

ORDINANCE NO. 4955

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ELLensburg, WASHINGTON, AMENDING THE ELLensburg CITY CODE BY REORGANIZING THE PUBLIC WORKS AND UTILITIES DEPARTMENT INTO SEPARATE DEPARTMENTS KNOWN AS “PUBLIC WORKS” AND “ENERGY SERVICES,” RENAMING THE CITY’S PUBLIC WORKS AND UTILITIES DIRECTOR TO THE PUBLIC WORKS DIRECTOR, ASSIGNING THE DUTIES AND MANAGEMENT FUNCTIONS OF THE ELECTRIC, GAS AND TELECOM UTILITIES TO THE ENERGY SERVICES DIRECTOR, AND AMENDING TITLES 1, 2, 3, 4, 5, 8, 9, 11, 14, AND 15 OF THE ELLensburg CITY CODE.

WHEREAS, on December 2, 2024, the City Council adopted Ordinance No. 4950 the 2025-2026 Biennial Budget which included funding for the reorganization of the Public Works and Utilities Department into two separate departments, Public Works and Energy Services, to create capacity in energy resources and planning to better serve the community’s short and long-term energy needs; and

WHEREAS, on December 2, 2024, City Council approved Pay Plan Resolution No. 2024-33 for fiscal year 2025 for non-represented City employees which included changes to positions and titles affected by the proposed reorganization; and

WHEREAS, the reorganization of certain City departments also requires changes to several chapters of Ellensburg City Code (ECC) to rename titles, authorities, accountability, and funds to reflect the changes;

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

**Section 1. Section 1.14.040 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4883, is hereby amended to read as follows:**

**1.14.040 - Creation—Membership.**

There is created a planning commission for the city of Ellensburg. The commission shall be known as “the Ellensburg planning commission” and shall consist of seven members who shall be appointed by the mayor, subject to confirmation by the city council, for six-year terms. Not less than five members shall be residents of the city of Ellensburg. The director of public works ~~and utilities, the director of energy services and the director of planning and community~~ development or their designees shall not be members of the planning commission, but shall serve as advisors and shall be permitted to participate in planning commission discussions and deliberations, but shall have no vote.

(Ord. 4883 § 2, 2022; Ord. 4804 § 4, 2018; Ord. 4083, 1997; Ord. 3269 § 4(1), 1980)

**Section 2. Section 1.75.060 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4804, is hereby amended to read as follows:**

**1.75.060 - Definitions.**

- A. Adoption by reference. The definitions set forth in chapter 42.56 RCW, as presently adopted and as may be subsequently amended, are hereby adopted by reference, together with all amendments and additions provided in this chapter. A copy of each statute referenced is available on the city's website and also filed in the office of the city clerk and is available for use and examination by the public.
- B. Additional definitions. As used in this chapter, unless the context or subject matter clearly requires otherwise, the words or phrases defined in this section shall have the indicated meaning:

City includes city officers, employees or agents.

Department means a major functional division of the city's government; the following are city departments: community development, finance, human resources, library/Hal Holmes Center, parks and recreation, police, energy services and public works and utilities.

Department head means either the director of each department or, for purposes of this chapter only, the city attorney, as to the records of the mayor and city council, city manager and city attorney. The term includes persons who may be designated by the department head to perform functions contemplated by this chapter.

Public Records Act shall mean chapter 42.56 RCW as currently enacted or hereafter amended.

(Ord. 4804 §§ 1, 3, 2018; Ord. 4754 § 2, 2016)

**Section 3. Section 2.16.2600 of the Ellensburg City Code, as last amended by Section 9 of Ordinance 4804, is hereby amended to read as follows:**

**2.16.2600 - Public works and utilities change and revolving fund established.**

There shall be established a public works and utilities department revolving petty cash fund in the amount of \$150.00 for the purpose of making change and \$75.00 for the payment of small purchases or freight and postage charges due. All expenditures from the fund shall be supported by proper receipts with reimbursement authorized from the claims fund upon presentation of the receipts with vouchers to the city council.

(Ord. 4804 § 9, 2018; Ord. 4782 § 3, 2017; Ord. 4763 § 1, 2017)

**Section 4. Section 2.18.140 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**2.18.140 Officer designated to make preliminary estimates.**

The city public works and utilities director is designated as the city's officer responsible for taking, or causing to be taken, such actions as are required to be taken by RCW 35.43.130, as such statute may be amended from time to time.

(Ord. 4804 § 4, 2018; Ord. 4398, 2004)

**Section 5. Section 2.48.040 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4804, is hereby amended to read as follows:**

**2.48.040 Utility service application.**

- A. Any person owning property outside the city limits and desiring to have their property connected to the city's water supply system or sanitary sewer system shall be required to make application for both water and sanitary sewer service together and shall make application at the office of the Ellensburg community development department on the appropriate form. Any person owning property outside the city limits and desiring to have their property connected to the city's electric system shall make application at the ~~public works and utilities~~ energy services department on the appropriate form. Every such application shall be made by the owner of the property to be connected and supplied the service, or by his/her authorized agent. The applicant must state fully the purposes for which the water and sewer service or electric service is required. Applicants must agree to conform to the city's rules and regulations concerning water, sewer and electric service as set forth in this title and in ECC Title 9, as the same now exists or may exist in the future.
- B. If the city receives such a utility service application and subsequently issues a notice to serve, such notice to serve shall expire within six months of the date of issuance, if the applicant does not pay the required fees and request an actual hook-up or connection to the subject property within that time period.

(Ord. 4804 § 1, 2018; Ord. 4589 § 1, 2011; Ord. 4503 § 3, 2007)

**Section 6. Section 2.48.060 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**2.48.060 Utility extension agreements—Terms and conditions.**

- A. Every applicant for water, sewer or electric service outside the city limits must agree to sign an agreement with the city, upon terms provided by the city council, which agreement shall condition the provision of the service on the following terms:
  1. *Agreement to run with the property.* The agreement shall be recorded against the property in the Kittitas County auditor's office, at the cost of the applicant, and shall

constitute a covenant running with the land. All covenants and conditions of the agreement shall be binding on the owner and all other individuals subsequently acquiring any right, title or interest in or to the property.

2. *Warranty of title.* The agreement shall be executed by the owner of the property, who shall warrant that he/she is authorized to enter into such agreement. The city may request a recent title report for the property.

3. a. *Costs of design engineering and construction of extension.* The owner shall agree to pay all costs of design, engineering and construction of the extension of water, sanitary sewer, and required street improvements associated with the project and, when included in the project, natural gas and electrical services from Ellensburg. The design, engineering and construction of the required public improvements shall be performed according to city standards and conform to plans reviewed and approved by the city public works and utilities director.

b. *Costs of plan review and construction inspection.* Costs of plan review and construction inspection shall also be paid by the owner according to the cost schedule incorporated in the city's public works development standards and made part of ECC title

4. *Easements and permits.* The owner shall secure and obtain at the owner's sole cost and expense all permits, easements and licenses necessary to construct the extension.

5. *Dedication of capital facilities.* If requested by the city, the owner shall agree to dedicate all capital facilities constructed as part of the water and sanitary sewer extension (such as water or sewer main lines, pump stations, wells, etc.) at no cost to the city, upon the completion of construction, approval and acceptance by the city.

6. *Connection charges.* The owner shall agree to pay the connection charges set by the city in the relevant sections of the Ellensburg City Code as these sections now exist or may hereafter be amended, as a condition of connecting to the city water and sanitary sewer systems. Such connection charges shall be calculated at the rate schedules applicable at the time of actual connection. In addition, such connection charges shall be paid by the owner for connection to the natural gas and electrical systems if requested by the owner. In the event sewer service is requested to address a failed septic system, the owner may request relief from the requirement to concurrently connect to both water and sewer by executing a commitment to connect to the city water system, and pay all design, permit and construction fees associated with the service line and any necessary water main line extensions, within three years of execution of the utility extension agreement.

7. *Service charges.* The owner shall agree to pay for utility service rendered according to the rates for services applicable to properties outside the city limits as such rates exist, or as they may be hereafter amended.

8. *Agreement not to protest annexation.* The owner shall provide the city with an irrevocable power of attorney to allow a city representative to sign a petition for annexation on behalf of the property owner or the property owner shall agree to sign a petition for annexation of the owner's property when requested to do so by the city. This provision shall be limited in time to ten years after execution of the agreement, and shall only be exercised by the city if the owner's property is within an area that the city is allowed by law to annex (including, but not limited to, an urban growth area).

9. *Waiver of right to protest LID or when improvements are required by city council.* If, at the time of execution of the agreement, the city has plans to construct certain improvements that would specially benefit the owner's property, the agreement shall specifically describe the improvement. The owner shall agree to sign a petition for the formation of a LID or ULID for the specified improvements at the time one is circulated, and to waive his/her right to protest formation of any such LID or ULID. The owner shall also agree that the city council has the authority to require construction of any and all of the improvements identified in subsection (A)(10) of this section even in the absence of a LID or ULID. In such instance, owner agrees to participate in paying for the cost of such improvements to the same extent and manner as if a LID or ULID had been formed, and without in any manner protesting, objecting to, or otherwise opposing the city council's decision to require construction of the improvements.

10. *Public works development standards.* The owner shall agree to comply with all requirements of the city's public works development standards which are on file with the city clerk, as these standards now exist or may hereafter be amended, including but not limited to standards for all water, sanitary sewer, natural gas, electrical service, surface water flow control and treatment, street, sidewalk, curb and gutter, street sign, and street light improvements required of the project.

11. *Liens.* Delinquent payments under the agreement shall constitute a lien upon the property. If the extension is for sewer service, the lien shall be as provided in RCW 35.67.200, and shall be enforced in accordance with RCW 35.67.220 through 35.67.290, all as now enacted or hereafter amended. If the extension is for water service, the lien shall be as provided in RCW 35.21.290 and enforced as provided in RCW 35.21.300, all as currently enacted or hereafter amended.

12. *Termination for noncompliance.* In addition to all other remedies available to the city for the owner's noncompliance with the terms of the agreement, the city shall have the ability to disconnect the utility, and for that purpose may at any time enter upon the property.

B. A public hearing shall be held on the utility extension agreement, which shall include all of the above terms and conditions, and any other standard contract terms. The city

council may approve the inclusion of additional contract terms, including but not limited to terms that are consistent with the Ellensburg public works development standards and comprehensive plan provisions. The utility extension agreement shall be authorized for execution by the mayor after approval of a council resolution authorizing the approval of the application for service.

(Ord. 4804 § 4, 2018; Ord. 4589 § 2, 2011; Ord. 4503 § 3, 2007)

**Section 7. Section 2.50.290 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**2.50.290 Removal of unauthorized connections or taps.**

Whenever any tap or connection is made into any utility system(s) without payment being made as required by this chapter, the public works ~~and utilities~~ director shall cause to be removed such unauthorized tap or connection and all connecting pipe located in the city right-of-way without any liability to the city or city officials.

(Ord. 4804 § 4, 2018; Ord. 4114, 1997)

**Section 8. Section 3.12.360 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4907, is hereby amended to read as follows:**

**3.12.360 Exempt signs.**

The following signs or displays are exempted from coverage under this chapter:

- A. Signs and public notices required or directed by law including traffic control signs.
- B. Exterior building signs not visible from streets or other public rights-of-way.
- C. Interior building signs. Nothing in this section shall allow any electrical sign which does not meet the requirements of ECC 3.12.280.
- D. Historic or memorial plaques, tablets, or inscriptions that are attached flat to a building, are not illuminated, and do not exceed three square feet in total area.
- E. Signs which are painted or mounted on delivery vehicles or other operable commercial vehicles which are primarily used for transportation and commerce.
- F. Signs required under the Washington State Department of Transportation “Motorist Information Sign Program” are subject to the following conditions:

1. The sign must be a requirement for participation in the Washington State Department of Transportation "Motorist Information Sign Program," and a participating business shall not be allowed to locate within the city any more than the minimum number of such signs required for its participation in the Motorist Information Sign Program;
2. The sign must comply with the requirements of that program, and shall be no larger than 24 inches by 12 inches in size and shall be of similar color and design as required under the state program for motorist information signs;
3. The sign may be located at off-premises locations within the city but shall be located only within the city's right-of-way and at a location as approved by the public works and utilities director or her/his designee to ensure traffic and pedestrian safety, with the city reserving the right to require relocation of the sign to an alternative location in order to address maintenance and traffic or pedestrian safety issues that may arise in the future. The installation, relocation and removal of the sign will be at the business's sole expense and shall be performed in a manner approved by the public works and utilities director or her/his designee; and
4. The sign shall be removed within 30 days of termination of the business's participation in the Motorist Information Sign Program or the city shall remove said sign at the business's sole expense.

(Ord. 4907 § 1, 2023; Ord. 4804 § 4, 2018; Ord. 4519 § 2, 2008; Ord. 3402 § 1, 1983)

**Section 9. Section 4.02.040 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.02.040 Definition of terms**

The following words and terms when used in this title shall have the meanings respectively ascribed to them in this section.

*City* means the incorporated city of Ellensburg, county of Kittitas, state of Washington, and its appointed or elected officials.

*City arborist* means an individual, appointed by the public works and utilities director, who is authorized to make determinations and recommendations relating to the condition, health, location, variety, trimming, pruning, removal, replacement, inspection, hazard assessment and maintenance of street trees.

*Construction* means any new construction where none existed before the improvement.

*Contractor* means any person, persons, firm or corporation who or which, in the pursuit of an independent business, undertakes to or offers to undertake to construct, alter, repair, add to, subtract from, improve, move, wreck or demolish any alley, street, sidewalk, easement or any other public right-of-way. "Contractor" includes any public utility, natural gas company, telephone company or television company operating within the city.

*Curb cut* means a depressed section of the curb at the street termination of a driveway approach.

*Driveway* means an area on private property where automobiles and/or other vehicles are operated or allowed to stand.

*Driveway approach* means that area located between the street termination to a definite area of private property such as a parking area, driveway, or a door.

*Property owner* means any person, firm, or corporation who has legal title to the property that abuts directly to any easement or other public right-of-way.

*Reconstruction* means the removal and replacement of a large contiguous area of an existing improvement.

*Repair* means the removal and replacement of small and individual sections of an existing improvement.

*Sidewalk or pedestrian pathway* means that portion of the public right-of-way designated for use by the general public for pedestrian traffic and for underground utilities where authorized.

(Ord. 4804 § 4, 2018; Ord. 4386, 2004; Ord. 3066 § 1, 1975; Ord. 2844, 1970)

**Section 10. Section 4.04.020 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.04.020 Applicable specifications and standards.**

The standard specifications and details as set forth in the Standard Specifications for Road, Bridge, and Municipal Construction, dated 2006, prepared and published by the Washington State Department of Transportation and the American Public Works Association, Washington State Chapter, and as subsequently amended, shall prevail for any construction, reconstruction, repair or alteration of any street, sidewalk, curb, alley or other public right-of-way within the city, except as may be amended hereafter or by direction of the director of public works ~~and utilities~~, acting within the scope of his authority. The public works development standards filed by the director of public works ~~and utilities~~ with the Ellensburg city clerk on June 14, 2006, are hereby approved and adopted by reference as the public works development standards of the city of Ellensburg. A complete copy of the text of the public works development standards shall be retained in the office of the city clerk for use and examination by the public. In the event a conflict exists between the provisions of the public works development standards and any other

provisions of the Ellensburg City Code, the provisions of the public works development standards shall govern.

(Ord. 4804 § 4, 2018; Ord. 4468 § 2, 2007; Ord. 4462 § 1, 2006; Ord. 4446 § 1, 2006; Ord. 3572 § 1, 1987; Ord. 2844, 1970)

**Section 11. Section 4.04.040 of the Ellensburg City Code, as last amended by Sections 3 & 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.04.040 Revisions to public works development standards.**

Revisions and additions (“revisions”) to the public works development standards adopted under ECC 4.04.020 may periodically be administratively promulgated by the director of public works ~~and utilities~~, after first conducting a public hearing and giving notice at least ten calendar days in advance of the hearing by publication in a local newspaper of general circulation, identifying:

- A. The particular standard to be considered for revision;
- B. The general nature of the proposed revision; and
- C. The time and place of said hearing, and the manner in which interested persons may present their views thereon.

The director of public works ~~and utilities~~ shall make any proposed revision available for public review at the public works ~~and utilities~~ department at least ten calendar days in advance of the public hearing. Upon promulgation, the director shall file the revised standard with the office of the city clerk and forward copies thereof to development standards holders then known to the director; such revised standard shall take effect immediately upon filing with the city clerk. Any standard so revised shall be included in an annual public works development standards update, to be presented to and approved by the city council by December 31 of the year it was promulgated. Any revision not so approved by the city council shall cease to be effective as of December 31 of the year it was presented to the city council, unless the city council directs otherwise in writing.

(Ord. 4804 §§ 3, 4, 2018; Ord. 4446 § 2, 2006)

**Section 12. Section 4.05.040 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.05.040 Exceptions.**

A. Exceptions to this policy may be determined by the public works ~~and utilities~~ director under the circumstances listed below:

1. Street projects may exclude those elements of this policy that would require the accommodation of street uses prohibited by law;

2. Ordinary maintenance activities such as mowing, snowplowing, sweeping, spot repair, joint or crack sealing, or pothole filling do not require that elements of this policy be applied beyond the scope of that maintenance activity; or
3. Ordinary maintenance paving projects should include evaluating the condition of existing facilities supporting alternate transportation modes as well as modifying existing pavement markings and signage that support such alternative modes as appropriate.

