. Limited to thirty (30) square feet.
  - (b) Location. Must be flatly affixed to walls below the fascia or parapet line, or flatly affixed to on-site fences either facing the abutting street, or facing inward to the subject site. Signs shall not be attached or tethered to other site improvements.

H. Temporary signs on large properties, residential or non-residentially zoned properties. The following temporary signs may be placed on any site at least two (2) acres in size, in accordance with the requirements of this Section and the following:

1. *Type.* Any type.
2. *Size/height.* Not to exceed sixty-four (64) square feet and up to eight (8) feet above ground level.

3. *Exclusivity.* The sign allowed under this subsection is in lieu of and shall not be displayed with or be in addition to other temporary signs allowed by this Section.

**Section 20.84.270 Window Signs.** No permit shall issue for a permanent window sign which does not comply with the following standards:

- A. Number: No more than one permanent window sign may be placed in a single window.

**Figure 20.84.070a  
Window Sign**



- B. Window Coverage. Window signs (temporary and permanent) shall not exceed twenty-five (25) percent of the area of the window on which they are displayed.
- C. Location. No higher than second (2<sup>nd</sup>) story windows for permanent window signs. (For the requirements applicable to temporary window signs, *see* Section 20.84.270.)
- D. Zone. Allowed in all zones.
- E. Design. Permanent window signs are limited to individual painted or vinyl cut-out letters and graphics, or neon signs constructed with or without a solid or opaque background. Permanent signs with solid backgrounds are not permitted in windows in order to ensure maximum light and visibility through windows. Temporary window signs are exempt from the restrictions in this Subsection E.

**Part V. Definitions, Chart of Sign Types.**

**Section 20.84.290 Definitions.** The words and phrases used in this Section shall be construed as defined in this Chapter, unless the context clearly appears otherwise. Unless specifically defined in this Section, the definitions set forth in other provisions of this Code shall likewise apply to this Chapter.

**“A”**

**“Abandoned sign”** means a sign, the face of which has been removed or is broken and is not refaced within 180 days thereafter. Abandoned signs shall also include signs with rusted, faded, peeled, cracked or otherwise deteriorated materials or finishes that have not been repaired within 90 days after the City provides notice of the sign’s deteriorated condition under the City’s Code Enforcement Chapter (20.82).

**“Accessory sign”** means a permanent, free standing sign of limited height and size that provides supplemental opportunity for free standing signage on a site.

**“Aerial sign”** means a free floating balloon, kite or similar object not directly secured to property within the City.

**“A-frame sign”** *see also*, portable sign or sandwich board sign, means signs capable of standing without support or attachment.

**“Alter”** means to change the copy, color, size, shape, illumination, position, location, construction or supporting structure of a sign, not including ordinary maintenance.

**“Area, sign”** means the smallest square, rectangle, parallelogram or circle that will enclose the extreme limits of writing, representation, logo, or any figure of similar character, together with any frame, background area, structural trim, or other materials or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed. The supports or uprights on which any such sign is supported shall not be included in determining the sign area. The area of signs with two (2) faces shall be considered to be the area of the largest face. The area of signs with three (3) or more faces shall be considered to be the area of the largest face or one-half (1/2) the area of all of the faces, whichever is less (See Section 20.84.120).

**“Awning or Canopy sign”** means a sign affixed to or imprinted on a temporary shelter or a permanent architectural projection, such as an awning or canopy, composed of non-rigid materials on a supporting framework, affixed to the exterior wall of a building, extending over a door, entrance, window or outdoor service area.

**“B”**

**“Business activity”** means an enterprise offering goods, services, or other consideration to the public, in legal occupancy of a site or of a specific portion of a site and under separate and distinct management from any other enterprise located on the same site.

**“Business frontage”** means the horizontal dimensions of a building or individual business elevation measured at ground level.

**“C”**

**“Canopy or Awning sign”** – see definition under “Awning or Canopy sign” above.

**“Changeable copy sign”**: means a sign or portion thereof which is designed to have its message or copy readily changed manually or by remote or automatic means without altering or replacing the face or surface. Changeable copy signs support hard-copy text or graphics and do not use digital or electronic text or images.

**“D”**

**“Digital sign”** means a changeable copy sign with monochrome LED (light emitting diodes) text, graphics or symbols over a black, non-illuminated background.

**“Directional sign”** means a sign erected for the purpose of facilitating or controlling the efficient and safe movement of pedestrians or vehicles within a multi-tenant development.

**“E”**

**“Electronic message center sign”** means an electrically activated changeable copy sign having variable message and/or graphic presentation capability that can be electronically programmed by computer or handheld device from a remote location. EMC’s typically use light emitting diodes (LED’s) or liquid crystal display (LCD) as a lighting source.

**“Elevation”** means the visible vertical plane of the side of a building from ground level to the roof line.

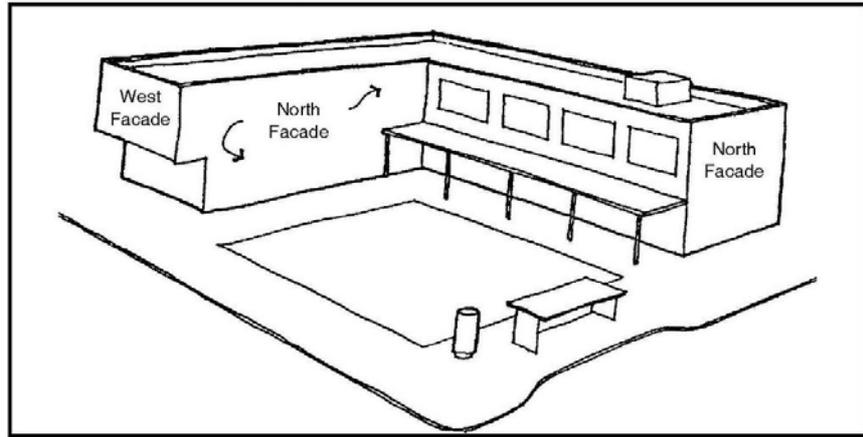
**“Elevation, primary”** means the side of a building directly abutting either a street or a parking area. A business owner may choose which elevation is considered the primary elevation, except that in a multi-tenant building, the elevation which is contiguous to other businesses shall be the primary elevation.

**“Elevation, secondary”** means any elevation of a building not determined to be a primary elevation.

**“F”**

**“Façade”**

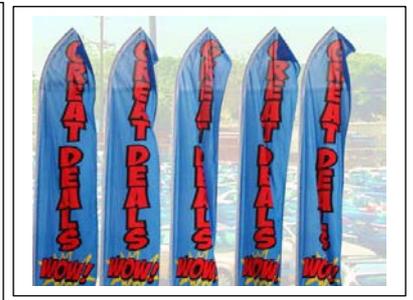
means the elevation of a building extending from the ground level up to the bottom of the fascia on a pitched roof building, and up to the top of the wall or parapet on a flat roof building. The area of a façade for purposes of calculating allowable wall signage includes the area of the windows and doors but excludes openings that do not have solid coverings, such as breezeways, colonnades and gateways that extend to the backside of the building.



**“Fascia”** means an architectural term for a vertical frieze or board under a roof edge or which forms the outer surface of a cornice, visible to an observer.

**“Festoon”** means materials or devices, whether or not they contain printed material, which are attached to real or personal property with the purpose or effect of attracting public attention to an object or site. Festoons include flags, pennants, balloons, ribbon, tinsel and other similar materials, regardless of size.

**Examples of Festoons**



**“Flag”** a flat piece of cloth with distinctive colors, patterns or symbols, having one end of the cloth attached to a vertical staff (directly or by rope and pulley mechanism) and all other ends free-flowing under natural movement of wind."

**“Flag canopy”** means a line of flags, or a series of lines of flags, suspended above a site.

**“Flashing sign”** means an electric sign or portion thereof except electronic message center signs, which changes light intensity in a sudden transitory burst, or which switches on and off in a constant pattern in which more than one-third of the non-constant light source is off at any one time.

**“Foot Candle”** a unit of illumination equal to that given by a source of one candela at a distance of one foot (equivalent to one lumen per square foot or 10.764 lux).

**“Freestanding sign”** means a sign and its support pole or base standing directly on the ground that is independent from any building or other structure.

**“Freeway”** means a limited access highway, state route or interstate.

**“Freeway oriented sign”** means a sign within 150 feet of a freeway right-of-way that has its sign face parallel to, perpendicular to, angled toward, or otherwise readable from the freeway right-of-way.

**“Frontage”** means the ground floor horizontal distance of a building or portion thereof occupied by the subject tenant. Building frontage shall only be measured along a ground floor wall which has a customer entrance that faces and has access onto a public open space, such as a courtyard or plaza; or is adjacent to a public street, or adjacent to a driveway or parking lot which serves that use. If any building frontage does not consist of one straight line, the frontage of any offset portion shall be projected, for computation purposes, to the extension of the line of the most forward face of the building.

**“G”**

**“Gross leasable space”** means area of a single leasable space, regardless of the number of tenants or leases within the space.

**“H”**

**“Halo illuminate”** means a light source placed behind totally opaque letter or symbol so that the light reflects off the wall or background to which the letters or symbols are mounted rather than emanating through the letters or symbols, creating a halo effect that leaves the letters or symbols viewable in silhouette form only.

**“Height of sign”** means the overall height of the sign above grade directly below or at the base of the sign.

**“I”**

**“Illegal sign”** means a sign which does not conform to the requirements and standards of this Chapter and which does not meet the criteria of a nonconforming sign as defined in this Definitions Section.

**“Integrated development site”** means any commercial or noncommercial development site, regardless of the number of lots or individual tenants, that is developed with common parking, layout, architecture or design features.

**“Item of information”** means a word, figure, logo, abbreviation or other symbolic representation.

**“L”**

**“Logo”** means a design of letters, colors or symbols used as a trademark or for identification in lieu of, or in conjunction with, other signs.

**“Logo shield”** means a logo contained within an area no greater than four (4) square feet, incorporated into a larger sign face or designed as an individual sign or component of a sign containing individually mounted sign graphics.

**“Lot line”** means a line that separates two lots.

**“Luminance”** means the photometric quality most closely associated with the perception of brightness. Luminance is measured in candelas per square meters or “nits.”

**“M”**

**“Mansard”** means a roof with two slopes on each side of the four sides, the lower steeper than the upper.

**“Master Sign Plan”** means a coordinated sign plan which includes the details of all signs (not including exempt or temporary signs) which are or will be placed on a site.

**“Monument sign”** means a freestanding low profile sign with the sign width greater than the sign height and designed with a solid base and background.

**“Motion”** means the depiction of movement or change of position of text, images or graphics. Motion shall include, but not be limited to, visual effects such as dissolving and fading text and images, running sequential text, graphic bursts, lighting that resembles zooming, twinkling or sparkling, changes in light or color, transitory bursts of light intensity, moving patterns or bands of light, expanding or contracting shapes and similar actions.

**“Multiple Building Complex”** A group of structures housing more than one (1) type of retail business, office or commercial venture, and generally under one (1) ownership and control.

**“N”**

**“Natural grade”** means the topographic condition or elevation of a site or portion of a site over the past five years, or the finished grade of an approved site development plan. Changes to grade or elevation resulting from fill, mounding or berming within five years preceding any requested permit other than a site development plan shall not be considered natural grade for permitting purposes.

**“Neon sign”** means a sign with illumination affected by a light source consisting of a neon or other gas tube which is bent to form letters, symbols or other shapes.

**“Night-time hours”** means from one-half hour before sunset to one-half hour after sunrise.

**“Nonconforming sign”** means any sign, which at one time conformed to all applicable requirements and standards of this Chapter, including all permit requirements, but which subsequently ceased to so conform due to changes in such requirements and standards.

**“Nonresidential zone”** means, in the context of this Chapter, any zone that does not include residential dwelling units except for mixed use zoning districts where residential units are located above or behind nonresidential uses and the ground floor streetscape is characterized by commercial and other nonresidential uses.

**“O”**

**“Opaque”** means a material that does not transmit light from an internal illumination source.

**“P”**

**“Painted sign”** means a sign painted directly on a building or on material which is then attached to a building. *See also*, “wall sign.”

**“Pan-channel”** means a sign graphic that is constructed of a three-sided metal channel, usually having a light source contained within the channel. The open side may face inward, resulting in silhouette lighting, or it may face outward to allow full illumination. The open side of the channel may be enclosed with a translucent material.

**“Parapet”** means a protective wall or barrier projecting above any canopy, balcony or roof.

**“Permanent sign”** means a sign constructed of weather resistant material and intended for permanent use and that does not otherwise meet the definition of “temporary sign.” Wall mounted sign holders designed for insertion of signs and posters shall be considered permanent signage and subject to all standards of this chapter.

**“Pole sign”** means a sign mounted on a weighted base, intended to be movable.

**“Portable sign”** means a free-standing sign that is readily moveable and not permanently affixed to the ground, including A-frame or sandwich board signs, pole signs mounted on weighted bases, and similar signs that are used on more than a temporary basis.

**“Projecting sign or Projection sign”** means a sign attached to a building with the face not parallel to the vertical surface of the building. Projecting signs include signs projecting directly from walls, or signs hanging from porch ceilings or other support structures.