B. The city council may determine that street reconstruction projects and maintenance paving projects which involve widening pavement may exclude elements of this policy when the accommodation of a specific use is expected to:

1. Require more space than is physically available; or
2. Be located where both current and future demand is proven absent; or
3. Drastically increase project costs and equivalent alternatives exist within close proximity; or
4. Have adverse impacts on environmental resources such as streams, wetlands, floodplains, or on historic structures or sites above and beyond the impacts of currently existing infrastructure; or
5. The cost would be disproportionate to the current need or probable future use.

(Ord. 4804 § 4, 2018; Ord. 4744 § 1, 2016)

**Section 13. Section 4.05.050 of the Ellensburg City Code, as last amended by Section 3 of Ordinance 4804, is hereby amended to read as follows:**

**4.05.050 Design criteria.**

The city, through its public works ~~and utilities~~ department, shall maintain design criteria, standards and guidelines based upon recognized best practices in street design, construction and operation as identified in the most recent version of the following:

- A. Public works development standards (as adopted by reference in chapter 4.04 ECC);
- B. Public works construction code (this title);
- C. Land development code (ECC title 15);
- D. The city's nonmotorized transportation improvement plan;
- E. The city's truck route map;

- F. The city's transit map;
- G. The city's comprehensive plan;
- H. Ellensburg school district school walk route maps; and
- I. Other design resources include, but are not limited to:
  - 1. Washington State Department of Transportation Design Manual;
  - 2. American Association of State Highway Transportation Officials (AASHTO) Policy on Geometric Design of Highways and Streets; and
  - 3. The Manual on Uniform Traffic Control Devices (MUTCD).

(Ord. 4804 § 3, 2018; Ord. 4744 § 1, 2016)

**Section 14. Section 4.05.090 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.05.090 Performance measures.**

The public works and utilities director and/or designees shall report to the city council on an annual basis on the transportation projects undertaken within the prior year and planned projects within the coming six-year period and the extent to which each of these projects has met the objectives of this policy.

(Ord. 4804 § 4, 2018; Ord. 4744 § 1, 2016)

**Section 15. Section 4.06.020 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.06.020 Initiation of improvements.**

Projects for the construction, reconstruction or repair of sidewalks and streets may be initiated by one of the following procedures: a petition of the property owners for creation of a local improvement district; council resolution directing creation of a local improvement district; by an individual upon proper application and receipt of a permit from the director of public works and utilities; by council resolution directing that sidewalks and streets be repaired by the city at the property owners' expense; and by property owners' request that the city perform the work at the property owners' expense.

(Ord. 4804 § 4, 2018; Ord. 2844, 1970)

**Section 16. Section 4.06.060 of the Ellensburg City Code, as last amended by Sections 3 & 4 of Ordinance 4804, is hereby amended to read as follows:**

#### **4.06.060 Sidewalks, curbs and gutters for building permit applicants.**

When an application is made for a building permit, subdivision, conditional use, SEPA review project or other development permit, the public works ~~and utilities~~ director shall evaluate the proposed building or development site to determine the need for new or reconstructed street surfaces, curbs, gutters and sidewalks based upon the following criteria:

- A. New curbs, gutters and sidewalks shall be constructed on all street frontages where those street improvements are not already present and in serviceable condition.
- B. Reconstruction of curbs, gutters and sidewalks shall be required if, in the opinion of the public works ~~and utilities~~ director, the present improvements are deteriorated to an unserviceable, hazardous state.
- C. All curb, gutter and sidewalk improvements which are constructed, reconstructed or repaired shall be done so entirely in the public right-of-way, and further sidewalks shall be separated from the traveled way by landscaping, concrete curbing, a median or other approved physical barrier.
- D. Applicants for a subdivision, SEPA review project, conditional use, building permit or other development permit, upon payment of a \$100.00 fee, may apply for deferred installation of sidewalks, curbs and gutter under the following circumstances:
  1. Applicants for all development permits may apply for deferrals for the above improvements if their construction involves a significant physical obstacle to the construction of such improvements. In those cases in which bridges, large-diameter (in excess of four feet in diameter) culverts, retaining walls in excess of four feet in height, or other construction deemed necessary by the public works ~~and utilities~~ director due to the presence of major physical obstacles are required for the construction of a sidewalk, the public works ~~and utilities~~ director shall grant a deferral of the improvement upon application for such. Such deferral shall be made contingent upon the acceptance by the public works ~~and utilities~~ director of the written recorded assurances by the applicant, heirs, successors and assigns of the property of their participation in a future larger local improvement district, sidewalk improvement district or other cooperative financing arrangement which would include the deferred section of improvement.
  2. Applicants for industrial development projects that involve the construction of new streets may apply for waivers or deferrals for sidewalks only. The public works ~~and utilities~~ director shall grant deferrals or waivers, as deemed appropriate, for those projects in which no mixed commercial, residential or

through traffic would use the affected streets, or in which no regular pedestrian traffic can be reasonably expected. If deferrals are granted, such deferrals shall be made contingent upon the acceptance by the public works ~~and utilities~~ director of the written recorded assurances by the applicant, heirs, successors and assigns of the property of their participation in a future larger local improvement district, sidewalk improvement district or other cooperative financing arrangement which would include the deferred section of improvement.

3. Applicants for building permits for new construction, additions which valuation exceeds 50 percent of the assessed valuation for the existing structure, or short plats all of which result in, by zoning or covenants, the development of single-family residential structures may apply for deferrals for the above improvements. The public works ~~and utilities~~ director shall review such requests, and shall grant deferrals if the construction results in an isolated segment of improvements. In order to qualify as an isolated segment of improvements, the edges of the improvements, once constructed, must be physically separated from connecting curb, gutter or sidewalk improvements by a minimum of 100 linear feet and not reasonably be subject to an LID or other major street improvements in the next two years. If such a deferral is granted, such deferrals shall be made contingent upon acceptance by the public works ~~and utilities~~ director of the written recorded assurances by the applicant, heirs, successors and assigns of the property of their participation in a future larger local improvement district, sidewalk improvement district or other cooperative financing arrangement which would include the deferred section of improvement.

4. The public works ~~and utilities~~ director shall direct the public works ~~and utilities~~ department to provide the necessary determinations of grade, location and other engineering information deemed necessary for the completion of street, curb, gutter and sidewalk improvements for those building permits and short plats which result in, by applicable zoning or voluntary covenants, lots which are limited to single-family residential construction. For subdivisions which result in more than four single-family lots of record, or any number of lots which are subject to multifamily, commercial, or industrial development zoning uses, the developer shall be required to supply necessary engineering studies for public improvements as part of their public improvements requirement. Any existing plans, specifications or engineered designs in the public works ~~and utilities~~ department are considered as part of the public record and shall be made available to all persons constructing public improvements for review and use as is appropriate to their project.

5. Applicants for development permits may apply for short-term deferral of completion of required improvements due to weather or other unforeseen

construction-related problems. The public works ~~and utilities~~ director shall consider each request for short-term deferral. In those cases where the delay of the completion of construction would not result in any hazardous condition, or other problems of site use, the public works ~~and utilities~~ director may grant such requests for short-term deferral. Such deferral shall be subject to acceptance by the public works ~~and utilities~~ director of adequate financial security needed to complete the improvements and pay potential city costs to accomplish said improvements completion, and a definite construction timetable for completion of the deferred improvements.

6. In all cases in which sidewalk, curb and gutter improvements are required to be installed, a useful life of 15 years for the improvements shall be established. If, during the 15-year period, subsequent street construction causes the improvements to be removed and reconstructed, the adjoining landowner shall obtain prorated credit against any assessment of costs based upon the estimated value of the improvements and the amount of useful life left. The estimated value of improvements shall be determined at the time of the permit application, and should be mutually agreed to by the city and the applicant. In those cases where mutual agreement cannot be reached, the estimated value shall be established by the average cost experienced for similar improvements in other city right-of-way locations.

7. Applicants for all developments which consist of a building which is less than 4,000 square feet in size and, in the opinion of the public works ~~and utilities~~ director, consist of an accessory or intermittent use of the lot, or consist of street frontage of less than 100 lineal feet on a separate street frontage, may apply for deferrals of curb, gutter and sidewalk improvements in those instances where the required street improvements would qualify as isolated segments of improvements. In order to qualify as an isolated segment of improvement, the improvement once completed must be physically separate from connecting curb, gutter or sidewalk improvements by a minimum of 100 feet or, in the opinion of the public works ~~and utilities~~ director, cause a practical problem of surface water drainage or street configuration. If such a deferral is granted, such deferral shall be made contingent upon acceptance by the public works ~~and utilities~~ director of the written recorded assurances by the applicant, heirs, successors and assigns of the property of their participation in a future larger local improvement district, sidewalk improvements district, or council-ordered improvement which would include the deferred section of improvement.

E. Appeals. Applicants have the right to appeal decisions of staff made under the authority of this chapter to the city council. All appeals shall be made in writing

and be submitted to the city within ten days of receiving a written determination from staff on the permit request.

In filing an appeal with the city council, it shall be the responsibility of the appellant to establish in writing why the staff decision did not follow the appropriate requirements and standards of this chapter in rendering the decision. Each section of this chapter which applies to the appellant's deferral request shall be referenced and addressed in the written appeal presented to the city council prior to the hearing of the appeal.

The city council, upon hearing the appeal and staff position, shall be authorized to uphold the public works and utilities director's decision as consistent with this chapter, or find the decision to be in whole or part in conflict with this chapter and amend the decision to ensure consistency with this chapter.

(Ord. 4804 §§ 3, 4, 2018; Ord. 4612 § 1, 2012; Ord. 4467 § 5, 2007; Ord. 4148, 1998; Ord. 4026 § 2, 1996)

**Section 17. Section 4.06.080 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.06.080 Application for public works construction permit.**

The director of public works and utilities shall grant such permits upon compliance with the following terms and conditions: The person, persons, firm, contractor or corporation requesting the permit shall make application therefor in writing, and, if requested to do so, will file with the director of public works and utilities drawings, plans and specifications showing the location and plan of the thing desired to be done and the street, alley, sidewalk, public thoroughfare or public easement to be so used, together with a full description of the nature of such work. The director of public works and utilities shall examine such application, drawings, plans and specifications, and if all are found to be in accord with the provisions of this title and approved and a bond filed as herein provided, shall issue a permit therefor. Such a permit shall specify the place where such acts are to be performed and done, together with a description of the proposed work or act to be done under such permit and the length of time allowed for the completion thereof, and shall require the replacement to its former condition or better, of whatever portion of the street, alley, pavement or improvement which may be disturbed or affected in any way.

(Ord. 4804 § 4, 2018; Ord. 2844, 1970)

**Section 18. Section 4.06.100 of the Ellensburg City Code, as last amended by Section 3 of Ordinance 4804, is hereby amended to read as follows:**

**4.06.100 Permit charges.**

The permit fee shall include all the costs to the city for the making of necessary surveys, engineering, inspection of, and for all other work to be done by the city on all public improvements. Such fees and costs shall be paid in advance to the city clerk at the time the application for a permit is made. The fee for issuance of a permit shall be based upon the following charges:

- A. *Filing fee.* Application for a public works construction permit shall be accompanied with a filing fee of \$25.00.
- B. *Engineering, surveying, and inspection.* That work performed by the public works and utilities department as pertains to that portion of the project which will be done in or affect the street, sidewalk, alley, public thoroughfare, or public easement shall be charged at the rate established by council resolution and shall be based upon the estimated cost of such work at the time application for a permit is made.
- C. *Restoration.* All work performed by the city, directly chargeable to the restoration of the street, sidewalk, public thoroughfare, alley, public easement, or utilities contained therein, shall be charged at cost based upon an estimated cost determined at the time application is made for the permit.

(Ord. 4804 § 3, 2018; Ord. 3851 § 1, 1993; Ord. 2844, 1970)

**Section 19. Section 4.06.120 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.06.120 Record of permits.**

It shall be the duty of the director of public works and utilities or his their designated representative to keep a record of all permits issued under the provisions of this title, which records shall show the date of issue thereof, to whom issued, a description of the property in front of which the improvement is to be made, the nature of improvement and an estimate of the quantity of work and the cost thereof, fees collected, and when accepted, the date of such acceptance.

(Ord. 4804 § 4, 2018; Ord. 2844, 1970)

**Section 20. Section 4.06.140 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.06.140 Failure to obtain a permit.**

Failure to obtain a public works construction permit prior to commencing work as stated in ECC 4.06.020 shall be deemed a violation of this title and shall be cause for the director of public

works ~~and utilities~~ to issue a stop work order until an application for the permit has been received and a permit issued. A 50 percent penalty may be added to the cost of a late permit.

(Ord. 4804 § 4, 2018; Ord. 2844, 1970)

**Section 21. Section 4.06.180 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.06.180 Supervision by the director of public works ~~and utilities~~.**

The acts and work permitted under such permits, and the restoration to its former condition of the street, alley, pavement, or improvement, shall be at all times under the supervision and control of the director of public works ~~and utilities~~, but at the expense of the party procuring the permit. The fact that the director of public works ~~and utilities~~, and inspector, or other authorized representative was present during the progress of any work shall not relieve the permittee from responsibility for performing the work in accordance with the standard specifications nor relieve him of the responsibility for any defects discovered after completion of the work for one year thereafter. If that party shall fail to complete all work before the expiration of the time fixed by permit, the director of public works ~~and utilities~~ may, if ~~he~~ they deems it advisable, do all work and things necessary to return to its original and proper condition that portion of the street, alley, pavement, or right-of-way which has been disturbed, and that party shall be liable therefor, and the city shall have cause of action for all fees, expenses, and amounts paid out upon such work and may invoke the bond for payment required herein. Deviation from approved plans due to unforeseen conditions shall be obtained from the director of public works ~~and utilities~~.

(Ord. 4804 § 4, 2018; Ord. 2844, 1970)

**Section 22. Section 4.06.200 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.06.200 Barricades and lights.**

Before any public street, alley, sidewalk, public thoroughfare, public easement, or public place shall be dug up, excavated, undermined, tunneled under, disturbed, or obstructed, or any obstruction placed thereon, the person, firm, or corporation causing the same shall erect and, so long as the condition exists and any danger may continue, maintain around that portion of street, alley, sidewalk, or other public place a good, substantial barrier and/or temporary barricades and shall cause to be maintained during every night, from sunset to sunrise, around the obstruction sufficient warning lights. The director of public works ~~and utilities~~ shall promulgate such instruction and requirements as are deemed necessary to the proper safeguarding of the general public through the erection of various permanent and/or temporary barriers, barricades, warning lights, and such other warning devices as are applicable. In the event the permittee is not

immediately available, the director of public works ~~and utilities~~ shall install, at the permittee's expense, additional barricades, lights, and/or safety devices to protect the public.

(Ord. 4804 § 4, 2018; Ord. 2844, 1970)

**Section 23. Section 4.06.240 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.06.240 Preservation of monuments.**

The permittee shall not move, raise, lower or disturb in any manner whatsoever any survey monument or hub found within the boundaries of the improvements, unless authorized to do so by the director of public works ~~and utilities~~. In the event that such monuments or hubs are to be removed because of the improvement, they shall be replaced under the supervision of the director of public works ~~and utilities~~ at the expense of the permittee or his agent.

(Ord. 4804 § 4, 2018; Ord. 2844, 1970)

**Section 24. Section 4.06.260 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.06.260 Underground system maps.**

It shall be the responsibility of authorized utilities and public agencies within the city to keep up-to-date underground utility maps filed with the director of public works ~~and utilities~~. Such maps shall show in general the location and type of utility in question. It shall also be the responsibility of authorized utilities and public agencies to keep up-to-date "as constructed" drawings which shall be available for inspection.

(Ord. 4804 § 4, 2018; Ord. 2844, 1970)

**Section 25. Section 4.10.020 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.10.020 Establishment of grade.**

It shall be the duty of the director of public works ~~and utilities~~ to establish all grades and/or bench marks to be so established within the city. Such grade and/or bench mark shall be referenced to and tied in with the nearest U.S. Coast and Geodetic Survey bench mark.

(Ord. 4804 § 4, 2018; Ord. 2844, 1970)

**Section 26. Section 4.10.040 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.10.040 Record of grade.**

A. Once established, the record of the grade and line of any street, alley, public thoroughfare, or public easement shall be adopted by council resolution and placed in a permanent file and maintained by the director of public works and utilities or his authorized representative. All streets which have been improved to city standards shall be considered permanent and grades shall be established for them by council resolution. All future or subsequent work shall be based on and be referenced to the permanent grade as established, except where modified for cogent reason by the director of public works and utilities and approved by resolution of the city council. The cost of any change in utility location caused by a change of the permanent grade shall be borne by the city unless prior written approval has been obtained from the affected utility. Costs of lowering or raising manhole lids or similar items of work caused by normal street maintenance, such as seal coats or overlays, shall be borne by the utility as a maintenance and operation item.