**“R”**

**“Raceway”** means a box-type conduit to house electrical wires for signs and used to support and/or affix signage on a wall.

**“Right of Way”** is the strip of land platted, dedicated, condemned, established by prescription or otherwise legally established for the use of pedestrians, vehicles or utilities.

**“Roadway”** means that portion of the street improved, designed, or ordinarily used for vehicular travel and parking, exclusive of the sidewalks and shoulder. Where there are curbs, the roadway is the curb to curb width of the street.

**“Roof line”** means the uppermost edge of the roof or the top of the parapet, excluding mechanical equipment screens, whichever is highest. Where a building has several roof levels, the roof line shall be the one belonging to that portion of the building on which the sign is located.

**“Roof mounted sign”** means a sign which has a point of attachment to the roof or mansard of a building. Architectural projections, including mechanical equipment screens, above any parapet or roof line whose sole function is a background for signs shall be considered a sign structure. A sign on such an architectural projection shall be considered a roof sign.

**“S”**

**“Sandwich board sign”** – *see* “A-frame sign” definition.

**“Service Island sign”** means a permanent sign displayed on the service island of a gas station.

**“Setback”** means for monument and freestanding signs, the setback from any property line shall be the outside edge of the sign closest to the property line (See Figure 20.84.290b).

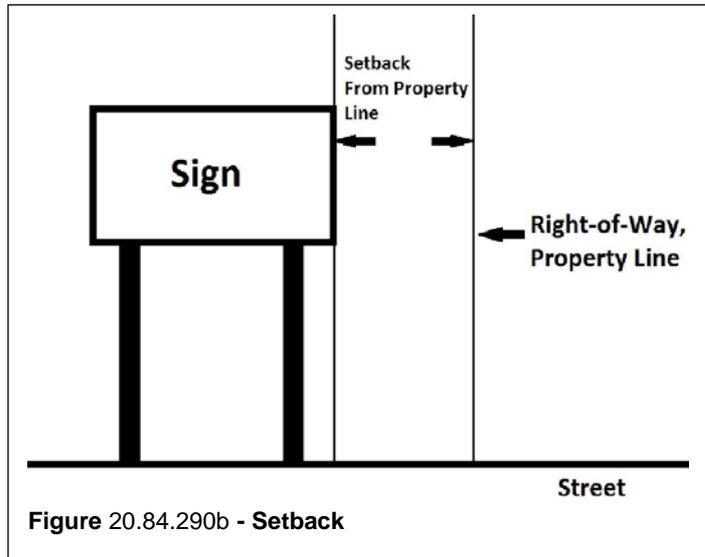


Figure 20.84.290b - Setback

**“Sign”** means letters, figures, symbols, trademarks, or logos, with or without illumination, intended to identify any place, subject, person, firm, business, product, article, merchandise or point of sale. A sign also includes balloons attached to sign structures, products, streamers, spinners, pennants, flags, inflatables, festoons or similar devices intended to attract attention to a site or business, as well as architectural or structural forms, illuminated panels, spandrels, awnings and other structural or architectural features not common to classic vernacular or non-corporate regional architecture and that are intended to convey a brand, message or otherwise advertise a location or product, whether or not such features include text or graphics and whether or not they serve other practical purposes such as lighting, covering or enclosure of persons or products. A sign includes any device which streams, televises or otherwise conveys electronic visual messages, pictures, videos or images, with or without sound or odors. Refer to Section 20.84.040 for a list of prohibited signs.

**“Signable area”** means the area of the largest rectangular portion of a face of a building to which a sign is affixed or proposed to be affixed, which can be included within parallel, vertical and horizontal lines uninterrupted by significant architectural features of the building.

**“Sign walker”** means a sign carried by a person.

**“Site”** means a unit of land, together with all improvements thereon, determined as follows:

- 1) a unit of land which may be conveyed separately from any and all adjacent land without the requirement of approval of a boundary line adjustment, short plat or a preliminary plat.
- 2) Two (2) or more buildings or business activities that are or will be related to each other physically or architecturally, such as by sharing off-street parking facilities, so as to form an integrated development, such as a shopping center, industrial park, or office complex.

**“Spandrel”** means a panel or box-type structure that spans between and/or is connected to the support columns of a porch, colonnade or canopy, usually for architectural embellishment and/or signage purposes.

**“Special event sign or temporary sign”** means signs or advertising displays or a combination thereof which advertises or attracts public attention to a special one-time event, including but not limited to, the opening of a building or business activity, the sale of goods and services at discounted or otherwise especially advantageous prices or similar event.

**“Static”** means without motion.

**“Story”** means that portion of a building included between the upper surface of a floor and the upper surface of the floor or ceiling next above.

**“Suspended Sign”** means a sign mounted above a sidewalk adjacent to a business, affixed to a beam, overhang, roof or other fixture that is an integral part of a building.

**“T”**

**“Temporary sign (which may include temporary use sign)”** means any sign that is used temporarily and is not permanently mounted, painted or otherwise affixed, excluding portable signs as defined by this Chapter, including any poster, banner, placard, stake sign or sign not placed in the ground with concrete or other means to provide permanent support, stability and rot prevention. Temporary signs may only be made of non-durable materials including, but not limited to, paper, corrugated board, flexible, bendable or foldable plastics, foamcore board, vinyl canvas or vinyl mesh products of less than 20 oz. fabric, vinyl canvas and vinyl mesh products without polymeric plasticizers and signs painted or drawn with water soluble paints or chalks. Signs made of any other materials shall be considered permanent and are subject to the permanent sign regulations of this Chapter.

**“Tenant space”** means the entire building which encompasses a building or use on a site; or in buildings designed for multi-tenant occupancy, it is the space between demising walls and which has an independent entrance to common corridors or to the outside. Portions of tenant spaces that are sublet to or otherwise allowed to be used by persons or businesses other than the principle person or business of a tenant space are not considered tenant spaces in the context of this chapter.

**“U”**

**“Unshielded lighting”** means an external illumination source which is exposed to view.

**“V”**

**“W”**

**“Wall sign”** means a sign which is attached parallel to or painted on a wall, including parapet or canopy fascia, or a building.

**“Width of sign”** means the total horizontal dimension of a sign, including all frames or structures.

**“Window”** means the entire window unit including individual sashes or panes that might otherwise divide the area between the head, jamb and sill; except that in commercial storefront window assemblies, a single “window” is the glass area between each mullion that divides the window assembly, whether installed as a single piece of glass or as multiple pieces of glass divided by muntins.



**“Window sign”** means a sign that is attached to or is intended to be seen in, on or through a window of a building and is visible from the exterior of the window.



AGENDA BILL NO. 16-092

**TO:** Mayor Guier and City Council Members

**FROM:** Richard Gould, City Administrator

**MEETING DATE:** September 6, 2016

**SUBJECT:** Execution of a Subscription Agreement between AV CaptureAll and the City of Pacific on Legislative/Judicial Combination recording for on-demand streaming and archiving for 36 months in the amount of \$5,976.00 plus tax.

**ATTACHMENTS:**

- **Resolution No. 2016-369**
- **AV CaptureAll license agreement for Legislative/Judicial Combination of recording for on-demand streaming and archiving**
- **References and reference letter**

**Previous Council Review Date:** August 1, 2016 presentation by the vendor and multiple Technology Committee Meetings in 2016.

**Background and Summary:**

The City of Auburn and the City of Pacific have a contract under which Auburn provides services to Pacific which include: informational technology services. Auburn cannot provide these services to Pacific unless Pacific's computer software is compatible with Auburn's. Pacific identified a need for on-demand streaming/archiving of legislative (e.g., City Council meetings) and judicial (e.g., municipal court) activities. After Auburn compared the available services and costs associated with various providers, Auburn recommended that Pacific enter into a contract with AV CaptureALL (attached).

Once AV CaptureAll was contacted to provide streaming of the Council meetings for the Public, this vendor gave presentations to staff and the Technology Committee. When staff encountered recording problems with FTR, it was discovered that the product (software) from AV CaptureAll could also provide a solid recording solution, both video and audio. This product will also facilitate the preparation of Council Meeting minutes thereby saving the City Clerk hours of time that usually goes into their preparation. Finally, this product will also facilitate the preparation of Public Record Requests, again saving on staff time.

AV CaptureAll proposes a contract for these services for the period between August 1, 2016 through July 31, 2018 (36 months) at a cost of \$5,976.00, not including taxes. Because this contract could be viewed as "sole source," a resolution has been drafted to meet the requirements of RCW 39.04.280(2)(a).

**Recommended Action:**

1. On the Agreement: Vote to authorize the Mayor to sign the Subscription License Agreement with AV CaptureAll to provide Legislative/Judicial Combination of recording for on-demand streaming and archiving.
2. On the Resolution: Vote to authorize the Mayor to sign the Resolution establishing the criteria for “sole sourcing” of the contract with AV CaptureAll, LLC.

**Motion for Consideration:**

1. Motion to approve Subscription License Agreement between AV CaptureAll, LLC and the City of Pacific, WA for the Legislative/Judicial Combination of recording for on-demand streaming and archiving.
2. Motion to pass Resolution 2016-369, establishing the criteria for “sole sourcing” of the Agreement with AV CaptureAll, LLC.

**Budget Impact:** \$2,988 annually and a one-time hardware installation cost of \$1,000.

**Alternatives:** Upgrade FTR to a stand-alone system for \$1,100.

**CITY OF PACIFIC, WASHINGTON**

**RESOLUTION NO. 2016-369**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH AV CAPTUREALL, INC FOR LEGISLATIVE/JUDICIAL COMBINATION OF RECORDING FOR ON-DEMAND STREAMING AND ARCHIVING FOR THE CITY OF PACIFIC.**

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**WHEREAS**, the City has used FTR Gold to record the Council Meetings and Court Sessions; and

**WHEREAS**, the City encountered problems with the use of FTR Gold and wants to stream meetings to the Public; and

**WHEREAS**, the City desires to contract with AV CaptureAll, which submitted a contract subscription agreement, for Legislative/Judicial Combination of recording for on-demand streaming and archiving, for an amount not to exceed \$249.00 monthly (not including a one-time hardware installation charge); and

**WHEREAS**, the City desires to contract with AV CaptureAll for the provision of Legislative/Judicial Combination of recording for on-demand streaming and archiving not to exceed \$2,988/annually;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, AS FOLLOWS:**

**Section 1.** The Council authorizes Mayor Guier to execute the attached contract with AV CaptureAll for the provision of Legislative/Judicial Combination of recording for on-demand streaming and archiving for the City of Pacific.

**Section 2.** This Resolution shall take effect and be in force immediately upon its passage.

**PASSED BY THE CITY COUNCIL AT ITS REGULAR MEETING THEREOF ON THE 12th DAY OF SEPTEMBER 2016.**

CITY OF PACIFIC

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Leanne Guier, Mayor

ATTEST:

---

Amy Stevenson-Ness, CMC  
City Clerk

Approved as to Form:

---

Carol Morris, City Attorney



## SUBSCRIPTION AGREEMENT

This Subscription Agreement ("Agreement") entered into on this **1st** day of **August, 2016** ("Effective Date") between AV Capture All, Inc., a Washington State Corporation having a principal place of business at 19125 Northcreek Parkway, Suite 120, Bothell, WA 98011 (referred to herein as "Licensor"), and **City of Pacific, WA.** having a principal place of business at **100 3<sup>rd</sup> AVE SE., Pacific, WA. 98047** referred to herein as "Subscriber"), collectively referred to as ("Parties"), along with Exhibit A & B attached hereto or incorporated by reference herein ("Exhibit"), governs Licensor's obligations to Subscriber and Subscriber's rights with respect to Products furnished by Licensor. In consideration of the mutual promises contained herein, the Parties agree as follows:

### 1. DEFINITIONS

- 1.1. "Authorized User" means an individual who has Subscriber's permission to use the Licensor's Products. An Authorized User must be a salaried staff employee of Subscriber or person responsible for configuration, administration, management, and maintenance of electronic computing and storage devices. For purposes of this Agreement, the use of the term "Subscriber" hereinafter shall denote Subscriber and Authorized Users as a single whole.
- 1.2. "Billing Document" means an electronic and/or hardcopy document such a sales invoice, purchase receipt, or other document(s) issued by Licensor, which indicates the items, quantities, and prices for Products provided to Subscriber.
- 1.3. "Billing Period" means the minimum time interval within the Subscription Term, as specified on the Billing Document, for which the Subscription Fee is paid.
- 1.4. "Content" means the audio, video and metadata digitally captured and stored through the use of Licensor's Products.
- 1.5. "Hosting" means the storage and delivery of Subscriber's Content. Content may be stored on Subscriber's local capture drive, Subscriber's local network server or Licensor's hosted server.
- 1.6. "Other Software" means any third party software installed and used on the same computer that Licensor's Products are installed on.
- 1.7. "Products" shall mean the software, service and/or hardware manufactured, developed provided, offered and/or licensed by Licensor, (whether free of charge or in exchange for a Subscription Fee, as determined by the Licensor), all as further described in Exhibit A.
- 1.8. "Subscription" means the receipt of Products by Subscriber described in Exhibit B, in exchange for payment of the Subscription Fee in compliance with the terms and conditions of this Agreement. "Active Subscription" refers to any Subscriptions (including suspended Subscriptions) that are not terminated.