B. In the event that any person, firm, corporation, contractor, utility or public agency desires to install any utility in a public right-of-way where line and grade has not been established, the affected party may elect to finance the cost of establishing permanent line and grade in order to ensure the permanency of their utility installation. Establishment of permanent line and grade shall be accomplished under the supervision of the public works and utilities director and shall be financed solely by the affected party. After permanent line and grade have been established, all drawings, designs, and a summary of all costs shall be filed with the director of public works and utilities. If within a period of ten years after establishment of permanent line and grade, any other person, firm, contractor, utility or public agency is permitted by the city to make use of such information so filed with the city, then reimbursement of an appropriate portion of such expense shall be made to the original party who has financed the establishment of such permanent line and grade in an amount to be determined by the city for the value received. If within the ten-year period the roadway is improved to city standards utilizing the design information on file, then reimbursement shall be made to the parties who have participated in the establishment of permanent line and grade in an amount to be determined by the city for value received.

(Ord. 4804 § 4, 2018; Ord. 2844, 1970)

**Section 27. Section 4.10.060 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.10.060 Survey and inspection.**

Prior to the granting of a public works construction permit for any work to be done by private contract, the party or parties requesting the improvement shall provide the director of public works and utilities with all the necessary surveys, grades, engineering design, data, plans and specifications. Subsequent to issuance of the permit, such party or parties shall provide plans showing all necessary construction staking, all of which shall be certified by an engineer or land

surveyor registered in the state of Washington. Subsequent to issuance of the permit, the permittee or contractor actually doing the work shall notify the director of public works and utilities in writing, at least 24 hours in advance of commencing operations on any construction phase. The director of public works and utilities, or his designated assistant, shall check the work as to line and grade and inspect the work until the same is completed, and it is unlawful for work to commence until the grades and alignment have been so checked and an inspector placed upon the location of the work at the time the work is actually commenced. Subsequent to the completion of the work, but before acceptance of the completed work by the city, the permittee shall furnish the director of public works and utilities an accurate, acceptable transparent tracing or drawing indicating the "as built" condition of the work which shall show final grades and other engineering data, all of which shall be certified by the engineer or land surveyor who is registered in the state of Washington and who was responsible for the work. The city may refuse to maintain any public right-of-way which has not been built in compliance herewith nor accepted by the director of public works and utilities.

(Ord. 4804 § 4, 2018; Ord. 2844, 1970)

**Section 28. Section 4.10.080 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.10.080 Protection of survey stakes and other survey monuments.**

It is unlawful for any person or persons to remove, mutilate, destroy, move, or disturb in any way any survey stake, monument, bench mark, survey hub, or other survey reference, except when so authorized by the director of public works and utilities. Should it be necessary to remove any established survey monument, bench mark, or hub by reason of location within an improvement area or other cogent reason, the person or persons desiring such removal shall request in writing from the director of public works and utilities, 24 hours in advance of such removal, authorization to remove the subject survey monument, bench mark, or hub, stating its exact location and the reason why removal is necessary. Under no condition shall such removal occur prior to the receipt of authorization to do so, and the director of public works and utilities has such data as required to reestablish the survey monument, bench mark, or hub.

(Ord. 4804 § 4, 2018; Ord. 2844, 1970)

**Section 29. Section 4.12.040 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.12.040 Installation of underground utilities.**

All necessary underground utilities with connections to the private property lines shall be installed prior to the surfacing of any street with permanent-type pavement whenever possible. Subsequent street cuts will be denied in permanent-type surfaced streets except under

extenuating circumstances as determined by the director of public works ~~and utilities~~. Restoration shall be specified by the director of public works ~~and utilities~~ and shall require replacement to its original condition. Electric, telephone and television cables beneath present or future areas of permanent-type surfaced roadways shall be encased in approved conduit or duct.

(Ord. 4804 § 4, 2018; Ord. 2844, 1970)

**Section 30. Section 4.12.120 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4851, is hereby amended to read as follows:**

**4.14.120 Maintenance of sidewalks and driveways.**

A. Hazardous sidewalks. It is unlawful for any person, persons, firm or corporation to keep or retain a public sidewalk or driveway area fronting his property which is in a state of disrepair and dangerous for use by the public.

B. Method of repair. Repairs shall consist of removing complete slabs, sections or squares of sidewalk which are broken, spalled, raised and/or otherwise damaged and replacing them with new cement, concrete or concrete paving stones. Removal of only portions of damaged sidewalk slabs, sections or squares shall not be permitted.

C. Cost sharing. City participation in cost sharing for sidewalk repairs is dependent on available budget and approval of the public works ~~and utilities~~ director. When sidewalks are ordered to be repaired or replaced, or when property owners at their own initiative request repairs, the city shall participate with the property owner in the expense of repair or replacement as follows:

Area	City participation	Property owner participation
Residential property	100%	0%
Public reserve zone	0%	100%
Commercial and industrial property	50%	50%
Paver stone district	100% <sup>1</sup>	0% <sup>1</sup>
	25% <sup>2</sup>	75% <sup>2</sup>
	0% <sup>3</sup>	100% <sup>3</sup>

<sup>1</sup> Applies to areas with existing concrete paving stones or fired clay pavers which are repaired.

<sup>2</sup> Applies to areas with existing concrete sidewalks which, because of their condition, are extensively reconstructed with concrete paving stones.

<sup>3</sup> Applies to areas with existing concrete sidewalks which, because of their condition, are extensively reconstructed with concrete.

D. The property owner shall not be required to repair or replace those slabs, sections or squares damaged by the city in the course of installation of utilities, plantings or signs.

E. For purposes of subsection (C) of this section, the references to zones are those zones contained in the city of Ellensburg's zoning ordinance, except for the paver stone district, which refers to properties fronting the following specific streets:

Street	From	To
Pearl	Second	Sixth
Pine	Second	Sixth
Main	Second	Sixth
Ruby	Second	Sixth
Third	Depot	Ruby
Fourth	Water	Ruby
Fifth	Water	Ruby
Sixth	Water	Ruby

F. Sidewalk repairs within the paver stone district as defined in this section shall be made with concrete paving stones wherever concrete paving stones or clay paver bricks exist. In areas of existing concrete sidewalk, the director of public works and utilities shall first review the work and then report to the city council on the recommended method of repairs. Whenever possible, concrete paving stones should be used. The city council, after review, shall determine the method and extent of repairs to be undertaken.

G. The director of public works and utilities shall prioritize the repairs to ensure that the most needed repairs are accomplished first. The director of public works and utilities shall take into consideration the following when prioritizing the city's repairs:

1. The volume of pedestrian traffic;

2. The usage of the sidewalk by senior citizens; and
3. Recommendations/guidance from the city's most current ADA transition plan.

H. Repair work in excess of budgeted funds may, at the option of the property owner, be completed at the property owner's sole expense or the property owner may elect to have the work carried over until the next year, at which time it will again be prioritized against all available funds and projects. The property owner's responsibility for the repair of sidewalks shall not in any way be diminished by reason of said sidewalk not attaining priority under the city's prioritization.

I. To qualify for city participation, the work shall be under the control and supervision of the director of public works and utilities. The director of public works and utilities shall work with the property owner to ensure that the best product is achieved at the most economical price.

(Ord. 4851 § 2, 2020; Ord. 4804 § 4, 2018; Ord. 4605 § 1, 2011; Ord. 3618 § 1, 1988)

**Section 31. Section 4.16.060 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.16.060 Permits for driveways.**

A single permit may authorize one or more driveways or approaches to be constructed along the frontage of any parcel of land or leasehold thereof. However, no permit shall be issued if, in the judgment of the director of public works and utilities, the proposed driveway or approach may impair the use of the streets or be unduly dangerous to traffic or is not in accordance with the provisions of this title.

(Ord. 4804 § 4, 2018; Ord. 4656 § 18, 2013; Ord. 2844, 1970)

**Section 32. Section 4.16.080 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.16.080 Construction details.**

Unless otherwise ordered by the director of public works and utilities, all driveways or approaches constructed upon any public right-of-way within the city shall be built in compliance with the standard specifications set forth in chapter 4.04 ECC, the lot design standards set forth in ECC 15.420.050, the access standards set forth in ECC 15.420.060, the site orientation standards set forth in chapter 15.510 ECC, and the housing type standards set forth in chapter 15.540 ECC.

(Ord. 4804 § 4, 2018; Ord. 4656 § 19, 2013; Ord. 2844, 1970)

**Section 33. Section 4.18.120 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.18.120 Removal of poles—Cost.**

It shall be the duty of the director of public works ~~and utilities~~ to remove or cause to be removed all poles erected or maintained upon the streets and alleys of the city in violation of this title and the cost and expense of such removal may be recovered in the name of the city against the owner or owners thereof by a civil action.

(Ord. 4804 § 4, 2018; Ord. 2844, 1970)

**Section 34. Section 4.22.040 of the Ellensburg City Code, as last amended by Section 3 of Ordinance 4804, is hereby amended to read as follows:**

**4.22.040 Street names.**

A. *Definitions.* The following words or phrases, whenever used in this chapter, shall have the following meanings, unless where used the context clearly indicates to the contrary:

*Alley* means a public way-of-travel 20 feet or less in width not designated or improved for general travel and used as a means of secondary access or to the rear of residential, business or other property.

*Avenue* means a way-of-travel that runs generally east and west.

*Boulevard* means a way-of-travel that meanders and crosses several grids separated by a maintained planting area.

*Circle* means a way-of-travel not lining up on the grid of the official map that is less than 2,500 feet and begins and returns back to end on itself at a point on the access road greater than 500 feet from the point where the access road begins. The access road shall be considered part of the way-of-travel.

*City* means the city of Ellensburg.

*Committee* means the street naming committee which shall meet on an as-needed basis to decide appeals herein and/or as directed by the council. The committee shall establish and adopt its own rules of procedure necessary to conduct its business and shall select from among its membership a chairperson. A majority of the membership shall constitute a quorum for the purpose of transacting business. The committee shall consist of one individual from each of the following:

1. Ellensburg fire department;
21. Ellensburg police department;

- 32. Ellensburg public works ~~and utilities~~ department;
- 43. Kittitas County public works department;
- 54. Kittitas County community development department;
- 65. Fire District No. 2;
- 76. KITTCOM;
- 87. U.S. Post Office;
- 98. Kittitas County sheriff's department;
- 109. Central Washington Home Builder's Association;
- 110. Ellensburg resident appointed by the city manager;
- 111. Ellensburg city council; and
- 1312. Central Washington University.

*Court* means a way-of-travel less than 500 feet in length ending in a dead end or cul-de-sac.

*Council* means the Ellensburg city council.

*County* means Kittitas County.

*Department* means the department of public works ~~and utilities~~ for the city.

*Designate* means to name a way-of-travel whether by name or number.

*Drive* means an irregular or diagonal way-of-travel over 500 feet in length.

*Lane* means a minor way-of-travel within a subdivision.

*Loop* means a way-of-travel not longer than block designations in ECC title 12 relating to subdivisions, that begins and ends on the same way-of-travel.

*Official map* means the city of Ellensburg street name and number designation map on file with the department of public works ~~and utilities~~.

*Place* means a way-of-travel under 500 feet long ending in a dead end or cul-de-sac.

*Road* means a way-of-travel that heretofore has been designated as a road.

*Street* means a way-of-travel that runs generally north and south.

*Way* means an irregular or diagonal way-of-travel over 500 feet in length.

*Way-of-travel* means a roadway of whatever sort, including but not limited to avenues, streets, boulevards, circles, courts, drives, lanes, loops, places, and ways, which is capable of carrying vehicular traffic.

B. *Official map.* The names of ways-of-travel within the city, together with area quadrants for street numbering purposes, are fixed according to the provisions detailed on the official map and are incorporated into this section by reference.

C. *New ways-of-travel.* Newly created ways-of-travel within the city shall be named as follows:

1. The use of directional suffices is strongly discouraged.
2. Every way-of-travel shall be assigned one (and only one) way-of-travel type.
3. Ways-of-travel running primarily east and west or primarily north and south shall be named consistent with the established grid name on the official map to the extent that the way-of-travel is longer than 500 feet and lines up on the grid within 120 feet. Exceptions may be made in the following circumstances:
  - a. Ways-of-travel that will not connect with an established way-of-travel due to natural or unnatural obstructions.
  - b. Ways-of-travel that run for a substantial distance on a diagonal and therefore cross several of the existing ways-of-travel.
  - c. When there is clear reason why using a grid name would cause confusion.
4. Ways-of-travel lining up with the established grid within 120 feet that are less than 500 feet in length shall be permitted to be issued a new name; however, should the way-of-travel eventually link or connect with another way-of-travel, it will be subject to being renamed at the discretion of the department consistent with the restrictions and guidelines herein.
5. Where a way-of-travel is continuous, the same name shall be used along its entire length.
6. Way-of-travel names shall change on a continuous way-of-travel when the east-west vs. north-south orientation changes approximately 90 degrees. A directional change of approximately 90 degrees shall mean a horizontal curve where a reduction in the designated speed is required. Such name breaks should occur at an intersection whenever possible.

7. Established ways-of-travel that are annexed into the city are subject to being renamed at the discretion of the department consistent with the restrictions and guidelines herein.
8. New names shall be subject to the following restrictions:
  - a. Use of names that are related to a particular business, developer, or property owner are discouraged and shall not be used in place of the primary street address. Such names are permitted to be used as a supplemental address if in compliance with U.S. Post Office standards. Exceptions may be made for names with historical significance if approved by the council.
  - b. The name may not duplicate an existing name in the county or the city except when used consistently with subsection (C)(2) of this section.
  - c. The name may not be used if the pronunciation sounds similar to an existing road name (e.g. Larson—Larsen, Cook—Cooke, Marion—Maryann).
  - d. The name may not be used if there exists another way-of-travel with the same name but different type (e.g. Maple Street and Maple Lane).
  - e. Names shall be limited to 13 characters with spaces. Suffixes will be abbreviated to save space and the whole spelling of the suffix will not be included in the number of characters permitted.
  - f. An initial or word suffix or prefix cannot be used with a surname.
  - g. Names shall not be inconsistent with the geographical location (e.g. Hilltop Lane would be inconsistent with a way-of-travel located in a valley).
  - h. Names shall not be possessive.
  - i. Names shall not contain a cardinal direction.
  - j. Names shall not contain profanity or be derogatory in nature.
  - k. Names shall be of the commonly acceptable spelling, according to a standard English dictionary.
  - l. Names shall not contain any punctuation or special characters. Letters and spaces shall be permitted.

D. *Schedule of changes, amendments, additions and deletions.*

1. Effective January 15, 2004, the continuous way-of-travel running primarily east and west within the city limits currently designated as Cascade Way, Eighth Avenue, Euclid Way, and Tenth Avenue shall be renamed University Way.
2. Effective January 15, 2004, the continuous way-of-travel running primarily north and south within the city limits currently designated as Main Street, and "A" Street shall be renamed Main Street. The way-of-travel currently designated Main Street and running south off of the way-of-travel currently designated Industrial Way and intersecting with Umptanum Road east of Canyon Road shall be renamed Industrial Way consistent with the contiguous way-of-travel.
3. Effective January 15, 2004, the way-of-travel currently designated as Helena Street primarily running east and west shall be renamed Helena Avenue.
4. Effective January 15, 2004, the way-of-travel currently designated as Illinois Street primarily running east and west shall be renamed Illinois Avenue.
5. Effective January 15, 2004, the way-of-travel currently designated as Idaho Street primarily running east and west shall be renamed Idaho Avenue.
6. Effective January 15, 2004, the way-of-travel currently designated as Regal Avenue primarily running north and south shall be renamed Regal Street.
7. Effective January 15, 2004, the way-of-travel currently designated as Wheaton Drive shall be renamed Wheaton Court.

(Ord. 4804 § 3, 2018; Ord. 4365, 2003)

**Section 35. Section 4.22.400 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**4.22.400 Appeals.**

**A. *Appeals of department decisions to the street naming committee.***

1. Any person aggrieved by a decision of the department made under this chapter may appeal to the street naming committee by filing a written notice of appeal with the public works and utilities director. Such appeal shall identify the error or errors claimed to have been made in the department's decision and shall be filed with the public works and utilities director within 15 days after the department's decision has been issued.
2. Upon receipt of a timely written appeal, the committee shall schedule a time and place for a public hearing on the appeal. The time, date and place of the public hearing shall be communicated in writing to the appellant and the department.

The parties shall be given not less than ten days' notice of the hearing. At the hearing, any party may appear in person or by agent or attorney.

3. In considering the appeal, the committee may, so long as its decision is not in conflict with this chapter, affirm, deny, or modify, in whole or in part, the decision of the department. The decision of the committee shall be based upon relevant portions of the city code and other relevant city policies, the established public record upon which the department's decision is based, and the written and verbal testimony and argument presented at the hearing.
4. The decision of the committee shall be in writing and be mailed to the parties within ten days of the conclusion of the hearing.

**B. Appeals of the street naming committee's decision to the city council.** Any person aggrieved by the decision of the street naming committee may appeal to the city council by filing a written notice of appeal with the city clerk within 15 days after the date of the committee's written decision. The city council shall consider such appeal at a scheduled public meeting. Notice of the hearing shall be mailed to the appellant and department at least ten days prior to the hearing. In considering the appeal, the council may affirm, deny, or modify, in whole or in part, the decision of the committee.