- 1.9. "Subscription Fee" means the amount due for each Subscription for each Billing Period during the Subscription Term. The Subscription Fee is described in Exhibit A. The Subscription Fee does not include taxes, customs duties, penalties, interests, shipping charges, and other costs (if any).
- 1.10. "Subscription Term" means the time period during which Subscriber is entitled to receive Product(s) from Licensor, provided that the terms and conditions of this Agreement are complied with. The Subscription Term is listed in Exhibit A.
- 1.11. "Support" means service provided by Licensor in association with providing Products to Subscriber for the Subscription Term.

## **2. SCOPE OF AGREEMENT**

- 2.1. Licensor shall hereby grant Subscriber the right to obtain, install and use, for the duration of the Subscription Term, the Products described herein as indicated on Exhibit A, subject to the terms, conditions, and limitations specifically set forth in this Agreement.
- 2.2. This Agreement and the attached Exhibits constitute the entire Agreement. Work performed by a third party contractor is NOT part of the terms and conditions of this Agreement.

## **3. ACCEPTANCE OF THIS AGREEMENT**

- 3.1. This Agreement will become effective upon the Effective Date. The terms of any purchase order or invoice that is issued by either party in connection with this Agreement shall not modify the terms of this Agreement.

## **4. SUBSCRIBER GENERAL OBLIGATIONS**

- 4.1. Subscriber shall inform all of its Authorized Users of the terms and conditions of this Agreement. Subscriber shall enforce their Authorized User's compliance with all the requirements of this Agreement.
- 4.2. Subscriber shall refrain from assigning Authorized User rights to any individuals and/or legal entities that are not immediate employees of Subscriber, and to take full responsibility for any actions on their part that could lead to abuses or violations of the terms and conditions of this Agreement.
- 4.3. Subscriber shall not use the Content for any unlawful purposes or actions. In the event that Subscriber uses the Content to violate the rights of a third party or violates applicable laws, Subscriber agrees to defend, indemnify and hold Licensor harmless against all lawsuits, liability, charges, and penalties, including resulting costs and expenses and payment of attorney fees, that may arise as a result of such actions.
- 4.4. Subscriber and Authorized Users will assist Licensor in the installation of Product during normal business hours by providing the following: (i) sufficient work space for Licensor(ii) access to the Internet for the computer on which the Product(s) is installed (iii) access to the Content storage device and (iv) access to the Authorized Users so that Licensor may properly train the Authorized Users.
- 4.5. Subscriber acknowledges that Licensor's Product (other than operating system) is the primary software on the device that Licensor's Product is installed on and that any Other Software is

considered secondary. Subscriber shall be solely responsible for any secondary software that conflicts with Licensor's Products. Licensor is not responsible for any loss of Content as a result of conflicts from Other Software.

## **5. LICENSOR GENERAL OBLIGATIONS**

- 5.1. Licensor shall provide the Products and services listed on Exhibit A and described on Exhibit B.
- 5.2. Licensor shall, for the duration of the Subscription Term, promptly notify and provide Subscriber of free Product updates and upgrades that Licensor makes generally available to subscribers of the Products. Such free Product updates and upgrades do not include any custom development or implementation undertaken on Subscriber's behalf.
- 5.3. Licensor shall notify Subscriber as soon as reasonably feasible of any intended material change, discontinuation or addition to the Products listed on Exhibit A. Additional terms regarding Product may be described on Exhibit A.
- 5.4. Licensor shall perform the following duties: (i) assist Subscriber with any and all documentation required to execute this Agreement; (ii) assist Subscriber with the download and installation of Licensor's Products; (iii) train Subscriber and Authorized Users on the features and use of Licensor's Products; and (iv) provide support for Licensor's Products as described below.
- 5.5. Licensor shall provide the following support for the duration of the Subscription Term: (i) provide Licensor's contact information; (ii) respond within one (1) hour via phone or email from initial contact from Subscriber; (iii) contact and assist Subscriber with Product updates/upgrades; and (iv) train new Authorized Users.
- 5.6. Support required by Subscriber outside of normal business hours may incur additional costs to Subscriber.

## **6. TERMS OF PAYMENT**

- 6.1. At Licensor's discretion, Subscription Fees, reimbursable expenses, interest, and other costs for which Subscriber is obligated may be invoiced together or separately.
- 6.2. In the event of nonpayment or late payment by Subscriber, Licensor reserves the right to suspend the Subscription pending Subscriber's payment of all amounts in arrears or to terminate this Agreement in accordance with Section 12 below, and/or pursue other remedies permitted by law. Subscriber agrees to be responsible and liable for all collection costs, including reasonable attorney fees, incurred as a result of nonpayment of the Subscription Fees and/or reimbursable expenses, as well as for interest on past due sums at the lesser of the maximum legally chargeable interest rate or 18 percent per annum.
- 6.3. In the event of early termination of any Subscription or this Agreement, Subscriber agrees to pay Licensor compensation in an amount consisting of the following: (i) any amounts owed by Subscriber in the form of outstanding payments as of the time of termination. If early termination is based on Licensor's breach of this Agreement, Subscriber shall not be required to pay any outstanding payments made after the date of the breach.

## **7. RENEWAL**

- 7.1. Each Subscription associated with this Agreement shall remain in force for the duration of its Subscription Term, unless terminated in accordance with Section(s) 6.3, 9 or 11 below. Licensor shall notify Subscriber of renewal terms ninety (90) days prior to the end of the Subscription Term. If a renewal Agreement is not in place by the end of the Subscription Term, the Subscription Agreement will renew automatically for a period equivalent to the length of the current Subscription Term at current pricing. Any renewal period shall be governed by the terms and conditions of this Agreement, unless modified by terms provided by Licensor to Subscriber prior to the commencement of a renewal term.
- 7.2. This Agreement shall remain in full force and effect for as long as any Subscription remains active.

## **8. VOLUNTARY SUSPENSION OF SUBSCRIPTION**

- 8.1. Whenever a situation may arise where Subscriber needs to suspend the operations for which a particular Subscription is used, Subscriber shall have the right to request that Licensor suspend any or all Subscriptions for a specified period of time without incurring early termination penalties and reactivation charges. The terms and conditions for suspension and reactivation of the Subscription(s) shall be made by a written instrument, agreed and signed by both Parties. At no time shall such a Voluntary Suspension be longer than ninety (90) calendar days.

## **9. TERMINATION OF SUBSCRIPTION**

- 9.1. The Parties may voluntarily terminate any Subscription prior to the expiration date of the Subscription Term, without indicating their reasons for termination, by serving written notice to the other Party no later than thirty (30) days prior to the date of termination. Access to and usage of the Products related to the terminated Subscription shall be prohibited as of the date of termination. Upon termination, with respect to the Products related to the Subscription being terminated, Subscriber shall (i) discontinue all use of the Products, and components thereof; and (ii) if so required elsewhere in this Agreement or Exhibits, return or destroy any items relating to the Products (including but not limited to, media, software, hardware, and electronic and printed documentation).
- 9.2. Any remaining Active Subscriptions shall remain in full force unless terminated as provided herein.

## **10. REFUND**

- 10.1. In the event of voluntary termination of any Subscription(s) or this Agreement, Licensor shall refund to Subscriber the unused portion of the total Subscription Fee pre-paid by Subscriber for the Subscription Term for any Subscription(s) being terminated. The unused portion of the Subscription Fee shall be calculated beginning on the thirty-first (31) day after receiving written notice from Subscriber, less any amounts owed by Subscriber for unpaid fees as of the termination date.
- 10.2. Should Licensor terminate this Agreement due to a breach on the part of Subscriber, Subscriber will not be entitled to a refund.

## **11. TERMINATION OF AGREEMENT**

- 11.1. The Parties may voluntarily terminate this Agreement at any time, subject to the provisions of Section 10, by serving written notice to the other Party no later than thirty (30) days prior to the date of termination.

- 11.2. Licensor may terminate this Agreement without prior notice in the event of Subscriber's breach of any of the terms and conditions of this Agreement. Alternatively, Licensor may temporarily suspend any or all Active Subscriptions until the breach is cured, provided, however, that if Subscriber fails to cure the breach within thirty (30) days after receiving written notice, this Agreement shall automatically terminate without further notice. Access to and usage of the Product related to the suspended Subscription(s) shall be prohibited as of the date of suspension thereof. Subscriber shall be liable for all fees and costs incurred during the period of such suspension. Upon termination of this Agreement, Subscriber shall (i) discontinue all use of the Product; (ii) if so required elsewhere in this Agreement or Exhibits, return or destroy any items relating to the Product (including but not limited to media, software, hardware, and electronic and printed documentation); and (iii) provide written notice to Licensor by mail, fax, or email, certifying that Subscriber has complied with this paragraph.
- 11.3. Licensor shall not be liable for any expenses incurred by Subscriber as a result of termination of this Agreement as a whole or any Subscription in particular.
- 11.4. The provisions and terms of this Agreement pertaining to the Parties' financial obligations and liability, proprietary rights, copyright protection, as well as Subscriber obligations relating to the termination procedures described herein and any other provision which by its nature should survive, shall remain in force after any termination of this Agreement as a whole or any Subscription in particular.

## **12. INTELLECTUAL PROPERTY RIGHTS**

- 12.1. The Products, and other items supplied by Licensor may contain authorship materials, trademarks, word-marks and other materials that are protected by international conventions and national trademark and copyright laws. All proprietary rights and rights of ownership shall be reserved to their owners, including rights of authorship, creation of derivative works (including translation to foreign languages), inclusion in compilations and collective works, dissemination, and other rights. Subscriber shall refrain from claiming proprietary rights by virtue of access and use of the Products, and components thereof.

## **13. CONFIDENTIALITY**

- 13.1. If Licensor and Subscriber have signed a separate non-disclosure agreement, the terms of such non-disclosure agreement control and are incorporated herein. In the event that Licensor and Subscriber have not signed a separate non-disclosure agreement, Subscriber acknowledges that by reason of this Agreement herein it will have access to certain confidential information and materials concerning Licensor's business, plans, methodology, customers, technology, and Product, including without limitation certain information that Licensor considers to be trade secrets ("Confidential Information"). Subscriber agrees that, except in conjunction with the performance of its obligations contained herein, Subscriber will not use in any way for its own account or the account of any third party, nor disclose to any third party except as may be required by law, any such confidential information revealed to it in written or other tangible form or orally, and identified as confidential or which by the nature of the information or the context of its disclosure ought to be understood to be confidential, by Licensor without the prior written consent of Licensor. Subscriber shall take every reasonable precaution to protect the confidentiality of such information. But Licensor acknowledges that Subscriber must comply with chapter 42.56 RCW, The Public Records Act. Upon request by Subscriber, Licensor shall advise whether or not it considers any particular information or materials to be confidential.

#### **14. FORCE MAJEURE**

- 14.1. The Parties shall be absolved of liability for delays caused by events beyond the Parties' control. Such events shall include acts of natural phenomena, war, popular unrest, epidemics, fire, flood, earthquake and other natural disasters, failures in the operation of computer networks and communications systems, and disruptions in the operation of postal and courier services.

#### **15. DISCLAIMER OF WARRANTIES**

- 15.1. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, LICENSOR, ITS PARTNERS, AND SUPPLIERS PROVIDE THE INFORMATION AND THE PRODUCTS "AS IS" WITH ALL FAULTS AND DEFECTS THEREIN AND WITHOUT ANY WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY (IF ANY) IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY, OF FITNESS FOR A PARTICULAR PURPOSE, OF RELIABILITY OR AVAILABILITY, OF ACCURACY OR COMPLETENESS OF RESPONSES, OF RESULTS, OF WORKMANLIKE EFFORT, AND OF LACK OF NEGLIGENCE, ALL WITH REGARD TO THE INFORMATION, SERVICES AND PRODUCTS OR THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT OR OTHER SERVICES FOR SUCH INFORMATION AND PRODUCTS OR OTHERWISE ARISING OUT OF THE USE OF THE INFORMATION, SERVICES, AND PRODUCTS. THE INFORMATION FURNISHED BY LICENSOR MAY BE USED SOLELY FOR REFERENCE PURPOSES IN THE PROCESS OF INFORMATION EXCHANGE AND SHALL BE USED IN ADDITION TO AND IN CONJUNCTION WITH APPLICABLE REQUIREMENTS OF LAWS, CODES, RULES, REGULATIONS, STANDARDS, AND OTHER REQUIREMENTS ESTABLISHED BY AUTHORITIES POSSESSING VARIOUS LEVELS OF JURISDICTION. ALSO, THERE IS NO WARRANTY OR CONDITION OF TITLE, QUIET ENJOYMENT, QUIET POSSESSION, CORRESPONDENCE TO DESCRIPTION, OR NONINFRINGEMENT WITH REGARD TO THE INFORMATION AND PRODUCT PROVIDED.