(Ord. 4804 § 4, 2018; Ord. 4365, 2003)

**Section 36. Section 4.36.300 of the Ellensburg City Code, as last amended by Section 3 of Ordinance 4804, is hereby amended to read as follows:**

**4.36.300 Street tree permits.**

Application for a street tree permit shall be required and shall be obtained from the public works and utilities department for any planting, removal, topping, and/or major pruning of street trees. Work performed pursuant to such permit shall be performed in a manner consistent with the permit and with any arboricultural standards and specifications adopted by the public works and utilities department and this chapter. City departments shall be required to obtain only one permit for the calendar year to cover any street tree topping and/or major pruning work during that calendar year. Any contractor authorized by the city to perform street tree pruning and/or topping work under a bid call or public works construction project shall obtain only one permit for work to be performed under said bid call or public works construction project. A separate street tree permit for each street tree to be planted or removed shall be required for all city departments and for all city contracted services to keep the street tree inventory current.

(Ord. 4804 § 3, 2018; Ord. 3855 § 1, 1993; Ord. 3509 § 1, 1985)

**Section 37. Section 5.18.070 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**5.18.070 Abatement—City removal—Charges and lien.**

A. Whenever the owner, occupant, tenant or other person permits garbage or refuse to accumulate on the premises, and fails to deposit such garbage or refuse in covered containers, or dispose of it, as specified in this chapter, the city may declare such a condition as a public nuisance per ECC 5.40.060 and institute abatement proceedings as provided in ECC 5.40.160 through 5.40.200.

B. Whenever a notice to abate a public nuisance created by the accumulation of garbage or refuse has been given in accordance with ECC 5.40.160, and 20 days have elapsed from the date of the notice, or 30 days from the date of the order of the hearing officer, if appealed, without the owner or responsible person having accomplished the abatement, the city may at its option proceed to abate the public nuisance, and may employ a contractor to collect and remove such garbage and refuse and in such case the entire expense of the collection and removal thereof as determined by the public works ~~and utilities~~ director shall be charged against such premises and against the owner, occupant, or tenant thereof in addition to the legal charge for collection and disposal of garbage. The charges therefor shall be paid by the owner, occupant or tenant of said premises forthwith and such charges shall be a lien against the property served until paid. Such lien shall be enforced and foreclosed in the manner provided in RCW 35.21.140 through 35.21.150.

(Ord. 4804 § 4, 2018; Ord. 4735 § 1, 2016; Ord. 2327 § 7, 1957)

**Section 38. Section 5.18.220 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**5.18.220 Penalties—Enforcement.**

A. Except as specifically provided elsewhere in this chapter, any person violating any of the provisions of this chapter shall be guilty of a misdemeanor. Each separate day or portion thereof during which any violation of this chapter occurs or continues constitutes a separate violation of this chapter, and upon conviction thereof shall be fined in a sum not exceeding \$1,000.00, and/or imprisoned for a term not exceeding 90 days, or both such fine and imprisonment, in the discretion of the court.

B. Notwithstanding subsection (A) of this section, the public works ~~and utilities~~ director or his or her designee may, in response to field observations, determine that violations of this chapter have occurred or are occurring, and may utilize any of the compliance provisions contained in chapter 1.80 ECC.

(Ord. 4804 § 4, 2018; Ord. 4735 § 1, 2016; Ord. 2327 § 23, 1957)

**Section 39. Section 5.40.120 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**5.40.120 Retainage of accumulated material—Permit required.**

It is unlawful and shall be deemed a nuisance for any person or persons to pile, heap, accumulate or mass earth, gravel, rocks, sand, fill material, construction waste or other similar matter, totaling 20 cubic yards or more, or for any person or persons to maintain or keep such material, unless the material is for sale or is intended for use and is used within 60 days of its accumulation; provided, the accumulated material may be retained for a period of up to one year by permit issued by the public works and utilities director or her/his designee. Conditions of the permit shall include but not be limited to sloping, grading, mowing and spraying to provide a neat and clean appearance, free from hazards and weeds. A fee of \$25.00 shall be charged for the issuance of a permit.

(Ord. 4804 § 4, 2018; Ord. 4736 § 1, 2016)

**Section 40. Section 8.54.015 of the Ellensburg City Code, as last amended by Section 3 of Ordinance 4804, is hereby amended to read as follows:**

**8.54.015 Revisions to zone boundaries.**

The following requirements are established for the revision of the residential parking zone (RPZ) boundaries as defined by the exhibits in ECC 8.54.999:

- A. Request must be made in writing to the city's of Ellensburg public works and utilities department;
- B. Revisions to the RPZ boundaries shall be in minimum one-block segments (one side of roadway). In situations where the block length exceeds 500 lineal feet, a revision of a minimum of 300 lineal feet in length will be allowed;
- C. The RPZ boundaries shall remain contiguous and no revision shall create pockets of non-RPZ parking areas within the outer boundaries of the overall RPZ zones;
- D. The written request(s), as described in subsection (A) of this section, shall have the support of at least 60 percent of the immediate adjacent property owner(s), based upon frontage foot of the subject proposed modification. Written support shall be in the form of either a letter or petition that shall include the signatures of the potentially affected property owners; and
- E. Council adoption of an ordinance modifying the RPZ boundaries.

(Ord. 4804 § 3, 2018; Ord. 4676 § 1, 2014)

**Section 41. Section 9.05.020 of the Ellensburg City Code, as last amended by Sections 2, 3, & 4 of Ordinance 4804, is hereby amended to read as follows:**

## **9.05.020 Definitions.**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

*City* means the city of Ellensburg, Washington.

*City gas division codes of practice* means the document produced by the city to comply with state and federal laws concerning the safety, operation and maintenance of natural gas systems.

*Ellensburg City Code* means the codified ordinances adopted by the Ellensburg city council.

*Energy services director* means the energy services director or any energy services department employee authorized by the energy services director to act on their behalf.

*National Electric Safety Code* means the most current version of the National Electric Safety Code.

*Public works and utilities director* means the public works and utilities director or any public works and utilities department employee authorized by the public works and utilities director to act on his or her their behalf.

*Public works development standards* means the standards developed by the public works and utilities department that establish the guidelines and procedures for the water, sewer, storm sewer, street system and other associated topics administered by the public works and utilities department.

(Ord. 4804 §§ 2, 3, 4, 2018; Ord. 4644 § 2, 2013; Ord. 4503 § 2, 2007)

**Section 42. Section 9.05.500 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

### **9.05.500 Penalties.**

A. *Notice of violation.* In case of any violation of any of the provisions of this title, the department director may cause a written notice thereof to be served on the owner or occupant of the premises where such violation takes place, which notice shall require the payment of the charges provided in this title, and if such charges be not paid within 24 hours from the time of the service of such notice, the utility may be turned off from such premises and shall in no case be turned on until the charges have been paid.

B. *Enforcement of ordinance and report.* It shall be the duty of all the employees to assist the department directors in the enforcement of the provisions of this title, and to this end they shall report all violations thereof which come to their knowledge to the appropriate department director, and it shall be the duty of the fire marshal to report immediately to the public works and

~~utilities~~-director in the case of fire in premises having service for fire protection purposes, that fire has occurred therein.

C. *Copies of codified ordinance.* A copy of the ordinances codified in this title may be obtained by all owners of the property and consumers of utilities, and shall be considered a part of the contract made between the city and every such owner and consumer.

D. *Violations.* Unless otherwise provided for in this title, it shall be a civil infraction for any person to violate the provisions of this title. Any person who commits a civil infraction under this title shall be assessed a penalty and default amount not to exceed \$250.00, not including statutory assessments. Every person convicted of a misdemeanor under this title shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than \$1,000.00, or by both such imprisonment and fine. Each day's violation constituting an infraction or misdemeanor shall be a separate offense.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 43. Section 9.10.200 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4820, is hereby amended to read as follows:**

**9.10.200 Gas service requirements.**

A. The city will not tap a high pressure gas main except when conditions, in the sole judgment of the ~~public works and utilities~~ energy services director, justify a tap.

B. Each utility customer shall be subject to all rules and regulations adopted by the Ellensburg city council and the director relating to the installation, construction, reconstruction, adjustment and repair of house gas piping, gas appliances, fixtures and apparatus in all buildings served by the city gas utility.

C. If the applicant's building is located a substantial distance from the main, or if there is a hazard or obstruction (such as plowed land) between the gas main and the applicant's building which prevents the city from prudently installing a service line, the city may, at its discretion, allow the meter to be located at or near the applicant's property line, as close as practical to the city's main, at a location agreed upon by the customer and the city.

D. The end-use customer shall be responsible for the payment of any amount as determined in ECC 9.10.030(C). Subject to city approval, the customer may request to pay the connection fee in equal monthly payments for a period of no greater than 12 months, including a finance charge set forth by the finance director.

E. The city shall not be liable for any loss, injury or damage of any kind, including but not limited to consequential, special and punitive damages, resulting from the interruption,

reduction, loss or restoration of natural gas service from facilities owned by the city from any cause, including without limitation any loss by fire, flood, accident, casualty, sabotage, terrorist act, strike, labor slow-down, act of God or the public enemy, or failure or inadequacy of natural gas access or appurtenant facilities. Every person and entity accepting service from the natural gas facilities owned by the city agree to, and shall be deemed to, waive any and all claims for damage or loss to the person's or entity's pipes, facilities or natural gas equipment caused by an act or omission of the city; provided, however, that nothing herein shall be deemed or construed as a waiver of any claim for damage or liability arising out of the gross negligence or intentional act of the city or its agents.

(Ord. 4820 § 2, 2019; Ord. 4804 § 2, 2018; Ord. 4789 § 2, 2018; Ord. 4644 § 4, 2013; Ord. 4503 § 2, 2007)

**Section 44. Section 9.10.300 of the Ellensburg City Code, as last amended by Section 3 of Ordinance 4820, is hereby amended to read as follows:**

**9.10.300 Sewer service requirements.**

- A. A public works construction permit and/or sewer permit must be obtained prior to any construction. Permits shall be valid for 90 calendar days, unless approved otherwise on the permit. The public works and utilities director may extend the duration of a permit upon written application of the applicant or may determine that a new permit is required (including payment of fees).
- B. The owner or occupant of any land or premises shall be required to connect waste pipes used as a receptacle for drainage of sanitary sewage, industrial wastes or other waterborne contamination to the nearest accessible public sewer whenever there is a public sewer within 200 feet. The public works and utilities director shall prescribe the manner in which such connection shall be made. Such connection shall be made within 60 days after date of receipt of notice by certified mail.
- C. Whenever any land, buildings or premises are required to be connected to a public sewer or otherwise drained as provided in this section, and the owner or occupant fails to comply, the public works and utilities director may make such connection and the cost thereof shall be charged to the owner, agent or occupant, and a billing showing the amount thereof delivered to him, or posted upon the premises, whereupon the amount shall immediately be paid to the city.
- D. All vaults or privies shall be decommissioned per public works development standards.
- E. A plant investment fee shall not be required for any irrigation service or other use which does not enter the sanitary sewer system. If a property is connected to the sanitary sewer system but not the city water system, then the PIF fee shall be established by the public works and utilities director.

F. The city shall not be liable for any loss, injury or damage of any kind, including but not limited to consequential, special and punitive damages, resulting from the interruption, reduction, loss or restoration of sewer service from facilities owned by the city from any cause, including without limitation any loss by fire, flood, accident, casualty, sabotage, terrorist act, strike, labor slow-down, act of God or the public enemy, or failure or inadequacy of sewer access or appurtenant facilities. Every person and entity accepting service from the sewer facilities owned by the city agree to, and shall be deemed to, waive any and all claims for damage or loss to the person's or entity's pipes, facilities or sewer equipment caused by an act or omission of the city; provided, however, that nothing herein shall be deemed or construed as a waiver of any claim for damage or liability arising out of the gross negligence or intentional act of the city or its agents.

(Ord. 4820 § 3, 2019; Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 45. Section 9.10.400 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4820, is hereby amended to read as follows:**

**9.10.400 Water service requirements.**

A. A public works construction permit and/or water permit must be obtained prior to any construction. Permits shall be valid for 90 calendar days, unless approved otherwise on the permit. The public works ~~and utilities~~ director may extend the duration of a permit upon written application of the applicant or may determine that a new permit is required (including payment of fees).

B. The owner or occupant of any land or premises shall be required to disconnect any well or potential feature which may create a backflow to the city's water system prior to water service connection.

C. The city shall not be liable for any loss, injury or damage of any kind, including but not limited to consequential, special and punitive damages, resulting from the interruption, reduction, loss or restoration of water service from facilities owned by the city from any cause, including without limitation any loss by fire, flood, accident, casualty, sabotage, terrorist act, strike, labor slow-down, act of God or the public enemy, or failure or inadequacy of water access or appurtenant facilities. Every person and entity accepting service from the water facilities owned by the city agree to, and shall be deemed to, waive any and all claims for damage or loss to the person's or entity's pipes, facilities or water equipment caused by an act or omission of the city; provided, however, that nothing herein shall be deemed or construed as a waiver of any claim for damage or liability arising out of the gross negligence or intentional act of the city or its agents.

(Ord. 4820 § 4, 2019; Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 46. Section 9.20.030 of the Ellensburg City Code, as last amended by Sections 2, 4, & 10 of Ordinance 4804, is hereby amended to read as follows:**

**9.20.030 General.**

A. All mains (gas, sewer, water and stormwater) and primary voltage facilities installed by or on behalf of the city shall remain the property of the city at all times. After acceptance by the city, all such mains and primary voltage facilities shall be maintained by the city.

B. 1. Except as required in subsection (B)(2) of this section, any time that new city utilities must be installed on or over private property adjacent to a customer requesting utility service, a duly executed and notarized easement agreement satisfactory to the city must be obtained from the owners of record of the adjacent property and recorded with the office of the county auditor, which may be executed by the director of the utility department. Service lines installed on or over property owned by a customer requesting utility service are exempt from this requirement.

Existing utility facilities that are replaced in the same location on or over another party's private property to serve a customer requesting utility service that have a utility easement satisfactory to the city are exempt from this requirement.

2. Easements located within city-owned property or right-of-way, easements that require city payment, and easements outside of the city limits shall require city council approval.

3. Any party making modification to a property or structure that results in the need to replace, relocate, or otherwise modify existing utility facilities or obtain additional easements shall be responsible for all associated costs.

C. All electrical facilities not installed by city employees must be installed by qualified electrical employees with training equivalent to that required of city employees for the same specific work. All natural gas facilities not installed by city employees must be installed by operator-qualified workers with training equivalent to that required of city employees for the same specific work. The operator qualifications must be approved by the city prior to any electrical or gas work commencing.

D. The city shall have the right and authority to condemn and appropriate so much private property as is necessary for the construction and operation of electric, gas, sewer or water facilities in such manner as may be prescribed by law; and to condemn and appropriate any electric, gas, sewer or water facilities not owned by the city, in such manner as may be prescribed by law for the condemnation of real estate.

E. A utility extension agreement as provided for in chapter 2.48 ECC and approved by the city council must be executed by a property owner before any city utility service (except gas) can be extended to property located beyond the Ellensburg corporate city limits. The city is authorized, but not mandated, to provide non-gas utility service outside of the corporate city

limits but in no case may non-gas utility service be extended outside of the city's urban growth area boundary except as allowed by chapter 35.84 RCW.

F. The energy services director (gas, telecommunications or electric) or the public works and utilities director (sewer, water or stormwater) may determine that an extension or oversizing of utility facilities beyond the needs of the customer(s) is in the best interest of the city for the long-term operation or reliability of the utility system. In such cases the city will pay for the extension and/or the net cost of oversizing and be eligible to recover the costs through a reimbursement fee.

G. The utility directors are authorized to establish standards and procedures for processing applications and determining eligibility for utility reimbursement agreements consistent with the requirements of this chapter.

H. Persons paying to extend or upgrade utility mains to their property may seek partial cost recovery from individuals who connect to the extended or upgraded main at a later date. In order to qualify for partial cost recovery the individual must have entered into a reimbursement agreement with the city prior to substantial completion of the development.

(Ord. 4804 §§ 2, 4, 10, 2018; Ord. 4775 § 1, 2017; Ord. 4762 § 3, 2016; Ord. 4644 § 5, 2013; Ord. 4503 § 2, 2007)

**Section 47. Section 9.20.100 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4804, is hereby amended to read as follows:**

**9.20.100 Electric utility extensions.**

A. Electric system improvements may be either underground or overhead, with underground the preferred method. All new primary distribution voltage line extensions to serve and internal to new parcels or developments must be installed underground; exceptions may be granted by the public works and utilities energy services director for extraordinary circumstances or if the estimated cost to comply is excessive in comparison to the estimated cost of overhead installation.

B. All costs associated with an electric line extension to serve and internal to new parcels or developments must be fully paid for by the applicant, except that an extension credit shall be given to all applicants. All costs associated with an electric line extension to serve and external to new parcels or developments must be fully paid by the applicant, except as permitted by ECC 9.20.030(F).

C. The city and Kittitas PUD acknowledge there may be certain groups of their customers where extension of their lines would be uneconomic and duplicative of the other party's facilities. Recognizing potential benefits to rate-paying customers, the city and PUD agree to

consider wheeling power over their facilities for the other utility upon request and subject to an appropriate site-specific wheeling agreement(s).