#### **16. EXCLUSION OF INCIDENTAL, CONSEQUENTIAL, AND CERTAIN OTHER DAMAGES**

- 16.1. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL LICENSOR, ITS PARTNERS, OR ITS SUPPLIERS BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF CONTENT OR CONFIDENTIAL OR OTHER INFORMATION, FOR BUSINESS INTERRUPTION, FOR PERSONAL INJURY, FOR LOSS OF PRIVACY, FOR FAILURE TO MEET ANY DUTY OF GOOD FAITH OR OF REASONABLE CARE, FOR NEGLIGENCE, AND FOR ANY OTHER PECUNIARY OR OTHER LOSS WHATSOEVER) ARISING OUT OF OR IN ANY WAY RELATED TO THE USE OF OR INABILITY TO USE THE PRODUCT OR THE PROVISION OF OR FAILURE TO PROVIDE SUPPORT OR OTHER SERVICES FOR SUCH PRODUCT OR OTHERWISE ARISING OUT OF THE USE OF THE PRODUCT, OR OTHERWISE UNDER OR IN CONNECTION WITH ANY PROVISION OF THIS AGREEMENT, EVEN IN THE EVENT OF THE FAULT, TORT (INCLUDING NEGLIGENCE), MISREPRESENTATION, STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY OF LICENSOR, ITS PARTNERS, OR ANY SUPPLIER, AND EVEN IF LICENSOR, ITS PARTNER, OR ANY SUPPLIER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SUBSCRIBER SHALL REFRAIN FROM ASSIGNING LIABILITY TO LICENSOR FOR USAGE OF THE INFORMATION SUPPLIED, BASED ON THE CIRCUMSTANCE THAT LICENSOR MERELY SUPPLIES THE INFORMATION BUT DOES NOT GENERATE IT, UNLESS EXPRESSLY STIPULATED OTHERWISE.

## **17. LIMITATION OF LIABILITY AND REMEDIES**

17.1. NOTWITHSTANDING ANY DAMAGES THAT SUBSCRIBER MIGHT INCUR FOR ANY REASON WHATSOEVER (INCLUDING, WITHOUT LIMITATION, ALL DAMAGES REFERENCED HEREIN AND ALL DIRECT OR GENERAL DAMAGES IN CONTRACT OR ANYTHING ELSE), THE ENTIRE LIABILITY OF LICENSOR, ITS PARTNER, AND ANY OF ITS SUPPLIERS UNDER ANY PROVISION OF THIS AGREEMENT OR ANY THEORY OF LIABILITY SHALL BE LIMITED TO THE GREATER OF THE SUBSCRIPTION FEE ACTUALLY PAID BY SUBSCRIBER OR USD10.00. ANY CAUSE OF ACTION BY SUBSCRIBER WITH RESPECT TO ANY PRODUCT PROVIDED MUST BE INSTITUTED WITHIN ONE (1) YEAR OF THE CLAIM OR CAUSE OF ACTION HAVING ARISEN. THE FOREGOING LIMITATIONS, EXCLUSIONS, AND DISCLAIMERS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

## **18. ASSIGNMENT OF RIGHTS**

18.1. Subscriber may not assign or sublicense the rights granted under this Agreement to any party, wholly or in part, without Licensor's prior written consent. Any unauthorized attempt by Subscriber to assign this Agreement or its rights and obligations under this Agreement to a third party shall be deemed null and void and contrary to the terms and conditions of this Agreement.

## **19. GOVERNING LAW**

19.1. This Agreement shall be governed by the laws of the State of Washington. Any action brought to enforce this agreement shall be filed in King County Superior Court. The prevailing party in such action shall be reimbursed for its reasonable attorney and expert witness fees and costs by the non-prevailing party.

## **20. ENTIRE AGREEMENT**

20.1. This Agreement, along with Exhibits and any attachments hereto, constitutes the entire agreement between the Parties relating to the subject matter hereof. Unless specifically stated herein to the contrary, this Agreement does not apply to any other oral or written agreement between the Parties but supersedes all prior written and contemporaneous oral negotiations, discussions, commitments, and understandings ("Prior Agreements") with respect to the subject matter hereof. In the event any such Prior Agreement remains in effect to the extent required by applicable law, if there is a conflict between the provisions of this Agreement and such Prior Agreement, the provisions stipulated in the body of this Agreement shall control.

20.2. Failure by either Party to enforce any provision of this Agreement shall not be deemed a waiver of that provision or of any other provision of this Agreement.

## **21. NOTICES**

21.1. Notices by Parties may be given by means of electronic mail, fax, or by conventional mail, unless otherwise specified in this Agreement.

21.2. All notices to Licensor must be sent to the addresses listed on the following web page: <http://www.avcaptureall.com/PublicPages/Company/ContactUs/tabid/195/Default.aspx>

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by duly authorized officers or representatives as of the date first above written.

**AV Capture All, Inc.**

**City of Pacific, WA.**

By: 

By: \_\_\_\_\_

Print Name: Chad Swanson

Print Name: \_\_\_\_\_

Title: CEO

Title: \_\_\_\_\_

Date: 07/22/2016

Date: \_\_\_\_\_

**EXHIBIT A**

**Business Terms**

**1. Subscription Term: August 1<sup>st</sup> 2016 – July 31<sup>st</sup> 2018 (36 Months)**

<b>Product/Service</b>	<b>Lic's</b>	<b>Unit Price</b>	<b>Extended Amt</b>
Subscription – Legislative/Judicial Combo	1	\$299. <sup>00</sup> /Mo	\$299. <sup>00</sup> /Mo
- Agenda Voting Application			
- Public Access – 100 Hrs			
- Archive – 500 Hrs			
- Support- Unlimited			
Discount (Legislative/Judicial Combo)			
- (\$50. <sup>00</sup> /Mo)			
		<b>TOTAL:</b>	<b><u>\$249.<sup>00</sup>/Mo</u></b>

**Annual Payment**

Total Annual Subscription Price (Monthly x 12)

**\$2,988.<sup>00</sup>/Yr**

- Note: Amounts do not include applicable tax.

**2. Licensor Representative:**

- Representative Name: Chad Swanson
- Representative Phone: **888-360-2822**
- Representative Email: [chad.swanson@avcaptureall.com](mailto:chad.swanson@avcaptureall.com)

**3. Subscriber Contact Information:**

- Agency: **City of Pacific, WA.**
- Authorized Representative Name: \_\_\_\_\_
- Authorized Representative Email: \_\_\_\_\_
- Mailing Address: \_\_\_\_\_
- Street Address: \_\_\_\_\_
- Phone: \_\_\_\_\_
- Fax: \_\_\_\_\_
- Administrative Contact Name: \_\_\_\_\_
- Administrative Contact Phone: \_\_\_\_\_
- Administrative Contact Email: \_\_\_\_\_
- Accounts Payable Name: \_\_\_\_\_
- Accounts Payable Phone: \_\_\_\_\_
- Accounts Payable Email: \_\_\_\_\_

## Exhibit B

### Subscription Description

The AVCA Legislative subscription includes **Software, Services & Support**.

**Software:** The software is a PC desktop application that handles the A/V recording, document integration/syncing, and publishing online. The application is designed for use by a clerk to record and publish meetings online easily and efficiently. The software provides an intuitive user interface enabling the Clerk to import Agendas, Minutes and all Council related documents. All documents are attached to the Audio/Video recording, indexed for searching, and published online for public access. Agenda topics are synchronized to the Audio/Video recording, enabling citizens to jump directly to topics of interest while viewing online. Council members' motions and votes are captured and synchronized to the recording as well.

**Services:** The Services include On-Demand Streaming (Public Access), Archiving (Authorized User Access), and Live Streaming (Public Access). Content that has been dropped into Archive may be made available for Public Access at Subscriber's discretion. Recorded meetings are accessed by the public through the Agency's website, while the content is hosted and streamed using AVCA's Content Distribution Network (CDN). Authorized Users have the ability to log into Subscriber's account to manage published content, make necessary changes, and access optional private sessions not intended for public viewing. Authorized Users have two levels of security; administrator and standard user. Administrative users can manage user accounts and all users can retrieve their own credentials if lost.

**Legislative Basic** - This package includes 100 hrs of on-demand content in Public Access, and 300 hrs of content in Archive. Sessions are recorded locally, then published to cloud storage for hosting, streaming, and public dissemination. Once the total has hit 100 hrs, newly published sessions get published in and the older sessions drop into Archive. Individual sessions can always be un-archived and the oldest in public access will drop into Archive to make room. Once the Archive total of 300 hrs is hit, the oldest sessions drop into 'dark storage' and are available to the customer upon request.

**Legislative Plus** - . This package includes 500 hrs of on-demand content in Public Access, 1,500 hrs of content in Archive, and 500 users per calendar month of Live Streaming. Sessions are recorded locally, then published to cloud storage for hosting, streaming, and public dissemination. Once the total has hit 500 hrs, newly published sessions get published in and the older sessions drop into Archive. Individual sessions can always be un-archived and the oldest in public access will drop into Archive to make room. Once the Archive total of 1,500 hrs is hit, the oldest sessions drop into 'dark storage' and are available to the customer upon request. Live streaming is limited to 500 users per calendar month, as defined by publicly addressable IP's. Live streaming is not shut off if the limit is breached, but is only monitored month-to-month. If consistently exceeded, the customer can upgrade to a higher plan.

**Legislative Unlimited** – This package has no limits to the services. All content will remain in Public Access for the duration of the subscription, with no sessions dropping into Archive unless chosen to do so by Subscriber. Live Streaming has no limits to the number of users accessing the stream.

**Support:** Support includes installation, training, upgrades/updates, and on-going user support for the duration of the subscription, with live customer support assistance between 5:00 AM PST/PDT – 9:00 PM PST/PDT. Contact for support is support@avcaptureall.com or 888-360-2822 x2.

## AV Capture All Customer References:

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### **Margaret Yetter**

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(253) 856-5735



PO Box 40482  
Olympia, WA 98504-0482

## Washington State Senate

Phone: (360) 786-7550  
FAX: (360) 786-1999

Tuesday, April 13, 2010

Dear Industry Colleagues,

It is my pleasure to share with you my experiences, support, sincere appreciation, and recommendation for AV Capture All.

The Washington State Senate began using AV Capture All (AVCA) in January 2009. We had been using a competing product, "For The Record (FTR)," for a number of years prior but were very dissatisfied by the proprietary recording format, as well as, the non-responsive support from their customer service. We had been looking for an alternative product unsuccessfully for quite a while until we learned about AVCA. We were so pleased with the product that several of the Legislative sub-agencies, as well as, the Washington State House of Representatives have now switched to AVCA.

There are several factors which separate AVCA from their competition: the simplicity of the use; clean interface; accessibility of data; cost. But for us, hands-down, it was the level of customer service and the meta-data indexing which is captured in the files. The product is closely integrated with Microsoft Word which allowed us to import our meeting agendas, take notes, and create time-stamped hyperlinks to topical content – all from within the AVCA software window. Furthermore, it is so simple to do that training of staff was a breeze! We process hundreds and even thousands of bills every year in the Legislature. And with AVCA we now can retrieve the audio or video of any bill in seconds, merely by typing in the bill number into their powerful search engine on their website. All of our imported committee meeting agendas were automatically indexed and associated with their respective meeting recordings. Powerful and amazing! This feature alone has allowed our staff to become so much more efficient and saved countless hours in time previously spent listening to audio in "real-time" trying to find specific recordings.

On the few occasions that we did have questions about the product we were able to reach a "live" customer service representative on the first call. And when I sent email questions I received responses back the same day – sometimes within minutes of my inquiry! Their customer service levels have far exceeded my expectations and rival any technology service desks that I've dealt with in over 25 years of business.

As stated above, it is my sincere pleasure to recommend AV Capture All to anyone needing audio or video recording capability. The product is simply outstanding!

Sincerely,

A handwritten signature in black ink, appearing to read "Kevin A. Pierce". The signature is fluid and cursive, with a large initial "K" and "P".

Kevin A. Pierce  
Manager, Support Services  
Technology, Photo and Video  
Washington State Senate



**TO:** Mayor Guier and City Council Members  
**FROM:** Richard A. Gould, City Administrator  
**MEETING DATE:** September 12, 2016  
**SUBJECT:** Ordinance No 2016-1939 Amending the 2016 FTE Schedule

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**ATTACHMENTS:** Ordinance No. 2016-1939  
Amended Salary Schedule-2016  
Adopted Salary Schedule-2016

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**Previous Council Review Date:** The Council reviewed the job description for the Administrative Sergeant on September 6, 2016 and approved the addition of the Admin Sergeant on September 12<sup>th</sup>.

**Summary:** This Ordinance is presented to amend the 2016 Budget for the Salary Schedule regarding the following item:

Addition to the Police Department with the Administrative Sergeant position, staff addition to reflect accurate staffing for 2016 (now 3 sergeants).

This addition may increase the approved budget for 2016 depending on the timing of hire.

**Recommendation/Action:** Adopt Ordinance No. 2016-1939 adopting the Amended-Budget for the year 2016 and amending the Salary Schedule (staffing levels).

**Motion for Consideration:** I move to adopt Ordinance No. 2016-1939 amending the Budget for the year 2016 and setting forth the amended Salary Schedule.

**Budget Impact:** unknown at this time

**Alternatives:** N/A

**CITY OF PACIFIC  
WASHINGTON  
ORDINANCE NO. 2016-1936**

**AN ORDINANCE OF THE CITY OF PACIFIC, WASHINGTON,  
AMENDING THE 2016 SALARY SCHEDULE ATTACHED TO  
THE BUDGET ADOPTED UNDER ORDINANCE 2015-1920,  
AND ESTABLISHING AN EFFECTIVE DATE.**

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**WHEREAS**, the City Council adopted Ordinance 1920 on December 14, 2015, which adopted the City's 2106 budget; and

**WHEREAS**, pursuant to RCW 35A.33.120, the City Council may authorize the expenditure of funds in excess of estimated financing received during the current fiscal year by ordinance, amending the original budget; and

**WHEREAS**, the City Council desires to amend the 2016 Salary Schedule attached as Exhibit A to Ordinance No. 1920 due to the addition of an additional Sergeant position for 2016;

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

**Section 1.** Section 3 of Ordinance 1920 is hereby amended to remove Exhibit A, and to replace it with Exhibit A to this Ordinance. Exhibit A to this Ordinance is adopted as the 2016 Salary Schedule and the 2016 Maximum Position Authorization, showing the authorized, budgeted staffing level.

**Section 2. Notification.** The City Clerk is directed to transmit a copy of this amendment to the budget to the Office of the State Auditor and the Association of Washington Cities.

**Section 3. Effective Date.** This ordinance shall be in full force and take effect five (5) days after its passage, approval and publication according to law.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF  
ON THE 12<sup>th</sup> day of September, 2016.**

CITY OF PACIFIC

\_\_\_\_\_  
Mayor Leanne Guier

ATTEST:

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Amy Stevenson-Ness, CMC  
City Clerk

Approved as to form:

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Carol Morris, City Attorney



## 2016 SALARY & AUTHORIZED FTE SCHEDULE

*Revised 09/12/16*

DEPARTMENT	POSITION	FULL TIME EQUIVALENTS NUMBER AUTHORIZED & BUDGETED		MONTHLY SALARY RANGE	
				Minimum	Maximum
Council	Elected Mayor	1		750.00	750.00
	Elected Council Member	7		200.00	200.00
	<i>Total Elected Officials</i>	<i>8</i>			
Admin.	City Administrator	1		7,500.00	9,500.00
	City Clerk	1		4,500.00	6,500.00
	Office Assistant	1		2,500.00	4,500.00
Comm. Dev.	Community Development Manager	1		6,500.00	8,500.00
	Building Inspector	1		4,000.00	6,000.00
	Associate Planner	1		4,500.00	6,500.00
	Permit Technician	0.75		3,000.00	5,000.00
	Youth Services Coordinator	1		2,750.00	4,750.00
	Community Services Assistant	1		2,750.00	4,750.00
	Bus Driver/Activities Coordinator	0.75		2,500.00	4,500.00
Court	Court Administrator	1		5,000.00	7,000.00
	Court Clerk	1		3,500.00	5,500.00
Finance	Lead Finance Technician	1		4,500.00	6,500.00
	Finance Technician II	2		3,500.00	5,500.00
Police	Public Safety Director	1		9,000.00	11,000.00
	Police Lieutenant	1		7,500.00	9,500.00
	Police Administrative Sergeant	1		6,360.00	8,480.00
	Police Sergeant	2		6,000.00	8,000.00
	Police Detective	1		5,500.00	7,500.00
	Police Officer	7		5,500.00	7,500.00
	Evidence Technician	1		3,500.00	5,500.00
	Police Services Specialist II	1		3,500.00	5,500.00
Public Works	Public Works Manager	1		6,000.00	8,000.00
	City Engineer	1		6,000.00	8,000.00
	Water/Stormwater Manager	1		4,500.00	6,500.00
	Public Works Lead	1		4,000.00	6,000.00
	Stormwater Technician	1		4,200.00	4,900.00
	Maintenance Worker II	3		4,000.00	6,000.00
	Maintenance Worker I	2		3,000.00	5,000.00
				HOURLY RATES	
Police	Correction Sergeant (1)			25.00	
Police	Correction Officer (3)			17.00	22.00
Comm. Dev.	Youth Services Assistant (seasonal)			9.50	11.83
Public Works	Seasonal Public Works Crew (2)			15.67	
	<i>Total Authorized &amp; Budgeted Staff</i>	<i>47.5</i>			



## 2016 SALARY & AUTHORIZED FTE SCHEDULE

*Revised 06/09/16*

DEPARTMENT	POSITION	FULL TIME EQUIVALENTS NUMBER AUTHORIZED & BUDGETED	MONTHLY SALARY RANGE	
			Minimum	Maximum
Council	Elected Mayor	1	750.00	750.00
	Elected Council Member	7	200.00	200.00
	<i>Total Elected Officials</i>	<i>8</i>		
Admin.	City Administrator	1	7,500.00	9,500.00
	City Clerk	1	4,500.00	6,500.00
	Office Assistant	1	2,500.00	4,500.00
Comm. Dev.	Community Development Manager	1	6,500.00	8,500.00
	Building Inspector	1	4,000.00	6,000.00
	Associate Planner	1	4,500.00	6,500.00
	Permit Technician	0.75	3,000.00	5,000.00
	Youth Services Coordinator	1	2,750.00	4,750.00
	Community Services Assistant	1	2,750.00	4,750.00
	Bus Driver/Activities Coordinator	0.75	2,500.00	4,500.00
Court	Court Administrator	1	5,000.00	7,000.00
	Court Clerk	1	3,500.00	5,500.00
Finance	Lead Finance Technician	1	4,500.00	6,500.00
	Finance Technician II	2	3,500.00	5,500.00
Police	Public Safety Director	1	9,000.00	11,000.00
	Police Lieutenant	1	7,500.00	9,500.00
	Police Sergeant	2	6,000.00	8,000.00
	Police Detective	1	5,500.00	7,500.00
	Police Officer	7	5,500.00	7,500.00
	Evidence Technician	1	3,500.00	5,500.00
	Police Services Specialist II	1	3,500.00	5,500.00
Public Works	Public Works Manager	1	6,000.00	8,000.00
	City Engineer	1	6,000.00	8,000.00
	Water/Stormwater Manager	1	4,500.00	6,500.00
	Public Works Lead	1	4,000.00	6,000.00
	Stormwater Technician	1	4,200.00	4,900.00
	Maintenance Worker II	3	4,000.00	6,000.00
	Maintenance Worker I	2	3,000.00	5,000.00
			HOURLY RATES	
Police	Correction Sergeant (1)		25.00	
Police	Correction Officer (3)		17.00	22.00
Comm. Dev.	Youth Services Assistant (seasonal)		9.50	11.83
Public Works	Seasonal Public Works Crew (2)		15.67	
<i>Total Authorized &amp; Budgeted Staff</i>		<i>46.5</i>		



Agenda Bill No. 16-094

**TO:** Mayor Guier and City Council Members  
**FROM:** Kelly Rydberg  
**MEETING DATE:** September 6, 2016  
**SUBJECT:** Public Defender Services

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**ATTACHMENTS:**

- **Resolution No. 2016-370**
- **Public Defender Services RFP**

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**Previous Council Review Date:**

**Summary:** The Court Judge and Administrator have met and developed a timeline for moving forward with the procurement of public defender services. It has become a priority to issue a Request for Proposals (RFP) to obtain responses from public defenders to review competitive pricing as well as establishing a new contract for services as the current public defender's contract has expired. To enable the Finance Director to appropriately budget funds for these services, the legal contract will be from November 1, 2016 to December 31, 2017.

Once approved, an RFP will be issued and accepted for a 14-day time period. The Court would like the new public defender services to begin on November 1, 2016.

**Recommendation/Action:** Approve the process and adopt the resolution.

**Motion for Consideration:** "I move to adopt Resolution No 2016-370 authorizing the Mayor to issue a request for proposals for a public defender services contract."

**Budget Impact:**

**Alternatives:**

**CITY OF PACIFIC, WASHINGTON**

**RESOLUTION NO. 2016-370**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFIC,  
WASHINGTON,**

**WHEREAS**, the current Public Defender's contract has expired; and

**WHEREAS**, the City wants to field competitive bids to assist in lowering budget costs; and

**WHEREAS**, the City deems it necessary for the Public Defender to have a current and ongoing contract; and

**WHEREAS**, the City wishes to retain public defender services on a multi-year professional services contract from November 1 to December 31 (calendar year after initial year);

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF  
THE CITY OF PACIFIC, WASHINGTON, AS FOLLOWS:**

**Section 1.** The Council authorizes the Mayor to issue a request for proposals for a Professional Public Defender Services contract.

**Section 2.** The City Court Administrator will advertise the request for proposal and accept proposals for two weeks.

**Section 3.** The Mayor, Judge and Court Administrator will review submitted proposals and bring to a City Council workshop for review and regular City Council meeting for final selection.

**Section 4.** This Resolution shall take effect and be in force immediately upon its passage.

**PASSED BY THE CITY COUNCIL AT ITS REGULAR MEETING  
THEREOF ON THE 6TH DAY OF SEPTEMBER 2016.**

CITY OF PACIFIC

\_\_\_\_\_  
Leanne Guier, Mayor

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

**ATTEST:**

---

**Amy Stevenson-Ness, CMC  
City Clerk**

**Approved as to Form:**

---

**Carol Morris, City Attorney**

**FILED WITH THE CITY CLERK:  
PASSED BY THE CITY COUNCIL:  
EFFECTIVE DATE:  
RESOLUTION NO.**

**REQUEST FOR PROPOSALS  
FOR  
PUBLIC DEFENDER SERVICES**

**I. PURPOSE OF REQUEST**

The City of Pacific requests proposals to provide public defense services for indigent criminal defendants for a term of one year's commencing on November 1, 2016, with the option to extend the contract with the mutual agreement for parties for an additional two-year period. This Request for Proposals (RFP) seeks responses from both private law firms and public agencies.

The City will pay the selected Public Defender for representational services, including lawyer services and appropriate staff services, infrastructure, investigation and appropriate sentencing advocacy. All proposals should take into account the adopted Standards of the City and the Washington State Supreme Court ("Standards") when submitting proposals. Proposals should include all necessary infrastructure, training, and services necessary to comply with the Standards. Legal services provided will include, but not be limited to, interviews of clients and potential witnesses, legal research, preparation and filing of pleadings, negotiations with the appropriate prosecutor or other agency and court regarding possible dispositions, and preparation for and appearance at court proceedings. The proposal should also provide for attendance at two full court dates per month. Necessary and reasonable expert witness, investigative and other services as detailed in the attached form Contract ("Contract") will be paid directly to the expert or investigator, or reimbursed to the contract provider when authorized by the Court.

**II. INSTRUCTIONS TO PROPOSERS**

A. All proposals should be sent to:

Kelly Rydberg [Municipal Court  
Administrator] City of Pacific

B. All proposals must be in a sealed envelope and clearly marked in the upper left hand corner "RFP - Public Defender."

C. All proposals must be received by 4:30 PM, September 30, 2016. An original and 3 copies of proposals must be presented. No faxed, e-mailed, or telephone proposals will be accepted.

D. Proposals should be prepared simply and economically, providing a straight forward, concise description of the provider's capability to satisfy the requirements of the request. Special bindings, colored displays and promotional materials are not desired. Emphasis should be on completeness and clarity of content. Use of both sides of paper for any submittals to the City is desirable whenever practical.

E. The City will attempt to schedule interviews, if desired, during October, 2016. Proposers should take note that a selection may be made by the City based upon the written proposal submitted and should plan accordingly.

F. The firm or attorney selected shall be notified on October 14, 2016. The Pacific City Council must ratify a contract with the selected firm or attorney as appropriate. The anticipated start date is November 1, 2016.

G. All proposals must include the following information:

1. The name of each and every individual attorney who is proposed to provide public defense services and his or her area of responsibility.

2. A resume for each and every attorney who will provide legal services, or supervise the provision of legal services by others, illustrating the attorney's specific experience in criminal defense.

3. A statement warranting that each and every attorney proposed to provide legal services has read and is familiar with **City Code No. 9.98** establishing standards for the City, and the Supreme Court Standards originally adopted pursuant to the Order at 174 Wn.2d. 1177 and 1192, as amended ("Standards"). Each proposer will be required to warrant that the proposal submitted takes into account all required training, infrastructure, and service provision required under the Standards.

The City has assigned an average of 12 cases per month, using a **weighted/unweighted** [select one] standard. The number of assigned indigent defendants and the resulting trials are dependent on the unique facts and circumstances of any particular case and time period.

4. References.

5. Insurance. The proposer should review the draft contract and indicate his willingness and capability to provide insurance coverage of the same or similar nature. Proposers shall assure the City that their malpractice coverage contains no exclusion for ineffective assistance of counsel.

6. Provide information in your proposal addressing the following:

6.1 Your experience in providing public defense services performance; and contract

6.2 How long has your firm been in existence? How many years has it practiced criminal defense?

6.3 Has your firm handled indigent clients? Describe the type of cases in which you have represented such clients.

6.4 How many attorneys currently employed by your firm would be involved in public defense under the proposal? Resumes and references must be provided for each attorney.

6.5 How many staff employees does your firm employ? How many staff will be assigned to the public defense services contract? If contract or other services are necessary to comply with Supreme Court Standards such as access to a mental health professional or interpreters, indicate how your firm will comply with the Standards in this regard. See proposed Contract, note any duration from provisions for non-routine services.