(Ord. 4804 § 2, 2018; Ord. 4762 § 4, 2016; Ord. 4503 § 2, 2007)

**Section 48. Section 9.20.300 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.20.300 Sewer utility extensions.**

A. The developer is responsible for paying for and installing all facilities required to extend a sewer main. Actual connection to the constructed main shall be in accordance with the requirements of ECC 9.10.300. In lieu of payment in full, the developer may satisfy this requirement by:

1. Establishment of a local improvement district (LID); or
2. Payment of a proportionate share of costs where nonparticipating property is involved (cost share negotiated with city).

B. A public works construction permit and/or sewer permit must be obtained prior to any construction. Permits shall be valid for 90 calendar days, unless approved otherwise on the permit. The public works and utilities director may extend the duration of a permit upon written application of the applicant or may determine that a new permit is required (including payment of fees).

C. All facilities shall be designed, drawn, specified and constructed to the public works development standards.

D. The city, at its sole cost and discretion, may extend mains if mains are in the best interest of the utility.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 49. Section 9.20.400 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.20.400 Water utility extensions.**

A. The developer is responsible for paying for and installing all facilities required to extend a water main. Actual connection to the constructed main shall be in accordance with the requirements of ECC 9.10.400. In lieu of payment in full, the developer may satisfy this requirement by:

1. Establishment of a local improvement district (LID); or

2. Payment of a proportionate share of costs where nonparticipating property is involved (cost share negotiated with city).

B. A public works construction permit and/or water permit must be obtained prior to any construction. Permits shall be valid for 90 calendar days, unless approved otherwise on the permit. The public works ~~and utilities~~ director may extend the duration of a permit upon written application of the applicant or may determine that a new permit is required (including payment of fees).

C. All facilities shall be designed, drawn, specified and constructed to the public works development standards.

D. The city, at its sole cost and discretion, may extend mains if mains are in the best interest of the utility.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 50. Section 9.20.500 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4804, is hereby amended to read as follows:**

**9.20.500 Telecommunications utility extensions.**

A. All new fiber optic line extensions to serve and internal to new parcels or developments must be installed underground; exceptions may be granted by the ~~public works and utilities~~ energy services director for extraordinary circumstances or if the cost to comply is excessive in comparison to the estimated cost of overhead installation. Telecommunications system improvements may be either underground or overhead, with underground the preferred method.

B. All costs associated with a telecommunications line extension must be fully paid by the applicant, except as permitted by ECC 9.20.030(F).

(Ord. 4804 § 2, 2018; Ord. 4762 § 6, 2016)

**Section 51. Section 9.25.100 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4804, is hereby amended to read as follows:**

**9.25.100 Electric service requirements.**

A. The city reserves the right to refuse to connect or discontinue service to a customer whose equipment or facilities are causing or may cause power quality problems for other customers.

B. The city shall follow a proactive right-of-way maintenance program to reduce primary voltage facility outages and damage to electrical facilities. Vegetation control shall utilize mechanical means unless the property owner authorizes the use of chemicals. In all cases, only

appropriately trained and certified individuals will be used. Vegetation is trimmed with the intent that the work should provide a minimum of three years before there would be a need to return.

C. The city may also trim tree branches or other vegetation on utility easements or private property encroaching upon the public right-of-way to prevent the branches or vegetation from touching or otherwise interfering with electrical transmission and distribution lines, and to reduce primary voltage facility outages and damage to electrical facilities.

D. In order to prevent adverse impacts to city-owned substation equipment, feeders or regulators or other equipment resulting from the actions of a primary service customer in accordance with ECC 9.91.100(L), and the city, the Bonneville Power Administration, and the ~~public works and utilities energy services~~ director shall establish a primary interconnection request procedure and require a customer to provide a current electrical schematic to ensure that changes to the city or customer owned systems due to switching, maintenance, construction or other activities are safely and properly completed.

E. A primary metered customer seeking to modify a primary interconnection to the city's electric facilities shall be required to submit an application outlining the obligations required under this section, which must be approved by the ~~public works and utilities energy services~~ director prior to proceeding with any requested changes under this subsection.

(Ord. 4804 § 2, 2018; Ord. 4789 § 4, 2018; Ord. 4762 § 5, 2016; Ord. 4503 § 2, 2007)

**Section 52. Section 9.25.300 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.25.300 Sewer service requirements.**

A. A public works construction and/or sewer permit and payment of all fees shall be required before making any connection to any public or private sewer, drain, or natural outlet, whether on public or private property. After approval of an application and issuance of the permit, no changes may be made in the work without approval of the public works and utilities director.

B. Any payments required pursuant to this chapter which are allowed to become delinquent shall be a lien upon the property served as provided in RCW 35.67.200 and enforceable in accordance with RCW 35.67.220 through 35.67.280; and as an additional and concurrent method of enforcing the lien, the water service to such property may be terminated in accordance with RCW 35.67.290 until all delinquent charges are paid. Upon full payment of the charges, the ~~public works and utilities~~ director, on behalf of the city, shall execute and deliver to the property owner a release of such lien.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 53. Section 9.25.310 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.25.310 Matter excluded from all sewers.**

Sewage, waste or any matter having any of the following characteristics, shall not be discharged under any conditions under which it may be allowed to run, leak or escape, or in any way enter into any part of the sewer system:

- A. Any pollutant which causes interference with the operations of the treatment plant or pollutants which pass through the treatment plant untreated, including color. Also, any pollutants that will lower the quality of biosolids below agriculture reuse levels.
- B. Pollutants which by reason of their nature or quantity are, or may be, sufficient either alone, or by interaction, to:
  - 1. Create a fire or explosion hazard in the treatment plant (including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees centigrade using the test methods specified in 40 CFR 261.21);
  - 2. Create a public nuisance or hazard to life;
  - 3. Prevent entry into the treatment plant for its maintenance or repair; or
  - 4. Be injurious in any other way to the treatment plant personnel.
- C. Heat in amounts that will inhibit biological activity in the treatment plant which cause, or may cause, pass-through or interference, but in no case heat in such quantities such that the temperature at the treatment plant headworks exceeds 104 degrees Fahrenheit or 40 degrees centigrade.
- D. Liquid matters of any nature containing suspended solids in excess of 300 parts per million.
- E. Matter of any nature containing five-day biochemical oxygen demand in excess of 300 parts per million, or any pollutant, including oxygen demanding pollutants, (BOD, etc.) released in either a slug load or continuous discharge of such volume, flow/rate and/or pollutant concentration which will cause, or may cause, pass-through or interference of the treatment plant.
- F. Animal or vegetable greases, oils or matter containing animal or vegetable grease or oil of any nature in excess of 100 parts per million, or any petroleum products, that may cause pass-through or interference of the treatment plant.

G. Liquid matter with a pH lower than 5.5 or higher than 9.0, or having any corrosive property capable of causing damage or hazards to structures, equipment or personnel of the sewage control works.

H. Solid or viscous pollutants in amounts that cause, or may cause, obstruction to the flow in the treatment plant or otherwise interfere with the operations or maintenance of the treatment plant.

I. Pollutants which result in the presence of toxic gases, vapors, or fumes within the treatment plant in a quantity which cause, or may cause, acute worker health and safety problems.

J. Any trucked or hauled pollutants, except at designated discharge points. Permission must be obtained from the public works ~~and utilities~~ director. Analysis of the material and payment of fees will be based upon the cost of treating the waste, including costs of analyses.

K. Wastewaters containing dangerous waste, as prohibited by chapter 173-303 WAC.

L. Any matter which, in the opinion of the public works ~~and utilities~~ director, might interfere with the satisfactory operation of any treatment plants or any portion of the sewer system.

M. Parking lot washing, building stripping and other associated activities which contain chemicals and produce byproducts that are not environmentally friendly shall not be discharged to the storm sewer or sanitary sewer system. Waste shall be collected and disposed of off-site in an approved waste site location.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 54. Section 9.25.330 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.25.330 Matters excluded from sanitary sewers.**

A. In addition to the matter excluded in ECC 9.25.310, no one shall discharge or cause to be discharged any storm water, surface water, basement sumps, groundwater, roof runoff, subsurface drainage, cooling water or unpolluted industrial process water to any sanitary sewer. Storm water shall be discharged per local, state, and federal regulations for discharge of storm water and shall be in accordance with subsections (A) through (E) of this section.

B. Storm drainage from hard surfaced or graded areas will be channeled to protect adjacent property. Surface drainage will be treated by employing best management practices identified by the Washington State Department of Ecology. The volume of storm drainage water to be treated will be equal to one-half inch applied over the total surface area. After treatment, water may be

discharged to city storm drains or adjacent surface water. If discharge facilities are not available, provisions must be made to retain storm drainage on the site.

C. All hard surfaced or graded areas such as parking lots and service station yards shall be drained in such manner as will protect adjacent public and private property from damage and such. Drainage shall enter the storm sewer or other outlet by way of an inlet structure of such design as is approved by the public works and utilities director.

D. Storm water treatment and flow control facilities for storm water generated on city rights-of-way should be located on existing or dedicated city rights-of-way. However, when, in the opinion of the public works and utilities director, site topography or construction issues do not allow the facilities to be located on city rights-of-way, the facilities may be located on dedicated easements, preferably adjacent to the city right-of-way. Maintenance of these treatment and flow control facilities which manage storm water generated on public rights-of-way will be performed by the city once the new system is fully functional and has been approved by the city.

E. Groundwater during construction or maintenance activities.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 55. Section 9.25.340 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.25.340 Inspection of sewers and attachments.**

The public works and utilities director shall have the right to enter upon premises drained by any side sewer or connected with the municipal sewer system at all reasonable hours to ascertain whether the provisions of the ordinances of the city relative to sewerage have been complied with. If the sewer or its attachments are not in conformance with the provisions of any law or ordinance in regard thereto, the owner of the premises, or his agent, shall be notified to cause the sewer or its attachments to be so altered, repaired or reconstructed as to make them conform to the requirements of the laws and ordinances within 30 days from the time of receipt of such notice.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 56. Section 9.25.350 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.25.350 Testing of sewage waste.**

The public works and utilities director shall be permitted to enter upon any and all premises at all reasonable times for the purpose of inspection, observation, measurement, sampling and testing of sewage waste in accordance with the provisions of this chapter; and it is unlawful for any person to prevent or attempt to prevent any such entrance or obstruct or interfere with any such

officer or employee while so engaged. Premises shall be required to provide sampling location, if needed.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 57. Section 9.25.360 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.25.360 Determination of character of waste matter.**

Before any matter of any nature may be discharged into the sewer system which might reasonably be considered a violation of this chapter, the controlling characteristic of such matter shall be determined to the satisfaction of the public works ~~and utilities~~ director. The responsibility to analyze the characteristics of matter to be discharged into the sewer system lies solely with the party or parties desiring to discharge the matter into the sewer system.

Verification of analysis results and the decision as to whether or not an authorization to discharge shall be issued shall be the responsibility of the public works ~~and utilities~~ director. The fact that any matter has been discharged into the sewer system prior to the passage of this chapter or subsequent thereto, with or without objection from the public works ~~and utilities~~ director, does not constitute a waiver of the city's right to object, or create any right to so discharge such matter. Upon discovery by the public works ~~and utilities~~ director at any time that any matter being discharged into the sewer does not conform to the requirements of this chapter, the director may immediately stop the discharge of such matter into the sewer system.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 58. Section 9.25.400 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.25.400 Water service requirements.**

A. When new buildings are to be erected on the site of old ones and it is desired to increase the size or change the location of the old service connection, or where a service connection to any premises is abandoned or no longer used, the public works ~~and utilities~~ director may cut out or remove such service connection, after which, should a service connection be required to said premises, a new service shall be placed only upon the owner making an application for a new tap in the regular manner.

B. When water has been shut off for any cause, and is turned on again or allowed or caused to be turned on by the owner, no refund of rates will be made on account of its having been shut off, and the public works ~~and utilities~~ director may then shut off the water at the main, or remove a portion of the service connection in the street, and shall charge the actual cost of cutting out and reinstating the water supply.

C. Water for construction purposes may be furnished by meter, and the payment for the same shall be made at the same time and in the manner as other meter rates. All water for building or construction purposes shall be charged against the property upon which it is used, and the owner thereof.

D. The city will install a temporary meter upon request. The meters will be considered temporary until such time that the service is used for its intended purpose or occupancy of facility served, which shall be considered permanent. If a meter or appurtenances requires maintenance or moving vertically or horizontally when it becomes permanent, the city will perform required work and the permit holder will be billed for the work.

E. When several houses, buildings, or premises are supplied or are to be supplied with water through one service connection with the city main, the public works ~~and utilities~~ director may in his/her discretion either decline to furnish water until separate services are provided or the service is metered, or in case any one of the owners or occupants becomes delinquent or violates any of the provisions of this chapter, the public works ~~and utilities~~ director may shut off the original or main service until all delinquent and unpaid charges and other charges are paid, and the premises supplied by the main service shall be held responsible for all delinquent and unpaid charges against any one or all of the separate owners or users. No change of ownership or occupation shall affect the application of this section.

F. It is unlawful for any person to waste water or allow it to be wasted by imperfect or leaking stops, valves, pipes, closets, faucets or other fixtures, or to use water closets without self-closing valves, or to allow any pipes or faucets to run open to prevent the service from freezing, or for any other reason, or to use the water for purposes other than those named in the application upon which rates for water are based, or for any other purpose than that for which his utility service agreement provides, or to use it in violation of any provision of this chapter.

G. When the water utility has been requested to attach a meter to pipes within a building or buildings occupied by several tenants, and it is divided without alteration being made in the plumbing that is divided, written notice and request to make such necessary alterations shall be given by the water department to the owner or occupant. In the event of failure to comply with said notice within ten days after its date, the supply may be withdrawn until the alteration shall have been made.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 59. Section 9.30.100 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4942, is hereby amended to read as follows:**

**9.30.100 Electric rates.**

A. Separate electric rates shall be established for the following rate classes: residential, low-income senior citizen/low-income disabled citizen, general service, general service demand, nonprofit agency serving the disadvantaged, security lighting, municipal, and large customer/contractual, primary metered and renewable energy.

B. The low-income senior citizen/low-income disabled citizen and nonprofit agency serving the disadvantaged rates shall have consumption and customer charges set at 50 percent of the residential rate and general service rate respectively. The rates established by this section will be published ~~by the public works and utilities department~~ on the city's website, and be made available from the city's finance department.

C. Primary metered customers where the city owns and maintains the transformer beyond the 12,470-volt metering point shall receive a one percent discount for transformer losses from the E-201 consumption rate and a one percent discount from the E-220 demand rate.

D. Primary metered customers where the customer owns and maintains the transformer beyond the 12,470-volt metering point shall receive a two percent discount for transformer losses from the E-201 consumption rate and the E-220 demand rate and a two percent discount for transformer investment and maintenance from the E-201 customer charge.

E. All general service and primary metered customers shall have demand consumption averaged over a 15-minute rolling average time interval.

F. Renewable energy and renewable energy system contributions are two voluntary rates to enable all city electric customers to participate in renewable energy. Renewable rates revenue will go into a designated cash account established to maintain the community renewable energy park and provide education about renewable energy resources. A direct one-time donation to the designated cash account shall also be allowed; however, if over \$1,000.00, the Ellensburg city council would need to accept the donation per the Ellensburg City Code.

1. The renewable energy rate shall be a voluntary monthly upgrade premium sold in 100 kilowatt hour blocks added incrementally to the consumption charge of the regular electric rate associated with the customers' electric service. The amount of energy available for purchase will be limited to the generation output of the city's community renewable energy park.
2. The renewable energy system contribution is a voluntary fixed monthly contribution to the designated cash account set up to maintain the community renewable energy park and provide education about renewable energy resources.
3. The voluntary rates established in this subsection are month to month and can be started and stopped at the customer's request.

4. On an annual basis (or more often, as circumstances warrant) the director of ~~public works and utilities~~ energy services or designee will report in writing to the Ellensburg city council concerning revenue generated by voluntary rates established in this section, and concerning expenditures from the fund established to manage those revenues. In the interest of public education as envisioned by the ordinance codified in this section, voluntary ratepayers and the general public will be apprised of such revenues and expenditures.

G. Unmetered services for several small electrical devices include, but are not limited to, municipal emergency management systems, municipal security camera systems, communications systems, irrigation systems, street lighting systems, and other systems that are mounted in the communications zone on utility poles or on streetlighting poles or on other locations that are directly connected to the city's electrical distribution system without a service panel or metering.

Small electrical devices shall comply with the following:

1. At least one service of each small electrical device type with an operating load that is not comparable to any other small electrical device of the customer, as determined by the ~~public works and utilities~~ energy services director, shall be metered. For the purposes of this subsection only, "not comparable" shall mean the anticipated operating load is not within ten percent of any other small electrical device of the same or substantially similar design.
2. Beginning January 1, 2018, additional services used for small electrical devices including, but not limited to, municipal emergency management systems, municipal security camera systems, communications systems, and other systems as determined by the ~~public works and utilities~~ energy services director with similar operating loads will not be metered. The rates charged for each metered and unmetered system shall include a consumption charge based on the metered consumption of a small electrical device type with a similar operating load and a customer charge as determined by the ~~public works and utilities~~ energy services director. The customer's utility billing shall be revised based on any changes to the number of systems with similar operating loads.