6.6 Does any attorney or employee of the firm or could reasonably be anticipated to have any conflict of interest with the City? If so, how will that conflict be addressed?

7. Contract Performance.

7.1 If your firm has previously provided or is providing contract services for a city or county, please provide any documented review of contract compliance under those contracts.

7.2 Please note specifically any termination for cause of any public contract in whole or in part within the last ten years. Please note any corrective action required under any such public contract.

7.3 Has any attorney proposed to provide services under your proposal been disciplined by the Washington State Bar Association, or any other mandatory bar association of any other state?

7.4 Has any attorney employed by your firm been removed from a case because of a court finding of ineffective assistance of counsel?

7.5 Has any attorney in your firm been monetarily sanctioned by a court for any reason? Please provide a summary of the sanction, including the court and date sanction was imposed.

7.6 Has any attorney in your firm had an action for malpractice filed against the attorney in any courts? If so, what is the status or disposition of the filing?

**III. PROPOSED DELIVERY OF SERVICES (Scope of Services is described in Section VI.)**

Taking into account the Standards for Services adopted by the City as well as by the Washington State Supreme Court, please provide the following information or proposals:

- A. Please describe your firm's general policy guidelines when addressing the needs of indigent misdemeanor clients.
- B. How will you monitor the case load of attorneys providing Indigent Defense Services?
- C. What type of training do the attorneys in your firm receive which would be relevant to the practice in criminal law and public defense?
- D. What is your firm's capacity for working with non-English speaking clients?
- E. Does your firm have any experience working with ex-offenders, the mentally ill, or other clients in need of social service referrals?
- F. Please provide information regarding your firm's ability to report both monthly and annually regarding the assigned case load, the disposition of cases and the types of cases assigned.

#### IV. SELECTION CRITERIA

The selection of a Public Defender will be based upon the ability of the proposer to best meet the guidelines established by the 2011 Washington State Bar Association which state:

The object of these guidelines is to alert the attorney to the course of action that may be necessary, advisable, or appropriate and thereby assist the attorney in deciding the particular actions that must be taken in a case to begin **ensure the client receives the best representation possible.** [emphasis added]

In its evaluation process, the City will consider the completeness of the written proposal, the qualifications of the specific individuals proposed for assignment to act as a Public Defender, the proposer's history of successfully fulfilling contracts of this type, experience in similar work, the proven or potential ability of the proposer to fully comply with all Standards as well as the competitiveness of the fee structure proposed. Each proposal will be independently evaluated on these factors.

#### V. TERMS AND CONDITIONS

- A. The City reserves the right to reject any and all proposals and to waive minor regularities in any proposal.
- B. The City reserves the right to request clarification of information submitted and to request additional information from any proposer.
- C. The City reserves the right to award any Contract to the next most qualified proposer, if the successful proposer does not execute a Contract within thirty (30) days after the award of the proposal.
- D. Any proposal may be withdrawn up until the date and time set for opening of the proposals. Any proposal not timely withdrawn shall constitute an irrevocable offer for a period

of sixty (60) days to provide to the City the services described herein or until or more of the proposals have been approved by City administration, whichever first occurs.

E. The Contract resulting from the acceptance of the proposal shall be in approximately the form shown in this RFP. A copy of the Contract is attached for review. Any proposed amendment to the Contract should be noted in the proposal submitted. The City reserves the right to reject any proposed Contract change which does not conform to the specifications contained in the RFP, or which is not warranted to provide a level of service sufficient to meet the adopted Standards. Any proposed amendment to the Contract should be noted in the proposal submitted.

F. The City shall not be responsible for any costs incurred by a firm in preparing, submitting, or presenting its response to the RFP.

G. Term. Public defense services will commence on November 1, 2016 for an initial term of two (2) years and two (2) months, terminating on December 31, 2018. The parties may mutually agree to extend the resulting Contract for an additional term of two (2) years terminating on December 31, 2020.

H. Screening. Termination of indigency for eligibility for appointed counsel for this Contract shall be determined by the Pacific **Municipal** court. The

Public Defender will not be responsible for screening potential clients. Should the Public Defender determine a defendant is not eligible for assigned counsel, the Public Defender will so inform the court and move to withdraw from the case.

I. Reporting. The Public Defender shall file monthly reports with the City delineating each client who has been appointed to the Public Defender for representation, in a format mutually agreed to by the parties. The format shall; not include attorney/client privileged information. The report shall designate whether the client was “conflicted” to another attorney for representation or the client hired another private attorney. The court will indicate the charges filed and the disposition of any case as appropriate. The report shall be due on or before the tenth (10th) day of the month in which services were provided.

J. Case Count. A case is defined as the filing of a document with the court naming a person as defendant or respondent, to which an attorney is appointed in order to provide representation. Multiple citations from the same incident will be counted as one case. Each case is counted only once, irrespective of any subsequent reappointments pursuant to a failure to appear (hereinafter FTA). Cases will be counted at the time of first appointment. Cases subsequently conflicted, where a private attorney is hired, will be noted on the next report and will not be counted as a Public Defender case.

K. Associated Counsel. Any counsel associated with or employed by the Public Defender shall have the authority to perform the services called for herein, and the Public Defender may employ associated counsel to assist at the Public Defender’s expense. The Public Defender and all associated counsel hired pursuant to this section shall be admitted to practice pursuant to

the rules of the Supreme Court of the State of Washington. Sufficient counsel shall be provided to represent defendants during a vacation and illnesses, in settings in more than one courtroom.

L. Attorney Conflict. In the event the Public Defender must withdraw from a case because of a conflict of interest, the Court shall appoint the defendant to another attorney competent and able to provide legal services to the indigent. The cost of conflict counsel shall be paid by the City and not by the Public Defender.

M. Discovery Provided. The City will provide to the Public Defender at no cost to the Public Defender or defendant one (1) copy of all discoverable materials concerning each assigned case with the exception of audio and video tapes which shall be made available for inspection in accordance with the rules of discovery. The Public Defender will receive electronic copies of discovery or may request hard copies to be provided. The attached form Contract provides additional information regarding other routine and non-routine services and reimbursements.

N. Code Provided. The City shall provide the Public Defender with a copy of the City's criminal code and any amendments thereto adopted during the term of this Contract.

O. Assignment Prohibited. No assignment or transfer of the Contract or any interest in the Contract shall be made by the Public Defender without the prior written consent of the City.

P. Case Loads. Proposers holding more than one public defense Contract shall list each Contract. All attorneys providing services shall maintain a case load which fully complies with the City and Washington State Supreme Court Standards, whichever is more restrictive. Copies of quarterly certifications to the court shall be provided to the City. In the event that these Standards significantly change during the term of the agreement, the parties will meet and renegotiate the terms of the Contract. A "significant change" is a change beyond the adopted City or Supreme Court Standard which materially alters a term or condition of the Contract.

## **VI. SCOPE OF SERVICES**

A. General Description. Pursuant to Chapter 10.101 RCW, all indigent criminal defendants who are determined to be eligible and are charged under the ordinances of the City will be referred to the Public Defender. The Public Defender will provide legal representation for each of these defendants through trial, sentencing, post-conviction review and any appeal to Superior Court or the Washington appellate courts. Such cases may include domestic violence cases. Performance of services shall in all respects comply with the Standards adopted by the Washington State Supreme Court and the City, whichever is more restrictive.

B. Standards for Public Defense. In addition to the Standards, the Public Defender shall at all times comply with the Rules of Professional Conduct (RPC) and all other applicable court rules as the same exist or are hereafter amended. The Public Defender shall maintain the highest standards of conduct and behavior towards the court, the prosecutors, and all parties. The Public

Defender shall comply with the Standards for Public Defense Services adopted by the City as the same exist or are hereafter amended.

C. The Public Defender will attempt to initiate contact with assigned clients within twenty-four (24) hours of assignment. The Public Defender will provide his/her clients with contact information for availability during office hours. The Public Defender will return client phone calls or other attempts to contact the Public Defender within forty-eight (48) hours excluding weekends. The Public Defender shall provide the prosecutor and City police department with contact information assuring twenty-four (24) hour a day access.

D. The Public Defender shall maintain an office and all other infrastructure including an adequate number of secretaries, word processing, paralegals and any and all other support services, including adequate and competent interpreter services necessary to comply with the "Standards." Expert witness, investigator services, mental health assessments and all other services may be provided at additional cost pursuant to court authorization. See the attached Contract for details regarding non-routine services.

## **VII. COMPENSATION**

A. Please present detailed information on the firm's proposed fee schedule either on a price per case basis or on a total yearly/monthly fee, noting any variations for non-routine services. Services not referenced in this RFP or the attached draft Contract that are not explicitly identified as non-routine will be assumed to be included in the basic fee.

B. If the proposal includes by-case compensation, payment by the City for the services will be made only after the services have been performed (through judgment and sentence or dismissal). An itemized billing statement shall be submitted in a form approved by the City. Payment shall be made on a monthly basis in accordance with the City's accounts payable procedures.

C. By submitting its proposal, the Proposer warrants that he or she and all attorneys performing services under the agreement have studied the Standards adopted by the City and the State Supreme Court, and have obtained, as necessary, applicable accounting review of the overhead costs necessary to provide all required infrastructure and services required by such Standards. Proposer further warrants that the proposal submitted is adequate to provide reasonable compensation for the provision of public defense services in accordance with such Standards.

**CITY OF PACIFIC PROFESSIONAL SERVICES AGREEMENT**

THIS Agreement is made effective as of the 1<sup>st</sup> of January, 2014, by and between the City of Pacific, a municipal corporation, organized under the laws of the State of Washington, whose address is:

CITY OF PACIFIC, WASHINGTON (hereinafter the “CITY”)  
100 – 3<sup>rd</sup> Avenue S.E.  
Pacific, WA 98047  
Contact: Mayor Leanne Guier Phone: 253-929-1100 Fax: 253-939-6026

and \_\_\_\_\_, a \_\_\_\_\_(describe entity formation), organized under the laws of the State of Washington, doing business at:

\_\_\_\_\_ (“PUBLIC DEFENDER” or “CONSULTANT”)  
\_\_\_\_\_  
\_\_\_\_\_

Contact: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

for professional services in connection with the following Project:

the provision of legal services to serve as designated Public Defender for the City of Pacific, serving the Pacific/Algona Municipal Court.

**TERMS AND CONDITIONS**

**1. Services by Consultant.**

A. Consultant shall perform the services described in the Scope of Work attached to this Agreement as Exhibit "A," in full compliance with Pacific Municipal Code Chapter 9.98, Public Defense Services, the Washington State Supreme Court Standards for Indigent Defense (CrLJ 3.1 Standards), and the Washington State Bar Association Standards for Indigent Services, requirements of which are incorporated into this Agreement by reference as if fully set forth herein. The services performed by the Consultant shall not exceed the Scope of Work without prior written authorization from the City.

B. The City may from time to time require changes or modifications in the Scope of Work. Such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to the Agreement.

C. As set forth in Exhibit A, the Public Defender shall provide the City with reports and documents related to this Agreement.

D. Within thirty (30) days of receiving notice of award of this Agreement and on an annual basis thereafter, Public Defender shall submit the Public Defender Certification Form, which is attached hereto as Exhibit B, to the City Clerk attesting that the Public Defender and any other attorneys who perform services for the City comply with all of the standards identified in Section 1(A) above, and requirements of this Agreement.

**2. Schedule of Work/Term.**

A. The term of this Agreement shall be for \_\_\_ ( ) years, PROVIDED, HOWEVER, that absent an agreement being entered by the City with another lawyer or law firm, the Public Defender shall remain as attorney of record on all cases to which the Public Defender has been appointed until the court's jurisdiction is terminated by the Court, unless withdrawal is permitted by the Court, as may be required by the Rules of Professional Conduct. Such representation shall continue beyond the term of this Agreement and all provisions of this Agreement shall continue to apply to services performed.

B. The Agreement may be renewed for a two-year period, upon mutual agreement of the parties, as evidenced in a separate amendment, signed by the duly authorized representatives of the parties.

**3. Compensation.**

Compensation for these services shall be as set forth in Exhibit B, attached hereto and incorporated herein by this reference. Although payment is made at a flat monthly rate, it is understood by all parties that compensation shall be for all services rendered and all appointments made by the court in each calendar month. Upon acceptance of payment, the Public Defender will be deemed fully compensated for representation on cases appointed during the calendar month, and shall be obligated to complete his/her duties to each client under the Scope of Work (Exhibit A), so long as the Public Defender is attorney of record, without additional compensation.

**4. Payment.**

A. Public Defender shall maintain time and expense records and provide them to the City monthly after services have been performed, along with monthly invoices in a format acceptable to the City for work performed to the date of the invoice.

B. All invoices shall be paid by City warrant within sixty (60) days of receipt of a proper invoice. If the City objects to all or any portion of any invoice, it shall so notify the Public Defender of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

C. Public Defender shall keep cost records and accounting pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Copies shall be made available on request.

D. On the effective date of this Agreement (or shortly thereafter), the Public Defender shall comply with all federal and state laws applicable to independent contractors, including, but not limited to, the maintenance of a separate set of books and records that reflect all items of income and expenses of the Public Defender's business, pursuant to Revised Code of Washington (RCW) 51.08.195, as required by law, to show that the services performed by the Public Defender under this Agreement shall not give rise to an employer-employee relationship between the parties, which is subject to Title 51 RCW, Industrial Insurance.

**5. Discrimination and Compliance with Laws**

A. Public Defender agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

B. The Public Defender agrees to comply with all federal, state and municipal laws, rules and regulations that are now effective or become applicable within the terms of this Agreement to the Public Defender's business, equipment and personnel engaged in activities covered by this Agreement or accruing out of the performance of such activities.

C. Consultant shall obtain a City of Pacific business license prior to commencing services under this Agreement, or within thirty (30) days of notice of award of the Agreement to the Public Defender, whichever occurs first.

D. Under no circumstances will Public Defender transport by vehicle, or any other mode of transportation, any persons he/she represents as Public Defender, under the terms of this Agreement. Should Public Defender transport any person in violation of this provision, Public Defender assumes all risk and liability and shall defend, indemnify and hold the City, its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorneys' fees and costs, arising out of or resulting from the transport of such persons. This section shall survive expiration of this Agreement.

E. Violation of this Paragraph 5 shall be a material breach of this Agreement and grounds for cancellation, termination, or suspension of the Agreement by City, in whole or in part, and may result in ineligibility for further work for City.

**7. Relationship of Parties.** The parties intend that an independent contractor-client relationship will be created by this Agreement. No agent, employee or representative of the Public Defender shall be or shall be deemed to be the employee, agent or representative of the City. None of the benefits provided by the City to its employees including, but not limited to, compensation, insurance, and unemployment insurance are available from the City to the employees, agents or representatives of the Public Defender. The Public Defender will be solely and entirely responsible for its acts and for the acts of its agents, employees and representatives during the performance of this Agreement.

## **8. Suspension and Termination of Agreement**

A. Termination without cause. This Agreement may be terminated by either party with or without cause by providing one-hundred twenty (120) days' written notice to the other party at the addresses set forth in Section 13.

B. Termination with cause. The Agreement may be terminated for "good cause." Good cause shall include the failure of the Public Defender to render adequate representation to clients, the willful disregard of the rights and best interests of the client, and the willful disregard of the applicable standards described herein. Termination may also occur for violation of the express terms of this Agreement, provided that the Public Defender shall be provided reasonable opportunity, following notice, to cure any technical violations of this Agreement that do not impair the provision of quality representation to the indigent client. Removal by the Court of counsel from representation normally should not occur over the objection of the attorney and the client.

C. Rights Upon Termination.

1. *Without or Without Cause.* Upon termination for any reason, all finished or unfinished documents, reports, or other material of Public Defender prepared pursuant to this Agreement shall be submitted to City, and Public Defender shall be entitled to just and equitable compensation for any satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein. Public Defender shall not be entitled to any reallocation of cost, profit or overhead. Public Defender shall not in any event be entitled to anticipated profit on work not performed because of such termination. Public Defender shall use its best efforts to minimize the compensation payable under this Agreement in the event of such termination.

2. *Default.* If the Agreement is terminated for default, the Public Defender shall not be entitled to receive any further payments under the Agreement until all work called for has been fully performed. Any extra cost or damage to the City resulting from such default(s) shall be deducted from any money due or coming due to the Public Defender. The Public Defender shall bear any extra expenses incurred by the City in completing the work, including all increased costs for completing the work, and all damage sustained, or which may be sustained by the City by reason of such default.

D. Suspension. The City may suspend this Agreement, at its sole discretion. Such notice shall indicate the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to the Public Defender's reasonable expenses, and shall be subject to verification. The Public Defender shall resume performance of services under this Agreement without delay when the suspension period ends.

E. Notice of Termination or Suspension. If delivered to the Public Defender in person, termination shall be effective immediately upon the Public Defender's receipt of the City's written notice or such date as stated in the City's notice of termination, whichever is later. Notice of suspension shall be given to the Public Defender in writing upon one week's advance notice to Public Defender. Such notice shall indicate the anticipated period of suspension. Notice may also be delivered to the Public Defender at the address set forth in Section 15 herein.

F. If, within sixty (60) days of commencing the services contemplated in this Agreement, the City is not satisfied with the work performance of the person assigned by the Public Defender to perform services, the City may terminate this Agreement by providing thirty (30) days' written notice to the Public Defender.

**9. Standard of Care.** Public Defender represents and warrants that it has the requisite training, skill and experience necessary to provide the services under this agreement and is appropriately accredited and licensed by all applicable agencies and governmental entities. Services provided by Public Defender under this agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing in similar circumstances.

**10. Ownership of Work Product.** All data, materials, reports, memoranda and other documents developed under this Agreement, whether finished or not, shall become the property of the City and shall be forwarded to the City at its request. Upon termination of this Agreement pursuant to Section 6 above, all finished or unfinished documents, reports or other material or work of Public Defender prepared

pursuant to this Agreement shall be submitted to the City. The City agrees that if it uses documents prepared by Public Defender for purposes other than those intended in this Agreement, that it does so at its sole risk and it agrees to hold Public Defender harmless therefore.

**11. Performance of Agreement at the Public Defender's Risk.** The Public Defender shall take all precautions necessary and shall be responsible for the safety of its employees and agents in the performance of the work hereunder, and shall utilize all protection necessary for that purpose. All work shall be done at the Public Defender's own risk, and the Public Defender shall be responsible for any loss or damage to computers, equipment, or other articles used or held by the Public Defender for use in connection with this Agreement.

**12. Indemnification.** The Public Defender shall defend, indemnify and hold the City, its officers, officials, employees, agents and volunteers harmless from any and all claims, injuries, damages, losses or suits, including all legal costs and attorneys' fees, arising out of or resulting from the acts, errors or omissions of the Public Defender, its employees or agents in the performance of this Agreement, except for injuries and damages caused by the sole negligence of the City.

IT IS FURTHER SPECIFICALLY AND EXPRESSLY UNDERSTOOD THAT THE INDEMNIFICATION PROVIDED HEREIN CONSTITUTES THE PUBLIC DEFENDER'S WAIVER OF IMMUNITY UNDER INDUSTRIAL INSURANCE, TITLE 51 RCW, SOLELY FOR THE PURPOSES OF THIS INDEMNIFICATION. THE PARTIES FURTHER ACKNOWLEDGE THAT THEY HAVE MUTUALLY NEGOTIATED THIS WAIVER. THE PUBLIC DEFENDER'S WAIVER OF IMMUNITY UNDER THE PROVISIONS OF THIS SECTION DOES NOT INCLUDE, OR EXTEND TO. ANY CLAIMS BY THE PUBLIC DEFENDER'S EMPLOYEES DIRECTLY AGAINST THE PUBLIC DEFENDER. This indemnification shall not expire upon termination of this Agreement.

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

A. Minimum Scope of Insurance

Public Defender shall obtain insurance of the types described below:

1. Automobile Liability insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.
2. Commercial General Liability insurance shall be written on ISO occurrence form CG 00 01 or a substitute form providing equivalent liability coverage and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The City shall be named as an insured under the Public Defender's Commercial General Liability insurance policy with respect to the work performed for the City.
3. Workers' Compensation coverage as required by the Industrial Insurance laws of the State of Washington.

4. Professional Liability malpractice insurance (see below).

B. Minimum Amounts of Insurance

Public Defender shall maintain the following insurance limits:

1. Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of \$1,000,000 per accident.
2. Commercial General Liability insurance shall be written with limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.
3. Professional Liability insurance shall be written with limits no less than \$1,000,000 per claim and \$1,000,000 policy aggregate limit.

C. Other Insurance Provisions

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

1. The Public Defender's insurance coverage shall be primary insurance as respect the City. Any insurance, self-insurance, or insurance pool coverage maintained by the City shall be excess of the Public Defender's insurance and shall not contribute with it.
2. The Public Defender's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the City.

D. Acceptability of Insurers

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

E. Verification of Coverage

Public Defender shall furnish the City with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Public Defender before commencement of the work.

**14. Assigning or Subcontracting.** Public Defender shall not assign, transfer, subcontract or encumber any rights, duties, or interests accruing from this Agreement without the express prior written consent of the City, which consent may be withheld in the sole discretion of the City.

**15. Notice.** Any notices required to be given by the City to Public Defender or by Public Defender to the City shall be in writing and delivered to the parties at the following addresses:

Leanne Guier  
Mayor  
City of Pacific  
100 – 3<sup>rd</sup> Street  
Pacific, WA 98047

Phone: 253-929-1100  
Fax: 253-939-6026

Phone:

Fax:

## 16. Resolution of Disputes and Governing Law.

A. If any dispute arises between the City and the Public Defender under any of the provisions of this Agreement, jurisdiction of any resulting litigation shall be filed in King County Superior Court, King County, Washington.

B. This Agreement shall be governed by and construed in accordance with the laws of the State of Washington. In any suit or action instituted to enforce any right granted in this Agreement, the substantially prevailing party shall be entitled to recover its costs, disbursements, and reasonable attorney's fees from the other party.

## 17. General Provisions.

A. Non-waiver of Breach. The failure of either party to insist upon strict performance of any of the covenants and agreements contained herein, or to exercise any option herein contained in one or more instances, shall not be construed to be a waiver or relinquishment of said covenants, agreements, or options, and the same shall be in full force and effect.

B. Modification. No waiver, alteration, modification of any of the provisions of this Agreement shall be binding unless in writing and signed by a duly authorized representative of the City and the Public Defender.

C. Severability. The provisions of this Agreement are declared to be severable. If any provision of this Agreement is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other provision.

D. Entire Agreement. The written provisions of this Agreement, together with any Exhibits attached hereto, shall supersede all prior verbal statements of any officer or other representative of the City, and such statements shall not be effective or be construed as entering into or forming a part of or altering in any manner whatsoever, the Agreement or the Agreement documents. The entire agreement between the parties with respect to the subject matter hereunder is contained in this Agreement and the Exhibits attached hereto, which may or may not have been dated prior to the execution of this Agreement. All of the above documents are hereby made a part of this Agreement and form the Agreement document as fully as if the same were set forth herein. Should any language in any of the Exhibits to this Agreement conflict with any language contained in this Agreement, then this Agreement shall prevail.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year set forth above.

CITY OF PACIFIC, WASHINGTON

PUBLIC DEFENDER

By: \_\_\_\_\_  
Leanne Guier  
Mayor

By: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

By: \_\_\_\_\_  
Amy Stephenson Ness  
City Clerk

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Carol A. Morris  
City Attorney

ADD exhibits



**TO:** Mayor Guier and City Council Members

**FROM:** Public Works

**MEETING DATE:** September 12, 2016

**SUBJECT:** KPG Agreement for Construction Management Services for Stewart Road Contract Amendment No. 2

**ATTACHMENTS:**

- Resolution 2016-391
- Scope and Budget Amendment

**Previous Council Review Date:**

**Summary:** The attached Resolution provides approval of expenditures with KPG, Inc. for additional professional services for the coordination and management of construction activities for the Stewart Road Project. The Pacific City Council previously authorized by Resolution a professional services agreement between the City of Pacific and KPG, Inc. on May 12, 2014 for \$379,658. That contract was amended on July 13, 2015 for an additional \$198,119, because of additional services required due to the delay caused by franchise utilities failing to relocate their infrastructure in a timely manner. The City required additional services from KPG to quantify and allocate the reimbursement required from the franchise utilities for the delay caused by their failure to relocate their utilities in a timely manner and the slow progress of the contractor to complete the project.

**Recommendation/Action:** Staff recommends Council approve Resolution No. 2016-371.

**Motion for Consideration:** Move to approve Resolution No. 2016-371, A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON, AUTHORIZING EXECUTION OF AMENDMENT NO. 2 TO A CONTRACT WITH KPG, INC. FOR ADDITIONAL CONSTRUCTION MANAGEMENT SERVICES FOR THE STEWART ROAD PROJECT .

**Budget Impact:** If accepted by City Council, the additional cost of the services not to exceed \$58,251.83 for total contract not to exceed \$636,028.62. The City has been reimbursed from Puget Sound Energy \$93,224.63.

**Alternatives:** The City can choose to not amend the contract or amend at a lower amount.

**CITY OF PACIFIC  
WASHINGTON**

**RESOLUTION NO. 2016-371**

A RESOLUTION OF THE CITY OF PACIFIC, WASHINGTON, AUTHORIZING EXECUTION OF AMENDMENT NO. 2 TO A CONTRACT WITH KPG, INC. FOR ADDITIONAL CONSTRUCTION MANAGEMENT SERVICES FOR THE STEWART ROAD PROJECT IN THE AMOUNT OF \$58,251.83.