(Ord. 4844 § 2, 2019; Ord. 4804 § 2, 2018; Ord. 4764 § 1, 2017; Ord. 4706 § 1, 2015; Ord. 4684 § 3, 2014; Ord. 4633 § 1, 2013; Ord. 4626 § 1, 2012; Ord. 4555 § 3, 2009; Ord. 4503 § 2, 2007; Ord. No. 4942, § 1, 5-20-2024)

**Section 60. Section 9.30.150 of the Ellensburg City Code, as last amended by Sections 1,2, & 5 of Ordinance 4804, is hereby amended to read as follows:**

**9.30.150 Treatment of new large single loads.**

A. Definitions. For the purposes of this section, the following definitions apply:

*3.2MVA* means 3,200,000 volt-amps, which is equivalent to the full rated capacity of electric utility service entrance equipment rated at 4,000 amp 480 volt three phase.

*Connected load* is determined in accordance with the National Electric Code.

*New large single load* means a general service single or three phase demand or primary service metered account that applies for electric service with ~~public works and utilities~~ energy services department after December 31, 2013, based upon the supply of service to the entire premises through a single delivery and metering point that exceeds a connected load of 3.2MVA.

*Tier 1* means the wholesale power supplied by the Bonneville Power Administration to the city for its share of the federally based system based on the tiered rate methodology, excluding tier 1 load shaping services.

*Tier 2* means wholesale power supplied to the city based on the tiered rate methodology.

*Tiered rate methodology* means the Bonneville Power Administration Tiered Rate Methodology, document number TRM-12-A-01, that was established in November 2008.

B. Subject to the exclusions stated herein, this section applies to all new large single loads.

This section is intended to establish rates only for the sale of tier 1 load shaping and tier 2 wholesale power supply for new large single loads. The point of ownership change shall be defined in a one-line drawing of the service installation in accordance with the city's ~~public works and utilities~~ energy services department records. The rates established in this section apply to the extent that tier 1 wholesale power supply is not available to serve all or a portion of the new large single load. This section does not apply to new large single loads as defined by the Bonneville Power Administration in its new large single load policy document dated April 2001. This section also does not apply to new large single loads that are served under ECC 9.91.100(I).

C. After December 31, 2013, a new large single load shall be charged the following rates and charges based on the energy and demand usage and power factor for each month as measured by the account meter:

1. New large single loads will be charged the actual cost of generation and transmission services incurred by the city for such service as determined by the ~~public works and utilities~~ energy services director. Generation services may include but not be limited to the BPA priority firm public rate, tier 1 load shaping charges, tier 2 charges, and transmission charges for wholesale services. The city in its sole discretion shall have the right to determine what tier 2 rate alternatives it procures from the Bonneville Power Administration or another entity.

2. A customer charge in accordance with ECC 9.91.100(C), (D), (K) or (L) shall apply to new large single loads.
3. A distribution charge shall apply to new large single loads and be determined by multiplying 0.40 times the sum of subsections (C)(1) and (2) of this section, which includes all applicable taxes.

D. The following charges and adjustments shall be applied to any new large single load served under this schedule:

1. The sum of the customer's previous year's actual tier 1 and tier 2 wholesale generation and transmission costs and customer charges and distribution charges less the customer's previous year's retail charges shall be used to establish the amount of tier 1 and tier 2 true up to the customer in the subsequent year.
2. Based on the anticipated lagging reactive load, metering for power factor may be required. When required by the ~~public works and utilities~~ energy services department, demand charges will be adjusted to correct for average power factors lower than 97 percent by dividing the metered monthly peak demand by the monthly average power factor and then multiplying the quotient by 97 percent.

(Ord. 4804 §§ 1, 2, 5, 2018; Ord. 4625 § 1, 2013)

**Section 61. Section 9.30.200 of the Ellensburg City Code, as last amended by Section 3 of Ordinance 4844, is hereby amended to read as follows:**

**9.30.200 Gas rates.**

A. Separate gas rates shall be established for the following rate classes: residential, low-income senior citizen/low-income disabled citizen, commercial and industrial, nonprofit agency serving the disadvantaged, and interruptible industrial.

B. Due to volatility in retail gas consumption and the need to satisfy bond covenants associated with maintaining a minimum debt service coverage, anytime projected budget revenues and expenditures for the next year are calculated to produce a DSC of less than 1.2, an automatic adjustment to the consumption charge of all gas rate schedules shall be made on October 1 of the current year to provide sufficient revenues to attain a DSC of 1.2 for the ensuing year.

C. The low-income senior citizen/low-income disabled citizen and nonprofit agency serving the disadvantaged rates shall have consumption and customer charges set at 50 percent of the residential rate and commercial and industrial rate respectively. The rates established by this section will be published ~~by the public works and utilities department~~ on the city's website, and be made available from the city's finance department.

(Ord. 4844 § 3, 2019; Ord. 4555 § 4, 2009; Ord. 4503 § 2, 2007)

**Section 62. Section 9.30.300 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4844, is hereby amended to read as follows:**

**9.30.300 Sewer rates.**

A. Separate sewer rates shall be established for the following rate classes: residential single-family, residential multifamily, low-income senior citizen/low-income disabled citizen, commercial, nonprofit agency serving the disadvantaged, industrial and general service, Central Washington University, multifamily, municipal, high strength commercial, and large customer/contractual.

B. Customers in single-family or multi-unit structures shall have the privilege of receiving service under either the residential single-family rate (S-11), the residential multiple-family rate (S-12) or the multifamily rate (S-23). However, once the customer has selected a rate under which to receive service the customer's selection shall be in force and effect for a firm period of at least 12 months and shall not be applied to any service previously rendered.

C. Users of water for irrigation, cooling, or other special purposes, which does not enter any sanitary sewer or combined sewer and which is separately metered for such special purposes, shall be exempt from payment of sewer service charges for such special use.

D. The low-income senior citizen/low-income disabled citizen and nonprofit agency serving the disadvantaged rates shall have a customer charge and a volume charge set at 50 percent of the residential single-family rate and the commercial, industrial and general service rate respectively. The rates established by this section will be published by the public works ~~and utilities~~ department on the city's website, and be made available from the city's finance department.

(Ord. 4844 § 4, 2019; Ord. 4555 § 5, 2009; Ord. 4503 § 2, 2007)

**Section 63. Section 9.40.270 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.40.270 On-site sewage disposal systems.**

A. Whenever it is determined by the public works ~~and utilities~~ director that connection to the sanitary sewer is impractical for a premises because of distance or unavailability, then the owner of the premises may make application for a permit to dispose of wastes on the premises.

B. Applications for a permit for an on-site disposal system shall be made to the county health department which shall issue a permit only after the following conditions have been satisfied:

1. The lack of sewer system availability has been confirmed by the public works and utilities director in writing;
2. Submission of a design by a licensed designer which identifies sufficient lot area, proper soil conditions, and any other conditions specified by the county health department; and
3. Payment of all fees associated with the permit.

C. Installation of an on-site sewage disposal system shall be by a licensed and bonded installer. All on-site disposal systems must be inspected by the health department prior to covering. All costs for the installation of an on-site sewage disposal system shall be borne by the property owner or user.

D. Maintenance and operation of on-site sewage disposal systems shall be the responsibility of the property owner. Any failures of a system shall be corrected in the manner and within the time limit specified by the health department.

E. All on-site sewage disposal systems within the city limits which are in existence or for which permits are subsequently issued under the provisions of this chapter shall be used only as a temporary method of sewage disposal and shall be authorized for use only until the municipal sewer system becomes available and connection is required under ECC 9.10.300(B).

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 64. Section 9.40.280 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.40.280 Defective side sewer.**

When any side sewer is constructed, laid, connected or repaired, and does not comply with the provisions of this chapter, or where it is determined that a side sewer, drain, ditch, or natural watercourse is obstructed, broken or inadequate and is a menace to health, or is liable to cause damage to public or private property, the public works and utilities director shall give notice to the owner, agent or occupant of the property on which such condition exists and if he shall refuse to reconstruct, relay, reconnect, repair, or remove the obstruction of the side sewer, drain, ditch, or natural watercourse within the time specified in such notice, the public works and utilities director may perform such work as may be necessary to comply with this chapter, and the cost of such work so done shall be charged to the property owner or occupant and shall become immediately payable to the city upon written notice of such amount being given to the property owner or occupant or posted upon the premises.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 65. Section 9.40.290 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.40.290 Recreational vehicle waste discharge.**

Waste from recreational vehicles shall be discharged only in those facilities and at those locations which have been approved by the public works and utilities director. It is unlawful for any person or business to accept waste from a recreational vehicle without having a permit to accept such waste.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 66. Section 9.40.450 of the Ellensburg City Code, as last amended by Sections 1 & 2 of Ordinance 4804, is hereby amended to read as follows:**

**9.40.450 Street and area lighting.**

The city provides street lighting for arterial streets, intersections, and other critical locations in the city needing illumination. ~~Public works and utilities~~ Energy services provides for operation and maintenance of street lighting to the city at cost. Auxiliary lighting may be installed based on recommendations of other city departments subject to approval by the ~~public works and utilities~~ energy services director. The city will not install any new area lighting for any other entity except under provisions of ECC 9.40.350.

(Ord. 4804 §§ 1, 2, 2018; Ord. 4503 § 2, 2007)

**Section 67. Section 9.40.475 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4804, is hereby amended to read as follows:**

**9.40.475 Use of spare or joint use conduits.**

A. The city-owned telecommunications utility may use spare conduits and jointly use primary and secondary conduits owned by the city electric utility, and the city-owned telecommunications utility may jointly use secondary conduits owned by the city for street lighting, for the installation of telecommunications facilities.

B. The city-owned telecommunications utility shall pay a conduit licensing fee in accordance with ECC 9.92.100 for the use of spare or joint use conduits when customers are receiving telecommunications services.

C. Installation of telecommunications facilities in primary or secondary conduits owned or under the exclusive control of the city electric utility shall be performed by qualified electrical employees.

D. Priority to the restoration of damaged joint use conduits shall be given to city light customers, then to telecommunications customers.

E. Other entities may use spare conduits and jointly use primary and secondary conduits owned by the city for telecommunications facilities, subject to a determination by the ~~public works and utilities~~ energy services director that there is excess capacity and such use is in accordance with ECC 9.05.100. Other entities shall pay a conduit licensing fee in accordance with ECC 9.92.100 for the use of spare or joint use conduits when customers are receiving telecommunications services. The city shall not be responsible for locating or repairing spare conduits used by other entities. Priority to the restoration of damaged joint use conduits shall be given to city light customers, then to telecommunications customers, and then to other entities.

(Ord. 4804 § 2, 2018; Ord. 4790 § 1, 2018)

**Section 68. Section 9.40.550 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.40.550 Opening fire hydrants.**

A. It is unlawful for any person, except when duly authorized by the ~~public works and utilities~~ director, to operate, turn on, turn off, interfere with, attach any pipe or hose to, or connect anything with any fire hydrant, valve, or stop cock belonging to the city. Violation of this section constitutes a misdemeanor.

B. Any person, other than authorized employees of Kittitas Valley Fire and Rescue requiring the use of any hydrant or valve belonging to the city, must make written application for the same in advance to the ~~public works and utilities~~ director.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 69. Section 9.40.560 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.40.560 Property of water system.**

It is unlawful for any person, unless duly authorized by the ~~public works and utilities~~ director, to disturb, contaminate, interfere with or damage any water main, water pipe, reservoir, machinery, tools, buildings, or improvements, belonging to, connected with or under the control of the municipal water system of the city. Violation of this section constitutes a misdemeanor.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 70. Section 9.40.700 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.40.700 Water contamination prevention.**

A. The installation or maintenance of a cross-connection which will endanger the water quality of the potable water supply of the city is prohibited. Any such cross-connection now existing or hereafter installed is a nuisance and shall be abated. The control or elimination of cross-connections shall be in accordance with the Washington Administrative Code (WAC 246-290-490 or 296-24-12005) or subsequent revisions, together with any future manuals of standard practice pertaining to cross-connection control approved by the Director of the State of Washington Department of Health, and the city's "Cross-Connection and Backflow Policy and Procedure," which policy by this reference is incorporated into this title and which is on file with the office of the city clerk for public use and examination. The water supply will be discontinued to any premises for failure to comply with the provisions of this section and will not be re-established until compliance is approved by the public works ~~and utilities~~ director.

B. Service from the city water supply system to any premises upon which a private water supply system is used or operated contrary to the provisions of the rules and regulations of the state department of health regarding public water supplies may be discontinued or refused upon order of the public works ~~and utilities~~ director.

C. Furnishing of any fire suppression, irrigation or other service representing a backflow potential shall be contingent upon the installation of the backflow prevention device approved by the State of Washington Department of Health for the protection of the city water supply from backflow.

D. A public works irrigation/backflow permit shall first be issued prior to any connection being made to the city water system, when said connection has been identified as being a potential cross-connection.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 71. Section 9.50.200 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4804, is hereby amended to read as follows:**

**9.50.200 Gas service curtailment.**

A. Due to the sensitive nature of the information contained in, and to comply with, the U.S. Department of Transportation's security requirements, the load shedding and restoration procedures document is of restricted circulation.

B. New or revised load shedding and restoration plans shall be provided to the utility advisory committee and the city council at the earliest opportunity for approval. Under emergency conditions, the ~~public works and utilities~~ energy services director may implement new or revised plans prior to city council approval.

C. After any emergency is over and normal operation of the gas system has been restored, the ~~public works and utilities~~ energy services director shall prepare a report detailing the actions taken by the city and the resulting impacts to customers to the extent that federal homeland security rules allow.

(Ord. 4804 § 2, 2018; Ord. 4503 § 2, 2007)

**Section 72. Section 9.50.400 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**9.50.400 Water service curtailment.**

A. The public works ~~and utilities~~ director shall prepare and maintain a detailed plan that, when placed into effect, will ensure the maintenance of adequate water reserve storage, yet provide sufficient water for the general health and sanitary requirements of the residents of the city.

B. The specific plan for the curtailment of water use from the city water distribution system shall become effective four hours after the declaration of the emergency condition. The specific plan of curtailment shall be provided to the local radio station or other communications media as soon as possible.

C. It is unlawful for any person, firm, or corporation to use water supplied through the water distribution system of the city in any manner whatsoever that is not in compliance with the terms of the announced plan for the curtailment of water usage. Violation of this section constitutes a misdemeanor.

D. The city reserves the right at any time, without notice, to shut off the water supply for repairs, extensions, nonpayment of rates or any other reason, and the city shall not be responsible for any damages, such as bursting of boilers supplied by direct pressure, the breaking of any pipes or fixtures, stoppages or interruption of water supply, or any other damage resulting from the shutting off of water. Where possible, prior notice of the shut off will be given.

(Ord. 4804 § 4, 2018; Ord. 4503 § 2, 2007)

**Section 73. Section 9.75.020 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4804, is hereby amended to read as follows:**

**9.75.020 Definitions.**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

*City of Ellensburg Net Metering Interconnection Standards* means the standards document, which governs the terms and conditions under which the customer's generation facility will interconnect with, and operate in parallel with, the city's electric system.

*Customer generation facility* means non-utility owned equipment capable of generating electricity and delivering that electricity to the city's distribution network.

*Net metering of electricity* means energy that flows to and from the utility customer through a bi-directional meter, and for which they are billed the net difference between energy used and energy produced by the utility customer.

*Net wholesale power cost* means the annual total cost of power purchased by the city divided by the annual total kilowatt hours purchased.

*Third party owner* means an owner of a generation facility installed on a utility customer's property that is interconnected with the utility, but which is not owned by the utility customer.

*Utility* means the electrical utility division of the city's ~~public works and utilities~~ energy services department.

(Ord. 4804 § 1, 2018; Ord. 4722 § 1, 2016; Ord. 4503 § 2, 2007)

**Section 74. Section 9.75.030 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4804, is hereby amended to read as follows:**

**9.75.030 General.**

A. The city will review the installation of customer generation facilities for compliance with applicable electrical codes and the City of Ellensburg Net Metering Interconnection Standards, a complete copy of which shall be retained in the office of the city clerk for use and examination by the public. All customer generation facilities must include protective devices approved by the ~~public works and utilities~~ energy services department that automatically isolate the customer's generation from the city's distribution system when an outage occurs on the city's system. The specifications and requirements in the Net Metering Interconnection Standards are intended to mitigate possible adverse impacts caused by the customer's generation facility on utility equipment and personnel, and on other customers of the utility.

B. The utility shall own, maintain and install on the customer's property a revenue grade kilowatt-hour meter, capable of registering the bi-directional flow of electricity at the point of common coupling at a level of accuracy that meets all applicable standards.

C. A third party owner may sell electrical power from or lease their generation facility to a utility customer that has met the requirements for net metering interconnection in subsection (A) of this section, has submitted a completed application and a net metering interconnection

agreement between the customer and the utility. A third party owner must comply with all applicable state laws and regulations.