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**WHEREAS** the City Council, by Resolution No 2014-155 approved a contract with KPG, Inc. for Construction Management services for the Stewart Road / Thornton Avenue S Improvements project in the amount of \$379,657.79; and

**WHEREAS** the City Council, by Resolution No 2015-271 approved a contract amendment with KPG, Inc. for additional Construction Management services for the Stewart Road / Thornton Avenue S Improvements project in the amount of \$198,119.00; and

**WHEREAS** the project entails the day to day inspection / documentation services of the construction activity estimated to be 225 days (approximately 190 full time days and 35 part time days), processing contractor pay requests (compliance with federal payroll standards), reviewing contractor submittals, answering "Requests for Information", weekly property owner communications, surveying, and project close-out activities; and

**WHEREAS** the franchise utilities were not relocated in a timely manner extending the duration of construction time period by approximately 90 days, and

**WHEREAS** the added construction duration requires additional manpower to complete the inspection / documentation services of the construction activities; and

**WHEREAS** the City required assistance to determine the pro-rated cost of additional construction costs and administrative costs to be reimbursed from the franchise utilities; and

**WHEREAS** the detailed record keeping of KPG was instrumental in the City recovering \$93,224.63 from Puget Sound Energy.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC, WASHINGTON, DOES RESOLVE AS FOLLOWS:**

**Section 1,** The Pacific City Council hereby authorizes the execution of Amendment No.2 to the contract authorized by Resolution No 2014-155 between the City of Pacific and KPG, Inc. for Construction Management services for the Stewart Road / Thornton Avenue S Improvements project and amended by Resolution 2015-271 for additional fees of \$58,251.83 for a total contract amount of \$636,028.62.

**Section 2.** This Resolution shall take effect and be in full force upon passage and signatures hereon.

CITY OF PACIFIC

---

LEANNE GUIER, MAYOR

ATTEST/AUTHENTICATED:

---

AMY STEVENSON-NESS, CMC  
CITY CLERK

APPROVED AS TO FORM:

---

CAROL MORRIS, CITY ATTORNEY

**SUPPLEMENTAL AGREEMENT NO. 2  
TIB No. 8-1-117(005)-02**

City of Pacific  
100 3<sup>rd</sup> Ave SE  
Pacific, WA 98047

KPG, Inc.  
2502 Jefferson Ave  
Tacoma, WA 98402

---

**PROJECT: Stewart Road / Thornton Ave Improvement Project – Construction Services**

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This SUPPLEMENTAL AGREEMENT NO. 2 is to supplement the agreement entered into with KPG, Inc. and the City of Pacific, which was executed on the 27th day of July, 2015.

All provisions in the basic agreement remain in effect, except as expressly modified as follows:

**IV., Summary of Work**, shall be supplemented with the following:

*The new contract provides approval of expenditures with KPG, Inc. for additional professional services for the coordination and management of construction activities for the Stewart Road Project. The City required additional services from KPG to quantify and allocate the reimbursement required from the franchise utilities for the delay caused by their failure to relocate their utilities in a timely manner and the slow progress of the contractor to complete the project.*

**II., Payment**, shall be modified as follows:

*Payment for work provided by Consultant shall be made as provided on Exhibit A, attached hereto, provided that the total amount of payment to the Consultant for this work not exceed \$58,251.83 without express written modification of the Agreement signed by the City. The new total contract shall not exceed \$636,028.62 without express written modification of the Agreement signed by the City. This extends the approximate construction schedule by 90 days.*

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

APPROVED:

APPROVED:

CITY OF PACIFIC

KPG, INC.

\_\_\_\_\_  
Leanne Guier  
Mayor

  
\_\_\_\_\_  
Terry Wright, P.E.  
Principal

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney's Office

ATTEST:

\_\_\_\_\_  
City Clerk



Interdisciplinary Design  
 3131 Elliott Avenue Suite 400  
 Seattle, WA 98121  
 P | 206.286.1640  
 www.kpg.com

EXHIBIT A

City of Pacific  
 Jim Morgan  
 100 3rd Ave SE  
 Pacific, WA 98047

Invoice number 715016  
 Date 08/03/2016

Project **14057 STEWART RD/THORNTON AVE  
 IMPROVEMENT - CM SERVICES**

Professional services through 07/25/2016

Project No. 14057  
 Contract Completion: March 31, 2016

SUMMARY OF WORK PERFORMED THIS REPORTING PERIOD:  
 - Construction Services.

WORK TO BE PERFORMED NEXT PERIOD:  
 - Construction Services.

BUDGET ISSUES:

As you may be aware, this project is projected to run several months longer than budgeted and the amount of effort required to provide construction services is much larger than anticipated due to the design and utility issues. We currently anticipate exceeding the approved budget by over \$200,000.

Invoice total **58,251.83**

**Invoice Summary**

Description	Budget Amount	Percent Complete	Total Billed	Previous To Date	Contract Balance	Amount This Invoice
1. Management/Meetings/Admin	13,724.25	89.56	12,291.52	12,291.52	1,432.73	0.00
2. Preconstruction Services	8,564.06	99.54	8,525.02	8,525.02	39.04	0.00
3. Construction Services - Field	166,544.12	164.47	273,913.61	273,913.61	-107,369.49	0.00
4. Construction Services - Office	177,265.57	144.27	255,742.17	255,742.17	-78,476.60	0.00
Direct Expense, Incl. Material Testing	13,560.00	159.86	21,676.96	21,676.96	-8,116.96	0.00
Signal - King County Changes	0.00	0.00	3,253.04	3,253.04	-3,253.04	0.00
Signal - ADA Redesign	0.00	0.00	1,495.76	1,495.76	-1,495.76	0.00
Utility - Resolution of Utility Conflicts	0.00	0.00	38,216.44	38,216.44	-38,216.44	0.00
Accelerated Schedule	0.00	0.00	3,205.20	3,205.20	-3,205.20	0.00
Am. 1 Utility Delay - Construction Services	122,572.79	50.06	61,356.88	3,105.05	61,215.91	58,251.83
Am. 1 Additional Construction Services	75,546.00	0.83	624.19	624.19	74,921.81	0.00
<b>Total</b>	<b>577,776.79</b>	<b>117.74</b>	<b>680,300.79</b>	<b>622,048.96</b>	<b>-102,524.00</b>	<b>58,251.83</b>

**Aging Summary**

Invoice Number	Invoice Date	Outstanding	Current	Over 30	Over 60	Over 90	Over 120
914715	10/07/2015	494.26					494.26
1114615	12/14/2015	28,814.70					28,814.70
214816	03/10/2016	11,591.23					11,591.23
315016	04/08/2016	1,470.86				1,470.86	
414816	04/29/2016	1,901.12				1,901.12	

**Aging Summary**

Invoice Number	Invoice Date	Outstanding	Current	Over 30	Over 60	Over 90	Over 120
715016	08/03/2016	58,251.83	58,251.83				
	Total	102,524.00	58,251.83	0.00	0.00	3,371.98	40,900.19

Approved by:



Kelly L. Clark  
Project Manager

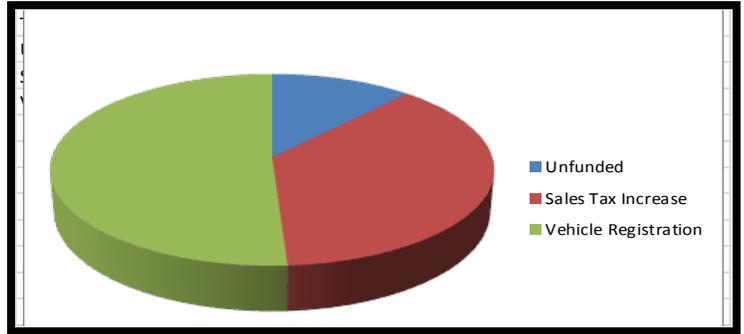
*Thank you for allowing KPG to serve the City of Pacific.  
If you have any questions regarding this invoice, please call me at (253) 627-0720.*

## A TBD has arrived in the City of Pacific

On July 15, 2016 the Pacific City council authorized the formation of a transportation benefit district (TBD). On August 22, 2016 the council assumed the powers to operate the TBD as a function of City government. In Washington State there are approximately 90 cities and towns and 5 counties that have TBDs. More than half of the cities and towns have assumed the power of the TBD within their government system. The first TBD was formed in 1992 by Whatcom County to fund the ferry to Point Roberts. Twelve jurisdictions have not funded there TBD.

A TBD is used to collect funds for the construction of transportation improvements in the city infrastructure: sidewalks, trails, roads, ADA accessibility, etc. The funding options allowed by state law (RCW 37.73) permit a local fee on license tabs, an increase in sales tax, an increase in property taxes, issuance of bonds, or impact fees. The tax alternatives require a vote of the citizens in the district.

A \$20.00 license tab increase can be authorized by the council without a vote of the stakeholders. Every two years the rate can be raised up to an additional \$20.00 by TBD board vote, until a maximum rate of \$50.00 has been attained. Fifty two entities have adopted a car tab fee ranging from \$10 to \$80. The stakeholders in twenty eight cities have elected to increase the sales tax between 0.10 and 0.20 percent to fund their TBD. There are currently no known TBDs funded with an increase in property taxes.



### Costs of Fee Collection

There are costs associated with each funding option. The Department of Licensing charges approximately 1% of the added vehicle registration fee. The property tax and sales tax increases require a fee to place the proposals on the ballot. Bonds will require a commission to the agency selling the bonds.

**Additional information about TBDs may be found at the following links:**

<http://mrsc.org/Home/Explore-Topics/Finance/Special-Topics/Transportation-Benefit-Districts.aspx>

<http://www.dol.wa.gov/vehicleregistration/localfees.html>

<http://www.cityofvancouver.us/publicworks/page/frequently-asked-questions-tbd-vehicle-license-fee>

### Vehicles subject to fees:

- Passenger vehicles
- Trucks that weigh 6,000 pounds or less
- Motorcycles
- Commercial passenger vehicles and trucks that weigh 6,000 pounds or less
- Combination trucks that weigh 6,000 pounds or less
- Tow trucks
- House moving dollies
- Trucks used exclusively for hauling logs that weigh 6,000 pounds or less
- Taxicabs
- For-hire or stage vehicles with 6 seats or less
- For-hire or stage vehicles with 7 or more seats that weigh 6,000 pounds or less
- Private use trailers over 2,000 pounds
- Motorcycle trailers
- Travel trailers
- Fixed load vehicles that weigh 6,000 pounds or less
- Mobile homes licensed as vehicles

### Exempt vehicles:

- All farm vehicles
- Campers
- Off-road vehicles
- Snowmobiles
- Mopeds
- Personal use trailers with a single axle and less than 2,000 pounds scale weight
- Commercial trailers
- Combination trailers
- Trailers used exclusively for hauling logs
- Horseless carriage, collector, or restored-plate vehicles
- Converter gear
- Government vehicles
- Private school vehicles
- Vehicles properly registered to disabled American veterans

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## NEWS

# Pacific eyes Transportation Benefit District

by [CHRIS CHANCELLOR](#), Auburn Reporter Reporter, Schools, Education, Sports  
Jul 14, 2016 at 5:00PM

Pacific officials are looking into additional sources for street funding, and the formation of a Transportation Benefit District is one possibility.

Jim Morgan, public works manager, presented the possibility at a public hearing during Tuesday's city council meeting.

"It would open up some funds for doing street projects on non-federally registered roads," he said, adding that only federally-registered roads qualify for grant programs. "If you want to start doing chip seal and some of the other preservation on the local residential streets, you have to have a source of money. This would be that source of funds that we can use on those things."

Pacific can set up a TBD, which would allow it to charge an extra vehicle registration fee and sales and property taxes to fund road projects through the Revised Code of Washington. Any money raised through a TBD must be used for road projects.

Transportation Benefit Districts have become more popular within the state – local cities, such as Seattle use them – and Pacific officials believe they could aid the City's quest to repair deteriorating sidewalks and streets. Last year, the City hired Infrastructure Management Services to complete a traffic study to help the city council prioritize its transportation projects. Morgan said most of Pacific's roads were between "ideal" and "awful" conditions. Maintaining that level, he said, would cost the City \$250,000-\$300,000 per year.

Morgan estimated the City could generate \$140,000-\$150,000 per year in property taxes by an increase of 25 cents per \$1,000 of assessed property value, while, based on research of vehicles licensed in the city, license tabs could generate \$100,000-\$110,000. An increase in the sales tax by two-tenths of 1 percent, Morgan said, would generate about \$125,000 per year.

Two councilmembers, Vic Kave and Clint Steiger, expressed concerns about extra taxes on license tabs, which cannot exceed \$20 per state law without a vote. With voter approval, that tax could add as much as \$100 per vehicle to the cost registration. Kave said he felt the council would "meet resistance" from residents having to pay for campers or trailers they pull behind their cars. Meanwhile, Steiger said, while he owns five cars, he only uses one on a regular basis, and he felt extra license tab fees would penalize him more than other drivers who use multiple cars more often.

"License tabs are not a fair and equitable way to fund this," he said. "There's got to be a more equal way to do this funding."

But Morgan said a TBD would benefit the City in many ways. He said money collected could be saved for larger projects or to construct bicycle lanes or trails. Morgan said the extra revenue would help alleviate another annoyance.

“We don’t have to go out and fill potholes,” he said. “It’s a more efficient use of staff time if roads are maintained properly.”

### Elsewhere

The council appointed Duwayne Gratz to the City’s planning commission to fill an unexpired term ending Dec. 31, 2020.

It authorized a execution of an agreement with the Washington State Patrol for the Statewide Electronic Collision and Ticket Online Records program;

And it authorized an \$8,000 agreement with CivicLife to redevelop the City’s website.

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