D. Customer generation facilities are exempt from the requirement for a franchise.

(Ord. 4804 § 1, 2018; Ord. 4722 § 1, 2016; Ord. 4503 § 2, 2007)

**Section 75. Section 9.75.040 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4804, is hereby amended to read as follows:**

**9.75.040 Net metering and utility billing.**

A. If the electricity supplied by the utility exceeds the electricity generated by the customer-generator during the billing period, the customer-generator shall be billed for the net electricity supplied by the electric utility in accordance with normal metering practices and utility rates.

B. If electricity generated by the customer-generator exceeds the electricity supplied by the utility during the billing period, the customer-generator shall be billed for the appropriate customer charges for that billing period and shall be credited for the excess kilowatt-hours generated during the billing period, with the kilowatt-hours credit appearing on the bill for the following billing period.

C. Upon a customer-generator's written request, the electric utility shall provide meter aggregation. For customer-generators participating in meter aggregation, kilowatt-hours credits earned by a net metering system during the billing period shall first be applied to offset charges for electricity supplied by the electric utility. Not more than a total of 100 kilowatts of electricity generation shall be aggregated among all customer-generators participating in a generating facility under this subsection. Excess kilowatt-hours credits earned by the net metering system during the same billing period shall be credited equally by the electric utility to remaining meters located on all premises of a customer-generator at the designated rate of each meter. Meters so aggregated shall not change rate classes due to meter aggregation under this section.

D. On April 30 of each calendar year, any remaining unused kilowatt hour credit accumulated during the previous year shall be purchased by the utility at the net wholesale power cost from the customer-generator.

E. The city shall not limit the cumulative generation capacity as provided in RCW 80.60.040 until such time an applicant's proposed system(s) may cause the cumulative amount of customer generation capacity on a feeder to exceed 10 percent of the feeder's capacity, in which case a system impact study may be required by the ~~public works and utilities~~ energy services director to identify adverse impacts which could be caused by the customer's proposed generation facility on utility equipment and personnel and on other customers of the utility. If such a study is required:

1. The study will be conducted by the city or a consultant contracted by the city, and must be paid for in advance by the applicant based on the estimated cost of the study.
2. If the study results in identification of negative impacts to system reliability, interconnection of the applicant's system at the proposed location may be denied by the ~~public works and utilities~~ energy services director.

(Ord. 4804 § 2, 2018; Ord. 4722 § 2, 2016)

**Section 76. Section 9.80.030 of the Ellensburg City Code, as last amended by Section 5 of Ordinance 4820, is hereby amended to read as follows:**

**9.80.030 General.**

- A. The ~~public works and utilities~~ energy services director will monitor customer consumption and weather patterns to estimate the future retail consumption of energy by customers of the city's electric and gas utilities.
- B. The ~~public works and utilities~~ energy services director will keep the city manager, utility advisory committee and city council apprised of prospective needs to purchase and sell energy and the strategies in place to determine the need for and desirability to purchase additional energy or sell energy at any particular time.
- C. The ~~public works and utilities~~ energy services director, or his/her designee, will sell wholesale energy, when the opportunity exists or necessitates, to optimize the purchase and sale of energy and minimize the rate impacts to retail customers. Any resulting net revenue the city realizes from the sale of energy will be distributed to retail customers in the form of rate reductions.

(Ord. 4820 § 5, 2019; Ord. 4804 § 2, 2018; Ord. 4503 § 2, 2007)

**Section 77. Section 9.80.100 of the Ellensburg City Code, as last amended by Section 5 of Ordinance 4820, is hereby amended to read as follows:**

**9.80.100 Wholesale electricity purchases.**

- A. The ~~public works and utilities~~ energy services director or his/her designee will analyze and recommend entering into long-term tier 1 power supply contracts with credit-worthy electricity suppliers when existing contracts are expiring or when existing contracts do not provide for all of the city's needs. Negotiated contracts for energy supply will be reviewed by the utility advisory committee and approved by the city council.
- B. The ~~public works and utilities~~ energy services director or his/her designee, after determining that a need exists to purchase or sell tier 2 power supplies, will solicit quotes from

suppliers. Due to the nature of the electric business, prices are volatile and change rapidly, and purchase commitments must be made verbally with written confirmation. The ~~public works and utilities~~ energy services director or his/her designee is authorized to make verbal commitments and written confirmations for the purchase and sale of tier 2 power, and will notify the city manager, utility advisory committee and city council at the first opportunity of any such wholesale tier 2 power supply purchases.

(Ord. 4820 § 5, 2019; Ord. 4804 § 2, 2018; Ord. 4743 § 1, 2016; Ord. 4709 § 5, 2015; Ord. 4503 § 2, 2007)

**Section 78. Section 9.80.200 of the Ellensburg City Code, as last amended by Section 5 of Ordinance 4820, is hereby amended to read as follows:**

**9.80.200 Wholesale gas purchases**

A. The ~~public works and utilities~~ energy services director or his/her designee will analyze proposals and recommend entering into one or more base supply agreement(s) and a natural gas asset management services agreement with a credit-worthy gas supplier. The base agreement(s) and natural gas management services agreement for gas supply will be reviewed by the utility advisory committee and approved by the city council.

B. The ~~public works and utilities~~ energy services director or his/her designee, after determining that an opportunity exists to purchase and sell necessary gas supplies, will solicit quotes from its suppliers. Due to the nature of the natural gas commodities business, prices are volatile and change rapidly. Therefore, purchase and sale commitments must be made verbally with written confirmation. The ~~public works and utilities~~ energy services director or his/her designee will notify the city manager, utility advisory committee and city council at the first opportunity of any gas purchases or sales.

(Ord. 4820 § 5, 2019; Ord. 4804 § 2, 2018; Ord. 4729 § 1, 2016; Ord. 4709 § 6, 2015; Ord. 4648 § 1, 2013; Ord. 4503 § 2, 2007)

**Section 79. Section 9.80.300 of the Ellensburg City Code, as last amended by Section 5 of Ordinance 4820, is hereby amended to read as follows:**

**9.80.300 Wholesale telecommunications purchases.**

A. The ~~public works and utilities~~ energy services director or his/her designee will analyze proposals and recommend entering into a master services agreement(s) with a credit-worthy wholesale telecommunications service provider(s). Master services agreement(s) for wholesale telecommunications services will be reviewed by the utility advisory committee and approved by the city council.

B. The ~~public works and utilities~~ energy services director or his/her designee, after determining that a need exists to purchase wholesale telecommunications services, will solicit quotes from suppliers. Due to the nature of the telecommunications business, prices are volatile and change rapidly, and purchase commitments must be made verbally with written confirmation. The ~~public works and utilities~~ energy services director or his/her designee is authorized to make such verbal commitments and written confirmations, and will notify the city manager, utility advisory committee and city council at the first opportunity of any such wholesale telecommunications service purchases.

C. The network operating center of the wholesale telecommunications service provider shall monitor each circuit to the point of delivery for each public agency and for each customer using equipment provided by the wholesale telecommunications service provider.

(Ord. 4820 § 5, 2019; Ord. 4804 § 2, 2018; Ord. 4709 § 7, 2015)

**Section 80. Section 9.85.040 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4913, is hereby amended to read as follows:**

**9.85.040 General.**

A. The ~~public works and utilities~~ energy services director will direct the city's participation in the state's cap and invest program for the city's electric and gas utilities.

B. The ~~public works and utilities~~ energy services director will keep the city manager, finance director, utility advisory committee and city council apprised of prospective needs for participation in the cap and invest program and the strategies in place to manage compliance.

(Ord. No. 4913, § 1, 2023)

**Section 81. Section 9.85.060 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4913, is hereby amended to read as follows:**

**9.85.060 Selection of city representative and delegated authority.**

A. The ~~public works and utilities~~ energy services director, or their designee, is delegated all necessary authority to carry out the duties and responsibilities contained in chapters 70A.65 RCW and 173-446 WAC on behalf of the city, which shall be bound by their representations, actions, inactions, or submissions and by any order or decision issued to them by the Washington State Department of Ecology, the Washington State Pollution Control Hearings Board, or a court of law regarding the city's participation in the cap and invest program, including but not limited to the following:

1. To designate the primary and alternate account representatives for purposes of conducting the city's duties and responsibilities in compliance with the state cap and invest program; and

2. For the purchase and sale of greenhouse gas/carbon compliance instruments such as carbon credits/allowances, offsets, and other associated compliance instruments.

B. Authority delegated in this section must be exercised in accordance with state and federal law, and city policy, and is limited by expenditure authority designated for each respective fund in the city's biennial budget.

C. The public works and utilities energy services director will notify the city manager, utility advisory committee and city council at the first opportunity of cap and invest program market activity exercised on behalf of the city, and any order or decision issued to the city regarding the city's participation in the cap and invest program.

(Ord. No. 4913, § 1, 2023)

**Section 82. Section 9.91.100 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4942, is hereby amended to read as follows:**

**9.91.100 Electric utility rate schedules.**

**A. *Residential E-100.***

1. *Availability.* This electricity service rate schedule is available within the service area of the city to single-family dwellings and multiple-family dwellings through a separate meter for each living unit. This rate schedule is not available for electric energy resale purposes, or where any part of the use is for purposes other than above stated.
2. *Character of service.* Energy delivered under this schedule shall be 60-cycle AC at a nominal potential of 120, 120-208, or 120-240 volts single phase.
3. *Rate.* The rate shall be composed of a consumption charge plus a daily customer charge computed as follows for each meter servicing the premises:

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All usage at \$0.0737 per kWh	All usage at \$0.0737 per kWh	All usage at \$0.0772 per kWh	All usage at \$0.0772 per kWh
Customer charge:	\$0.9205 per day	\$0.9205 per day	\$0.9640 per day	\$0.9640 per day

**B. *Residential distributed generation E-115.***

1. *Availability.* This electricity net metering service rate schedule is available within the service area of the city to single-family dwellings and multifamily dwellings through a separate net meter for each generation system. This rate schedule is not available for electric energy resale purposes.
2. *Character of service.* Energy delivered and energy received under this schedule shall be 60-cycle AC at a nominal potential of 120, 120-208, or 120-240 volts single phase.
3. *Energy banking.* If energy received by the utility from the customer exceeds energy delivered by the utility to the customer on a monthly basis, the excess generation shall be accrued in an energy bank to be used in future billing periods. At the end of April each year, any remaining excess energy banked shall be purchased from the customer by the utility at the net wholesale power cost from the customer generator and a new net metering year starts over.
4. *Rate.* The rate shall be composed of a delivered energy charge, plus a received energy credit up to the monthly consumption plus a daily customer charge computed as follows for each net meter servicing the premises:

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All delivered energy at \$0.0737 per kWh	All delivered energy at \$0.0737 per kWh	All delivered energy at \$0.0772 per kWh	All delivered energy at \$0.0772 per kWh
Consumption credits:	All received energy up to the monthly delivered energy at \$0.0737 per kWh	All received energy up to the monthly delivered energy at \$0.0737 per kWh	All received energy up to the monthly delivered energy at \$0.0772 per kWh	All received energy up to the monthly delivered energy at \$0.0772 per kWh
Customer charge:	\$1.1014 per day	\$1.1014 per day	\$1.1535 per day	\$1.1535 per day

C. *Low-income senior citizen/low-income disabled citizen E-130.*

1. *Availability.* This rate is available for residential service to individuals who meet the definition of low-income senior citizen or low-income disabled citizen, who do not reside in federally subsidized housing and who agree to participate in energy conservation programs that are available at no charge. The rates

established by this section will be published ~~by the public works and utilities department~~ on the city's website, and be made available from the city's finance department.

Failure to participate in an available energy conservation program after receipt of a utility discount shall constitute a basis for denial by the city of continued participation in the utility discount program until such conservation measures are installed. The customer may submit a written request, on a form provided by the city, identifying the reasons they should be exempt from participation in available conservation programs, which request is subject to approval or denial by the ~~public works and utilities~~ energy services director.

2. *Character of service.* Energy delivered under this schedule shall be 60-cycle AC at a nominal potential of 120, 120-208, or 120-240 volts single phase.

D. *General service single phase demand E-200.*

1. *Availability.* This electricity service rate is available within the service area of the city to all customers who do not qualify for service under the residential, low-income senior citizen/low-income disabled citizen, municipal, security lighting or large customer/contractual rate schedules and whose electrical panel size is equal to or greater than 600 amps single phase at 120-240 volts or equivalent panel size for other voltages.
2. *Character of service.* Energy delivered under this schedule shall be 60-cycle AC, 120-240 volts (or other voltage) single phase.
3. *Rate.* The rate shall be composed of a consumption charge plus a monthly demand charge plus a daily customer charge computed as follows for each meter servicing the premises:

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All usage at \$0.0524 per kWh	All usage at \$0.0524 per kWh	All usage at \$0.0534 per kWh	All usage at \$0.0534 per kWh
Demand charge:	All demand at \$6.30 per kW	All demand at \$6.30 per kW	All demand at \$6.43 per kW	All demand at \$6.43 per kW
Customer charge:	\$1.8740 per day	\$1.8740 per day	\$1.9115 per day	\$1.9115 per day

4. *Delivery point.* The above rates are based upon the supply of service to the entire premises through a single delivery and metering point and at one voltage and phase. Separate supply for the same customer at other voltages or phases or at other points of consumption will be separately metered and billed.
5. *Metering.* Based on a customer's anticipated lagging reactive load, metering for power factor may be required. When required by the ~~public works and utilities~~ energy services department, demand charges will be adjusted to correct for average power factors lower than 97 percent by dividing the metered monthly peak demand by the monthly average power factor and then multiplying the quotient by 97 percent.

E. *General service three phase demand E-201.*

1. *Availability.* This electricity service rate is available within the service area of the city to all customers who do not qualify for service under the residential, low-income senior citizen/low-income disabled citizen, municipal, security lighting or large customer/contractual rate schedules and whose electrical panel size is equal to or greater than 400 amps three phase at 120-208 volts or equivalent panel size for other voltages.
2. *Character of service.* Energy delivered under this schedule shall be 60-cycle AC, 120-240 volts (or other voltage) three phase.
3. *Rate.* The rate shall be composed of a consumption charge plus a monthly demand charge plus a daily customer charge computed as follows for each meter servicing the premises:

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All usage at \$0.0524 per kWh	All usage at \$0.0524 per kWh	All usage at \$0.0534 per kWh	All usage at \$0.0534 per kWh
Demand charge:	All demand at \$6.30 per kW	All demand at \$6.30 per kW	All demand at \$6.43 per kW	All demand at \$6.43 per kW
Customer charge:	\$3.7808 per day	\$3.7808 per day	\$3.8564 per day	\$3.8564 per day

4. *Delivery point.* The above rates are based upon the supply of service to the entire premises through a single delivery and metering point and at one voltage and phase. Separate supply for the same customer at other voltages or phases or at other points of consumption will be separately metered and billed.

5. *Metering.* Based on a customer's anticipated lagging reactive load, metering for power factor may be required. When required by the ~~public works and utilities energy services~~ department, demand charges will be adjusted to correct for average power factors lower than 97 percent by dividing the metered monthly peak demand by the monthly average power factor and then multiplying the quotient by 97 percent.

F. *General service single phase distributed generation E-202.*

1. *Availability.* This net metered electricity rate is available within the service area of the city to all customers who do not qualify for service under the residential, low-income senior citizen/low-income disabled citizen, municipal, security lighting or large customer/contractual rate schedules and whose electrical panel size is equal to or greater than 600 amps single phase at 120-240 volts or equivalent panel size for other voltages.
2. *Character of service.* Energy delivered under this schedule shall be 60-cycle AC, 120-240 volts (or other voltage) single phase.
3. *Energy banking.* If energy received by the utility from the customer exceeds energy delivered by the utility to the customer on a monthly basis, the excess generation shall be accrued in an energy bank to be used in future billing periods. At the end of April each year, any remaining excess energy banked shall be purchased from the customer by the utility at the net wholesale power cost from the customer generator and a new net metering year starts over.
4. *Rate.* The rate shall be composed of a delivered energy charge, plus a received energy credit up to the monthly consumption, plus a monthly demand charge, plus a daily customer charge computed as follows for each net meter servicing the premises:

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All usage at \$0.0524 per kWh (Delivered energy)	All usage at \$0.0524 per kWh (Delivered energy)	All usage at \$0.0534 per kWh (Delivered energy)	All usage at \$0.0534 per kWh (Delivered energy)
Consumption credits:	All received energy up to the monthly delivered energy	All received energy up to the monthly delivered energy	All received energy up to the monthly delivered energy	All received energy up to the monthly delivered energy

	at \$0.0524 per kWh	at \$0.0524 per kWh	at \$0.0534 per kWh	at \$0.0534 per kWh
Demand charge:	All demand at \$6.30 per kW	All demand at \$6.30 per kW	All demand at \$6.43 per kW	All demand at \$6.43 per kW
Customer charge:	\$2.5315 per day	\$2.5315 per day	\$2.5821 per day	\$2.5821 per day

5. *Delivery point.* The above rates are based upon the supply of service to the entire premises through a single delivery and metering point and at one voltage and phase. Separate supply for the same customer at other voltages or phases or at other points of consumption will be separately metered and billed.
6. *Metering.* Based on a customer's anticipated lagging reactive load, metering for power factor may be required. When required by the public works and utilities energy services department, demand charges will be adjusted to correct for average power factors lower than 97 percent by dividing the metered monthly peak demand by the monthly average power factor and then multiplying the quotient by 97 percent.

**G. General service three phase distributed generation E-206.**

1. *Availability.* This net metered electricity rate is available within the service area of the city to all customers who do not qualify for service under the residential, low-income senior citizen/low-income disabled citizen, municipal, security lighting or large customer/contractual rate schedules and whose electrical panel size is equal to or greater than 400 amps three phase at 120-240 volts or equivalent panel size for other voltages.
2. *Character of service.* Energy delivered under this schedule shall be 60-cycle AC, 120-240 volts (or other voltage) three phase.
3. *Energy banking.* If energy received by the utility from the customer exceeds energy delivered by the utility to the customer on a monthly basis, the excess generation shall be accrued in an energy bank to be used in future billing periods. At the end of April each year, any remaining excess energy banked shall be purchased from the customer by the utility at the net wholesale power cost from the customer generator and a new net metering year starts over.
4. *Rate.* The rate shall be composed of a delivered energy charge, plus a received energy credit up to the monthly consumption, plus a monthly demand charge, plus a daily customer charge computed as follows for each net meter servicing the premises:

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All usage at \$0.0524 per kWh (Delivered energy)	All usage at \$0.0524 per kWh (Delivered energy)	All usage at \$0.0534 per kWh (Delivered energy)	All usage at \$0.0534 per kWh (Delivered energy)
Consumption credits:	All received energy up to the monthly delivered energy at \$0.0524 per kWh	All received energy up to the monthly delivered energy at \$0.0524 per kWh	All received energy up to the monthly delivered energy at \$0.0534 per kWh	All received energy up to the monthly delivered energy at \$0.0534 per kWh
Demand charge:	All demand at \$6.30 per kW	All demand at \$6.30 per kW	All demand at \$6.43 per kW	All demand at \$6.43 per kW
Customer charge:	\$4.4383 per day	\$4.4383 per day	\$4.5271 per day	\$4.5271 per day

5. *Delivery point.* The above rates are based upon the supply of service to the entire premises through a single delivery and metering point and at one voltage and phase. Separate supply for the same customer at other voltages or phases or at other points of consumption will be separately metered and billed.
6. *Metering.* Based on a customer's anticipated lagging reactive load, metering for power factor may be required. When required by the ~~public works and utilities~~ energy services department, demand charges will be adjusted to correct for average power factors lower than 97 percent by dividing the metered monthly peak demand by the monthly average power factor and then multiplying the quotient by 97 percent.

H. *General service single phase E-210.*

1. *Availability.* This electricity service rate is available within the service area of the city to all customers who do not qualify for service under the residential, low-income senior citizen/low-income disabled citizen, municipal, security lighting or large customer/contractual rate schedules and whose electrical panel size is less than 600 amps at 120-240 volts or equivalent panel size for other voltages.
2. *Character of service.* Energy delivered under this schedule shall be 60-cycle AC, 120-240 volts (or other voltage) single phase.

3. *Rate.* The rate shall be composed of a consumption charge plus a daily customer charge computed as follows for each meter servicing the premises:

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All usage at \$0.0731 per kWh	All usage at \$0.0731 per kWh	All usage at \$0.0746 per kWh	All usage at \$0.0746 per kWh
Customer charge:	\$0.9863 per day	\$0.9863 per day	\$1.0060 per day	\$1.0060 per day

4. *Delivery point.* The above rates are based upon the supply of service to the entire premises through a single delivery and metering point and at one voltage and phase. Separate supply for the same customer at other voltages or phases or at other points of consumption will be separately metered and billed.

I. *General service three phase E-211.*

1. *Availability.* This electricity service rate is available within the service area of the city to all customers who do not qualify for service under the residential, low-income senior citizen/low-income disabled citizen, municipal, security lighting or large customer/contractual rate schedules and whose electrical panel size is less than 400 amps three phase at 120-208 volts or equivalent panel size for other voltages.
2. *Character of service.* Energy delivered under this schedule shall be 60-cycle AC, 120-240 volts (or other voltage) three phase.
3. *Rate.* The rate shall be composed of a consumption charge plus a daily customer charge computed as follows for each meter servicing the premises:

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All usage at \$0.0731 per kWh	All usage at \$0.0731 per kWh	All usage at \$0.0746 per kWh	All usage at \$0.0746 per kWh
Customer charge:	\$1.7425 per day	\$1.7425 per day	\$1.7774 per day	\$1.7774 per day

4. *Delivery point.* The above rates are based upon the supply of service to the entire premises through a single delivery and metering point and at one voltage and

phase. Separate supply for the same customer at other voltages or phases or at other points of consumption will be separately metered and billed.

J. *General service single phase distributed generation E-212.*

1. *Availability.* This net metered electricity service rate is available within the service area of the city to all customers who do not qualify for service under the residential, low-income senior citizen/low-income disabled citizen, municipal, security lighting or large customer/contractual rate schedules and whose electrical panel size is less than 600 amps single phase at 120-240 volts or equivalent panel size for other voltages.
2. *Character of service.* Energy delivered under this schedule shall be 60-cycle AC, 120-240 volts (or other voltage) single phase.
3. *Energy banking.* If energy received by the utility from the customer exceeds energy delivered by the utility to the customer on a monthly basis, the excess generation shall be accrued in an energy bank to be used in future billing periods. At the end of April each year, any remaining excess energy banked shall be purchased from the customer by the utility at the net wholesale power cost from the customer generator and a new net metering year starts over.
4. *Rate.* The rate shall be composed of a delivered energy charge, plus a received energy credit up to the monthly consumption, plus a daily customer charge computed as follows for each net meter servicing the premises:

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All usage at \$0.0731 per kWh (Delivered energy)	All usage at \$0.0731 per kWh (Delivered energy)	All usage at \$0.0746 per kWh (Delivered energy)	All usage at \$0.0746 per kWh (Delivered energy)
Consumption credits:	All received energy up to the monthly delivered energy at \$0.0731 per kWh	All received energy up to the monthly delivered energy at \$0.0731 per kWh	All received energy up to the monthly delivered energy at \$0.0746 per kWh	All received energy up to the monthly delivered energy at \$0.0746 per kWh
Customer charge:	\$1.6438 per day	\$1.6438 per day	\$1.6767 per day	\$1.6767 per day

**K. General service three phase distributed generation E-213.**

1. *Availability.* This net metered electricity service rate is available within the service area of the city to all customers who do not qualify for service under the residential, low-income senior citizen/low-income disabled citizen, municipal, security lighting or large customer/contractual rate schedules and whose electrical panel size is less than 400 amps three phase at 120-240 volts or equivalent panel size for other voltages.
2. *Character of service.* Energy delivered under this schedule shall be 60-cycle AC, 120-240 volts (or other voltage) three phase.
3. *Energy banking.* If energy received by the utility from the customer exceeds energy delivered by the utility to the customer on a monthly basis, the excess generation shall be accrued in an energy bank to be used in future billing periods. At the end of April each year, any remaining excess energy banked shall be purchased from the customer by the utility at the net wholesale power cost from the customer generator and a new net metering year starts over.
4. *Rate.* The rate shall be composed of a delivered energy charge, plus a received energy credit up to the monthly consumption, plus a daily customer charge computed as follows for each net meter servicing the premises:

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All usage at \$0.0731 per kWh (Delivered energy)	All usage at \$0.0731 per kWh (Delivered energy)	All usage at \$0.0746 per kWh (Delivered energy)	All usage at \$0.0746 per kWh (Delivered energy)
Consumption credits:	All received energy up to the monthly delivered energy at \$0.0731 per kWh	All received energy up to the monthly delivered energy at \$0.0731 per kWh	All received energy up to the monthly delivered energy at \$0.0746 per kWh	All received energy up to the monthly delivered energy at \$0.0746 per kWh
Customer charge:	\$2.4000 per day	\$2.4000 per day	\$2.4480 per day	\$2.4480 per day

**L. Security lighting E-300.**

1. *Availability.* This electricity service rate schedule is available for existing security light customers within the service area of the city for photoelectric controlled dusk to dawn external lighting service primarily served by property owned by the customer. No new installations will be made for service under this schedule.
2. *Character of service.* Service shall be unmetered, 60-cycle, 120-240-volt alternating current.
3. *Rate.*

Effective date	2022	2023	2024	2025
Light only:	\$0.7810 per day	\$0.7810 per day	\$0.8122 per day	\$0.8122 per day
Light with pole:	\$0.8525 per day	\$0.8525 per day	\$0.8866 per day	\$0.8866 per day

4. *General conditions.*
  - a. The city reserves the right to eliminate service under this schedule or to reduce the wattage of the luminaire.
  - b. Normal lamp, control replacements and maintenance work shall be made by the city during regular business hours only.
  - c. It shall be the responsibility of the customer to notify the city of lamp failure. No credits or adjustment of charges will be made during time of such failures, unless the city shall be unable to repair the defects when requested.
  - d. The city reserves the right to restrict installations of lighting equipment to poles on which suitable space is available and to make such installations only where they will not interfere with any other equipment owned by the city or its customers.

**M. Municipal E-500.**

1. *Availability.* This electricity service rate schedule is available for water pumping, sewage treatment and pumping, municipal buildings and other municipal purposes.
2. *Character of service.* Energy delivered under this schedule shall be 60-cycle AC, 120-240 volts single phase or other voltage and polyphase service available.

3. *Rate.* The rate shall be composed of a consumption charge plus a daily customer charge computed as follows for each meter servicing the premises:

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All usage at \$0.0696 per kWh	All usage at \$0.0696 per kWh	All usage at \$0.0724 per kWh	All usage at \$0.0724 per kWh
Customer charge:	Single phase—\$2.4658 per day	\$2.4658 per day	\$2.5644 per day	\$2.5644 per day
	Three phase—\$2.4658 per day	\$2.4658 per day	\$2.5644 per day	\$2.5644 per day

N. *Large customer/contractual E-600.*

1. *Availability.* This electric rate is available to large electric customers within the limits of the service area of the city whose requirements exceed or are estimated to exceed 15,000 MWh (megawatt hours) per year. The city will provide firm electric supply under this schedule; provided, that:
  - a. Adequate electric supply exists in the city's distribution system;
  - b. Adequate capacity exists in the city's distribution system; and
  - c. The customer has executed a long-term large customer power sales agreement with the city for service under this schedule.
2. *Character of service.* Energy delivered under this schedule shall be 60-cycle AC, 12,470 volts, three phase.
3. *Rate.* The rates under this schedule will be covered by individual contract between the city and the customer.

O. *Nonprofit agency serving the disadvantaged E-700.*

1. *Availability.* This electricity service rate is available within the service area of the city to all nonprofit agencies serving the disadvantaged. The rates established by this section will be published ~~by the public works and utilities department~~ on the city's website, and be made available from the city's finance department.
2. *Character of service.* Energy delivered under this schedule shall be 60-cycle AC, 120-240 volts (or other voltage) single or three phase.

3. Repealed by Ord. 4844.
4. *Delivery point.* The above rates are based upon the supply of service to the entire premises through a single delivery and metering point and at one voltage and phase. Separate supply for the same customer at other voltages or phases or at other points of consumption will be separately metered and billed.

P. *Primary service city-owned transformer E-204.*

1. *Availability.* This electricity service rate schedule is a legacy rate schedule and is not available to new or existing customers. This rate schedule is only available to customers already placed under this rate schedule as of June 1, 2024. This electricity rate schedule is available within the service area of the city to customers placed under this rate schedule as of June 1, 2024 who are metered on the primary side of a city-owned secondary transformer. Any revisions made by the customer or the city to the electrical service can result in a change of the electricity service rate schedule for that service to an appropriate non-legacy rate schedule.
2. *Character of service.* Energy delivered under this schedule shall be 60-cycle AC, 120-240 volts (or other voltage) three phase.
3. *Rate.* The rate shall be composed of a consumption charge discounted one percent below the E-201 rate plus a monthly demand charge discounted one percent below the E-220 rate plus a daily customer charge computed as follows for each meter servicing the premises:

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All usage at \$0.0515 per kWh	All usage at \$0.0515 per kWh	All usage at \$0.0574 per kWh	All usage at \$0.0574 per kWh
Demand charge:	All demand at \$6.00 per kW	All demand at \$6.00 per kW	All demand at \$6.69 per kW	All demand at \$6.69 per kW
Customer charge:	\$3.7808 per day	\$3.7808 per day	\$4.2156 per day	\$4.2156 per day

4. *Delivery point.* The above rates are based upon the supply of service to the entire premises through a single delivery and metering point and at one voltage and phase. Separate supply for the same customer at other voltages or phases or at

other points of consumption will be separately metered and billed. The point of ownership change shall be identified in a one-line drawing of the service installation in accordance with the ~~public works and utilities~~ energy services department records.

5. *Metering.* Based on a customer's anticipated lagging reactive load, metering for power factor may be required. When required by the ~~public works and utilities~~ energy services department, demand charges will be adjusted to correct for average power factors lower than 97 percent by dividing the metered monthly peak demand by the monthly average power factor then multiplying the quotient by 97 percent.

Q. *Primary service customer-owned transformer E-205.*

1. *Availability.* This electricity service rate schedule is available within the service area of the city to all customers who do not qualify for service under the residential, low-income senior citizen/low-income disabled citizen, municipal, security lighting or large customer/contractual rate schedules, and are metered on the primary side of a customer-owned secondary transformer.
2. *Character of service.* Energy delivered under this schedule shall be 60-cycle AC, 12,470 volts three phase.
3. *Rate.* The rate shall be composed of a consumption charge plus a monthly demand charge plus a daily customer charge computed as follows for each meter servicing the premises:

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All usage at \$0.0474 per kWh	All usage at \$0.0474 per kWh	All usage at \$0.0493 per kWh	All usage at \$0.0493 per kWh
Demand charge:	All demand at \$5.30 per kW	All demand at \$5.30 per kW	All demand at \$5.51 per kW	All demand at \$5.51 per kW
Customer charge:	\$3.7808 per day	\$3.7808 per day	\$3.9320 per day	\$3.9320 per day

4. *Delivery point.* The above rates are based upon the supply of service to the entire premises through a single delivery and metering point and at one voltage and phase. Separate supply for the same customer at other voltages or phases or at

other points of consumption will be separately metered and billed. The point of ownership change shall be identified in a one-line drawing of the service installation in accordance with the ~~public works and utilities~~ energy services department records.

5. *Metering.* Based on a customer's anticipated lagging reactive load, metering for power factor may be required. When required by the ~~public works and utilities~~ energy services department, demand charges will be adjusted to correct for average power factors lower than 97 percent by dividing the metered monthly peak demand by the monthly average power factor then multiplying the quotient by 97 percent.

R. *Renewable energy E-800.*

1. *Availability.* This voluntary renewable electricity service rate is available within the service area of the city to all electric customers; provided, however, that the amount of renewable energy available under this rate is limited to the generation output of the city's community renewable energy park systems. Energy will be sold in 100 kilowatt hours per month blocks. Customers will still pay all charges per their appropriate rate class in addition to the voluntary upgrade charge per 100 kilowatt hours block of renewable energy purchased.
2. *Character of service.* Renewable energy delivered under this schedule shall be the same as the customers' present service and rate class.
3. *Rate.* The rate is a voluntary renewable energy product upgrade charge for consumption in addition to the standard applicable rate class consumption the customer is receiving service under. Charges are computed as follows for each meter receiving this renewable energy product servicing the premises:

Consumption charge: 100 kilowatt hour blocks at \$0.030 per kilowatt hour.

4. *Delivery point.* The above rates are based upon the supply of service to the entire premises through a single delivery and metering point and at one voltage and phase. Separate supply for the same customer at other voltages or phases or at other points of consumption will be separately metered and billed.

S. *Renewable energy system contribution E-801.*

1. *Availability.* This voluntary renewable energy system contribution rate is available within the service area of the city to all customers.
2. *Character of service.* Customers can elect to make fixed contributions of \$3.00 per month per unit. Customers can purchase any number of units of contribution

which will be included in their monthly utility billing, and may opt out at any time.

3. *Rate.* The rate is a voluntary renewable energy system contribution only. No renewable energy is delivered by participating in the rate.

Charge: renewable energy system contribution unit at \$3.00 per month.

(Ord. 4897 § 1, 2022; Ord. 4844 § 6, 2019; Ord. 4817 § 1, 2018; Ord. 4804 §§ 1, 2, 5, 2018; Ord. 4787 § 1, 2018; Ord. 4764 § 2, 2017; Ord. 4759 § 1, 2016; Ord. 4733 § 1, 2016; Ord. 4706 §§ 2, 3, 2015; Ord. 4684 § 7, 2014; Ord. 4639 § 2, 2013; Ord. 4633 § 2, 2013; Ord. 4626 § 2, 2012; Ord. 4606 § 1, 2011; Ord. 4555 § 7, 2009; Ord. 4508 § 1, 2007; Ord. 4503 § 2, 2007; Ord. No. 4942, § 2, 5-20-2024)

**Section 83. Section 9.91.120 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4817, is hereby amended to read as follows:**

**9.91.120 Demand charge credits.**

A. The electric utility meters the demand classes of customers identified in ECC 9.91.100 for peak demands on the distribution system measured in a billing period. Periodically due to the timing of a customer's operations, an artificially high demand charge may be incurred even though it was not a wholesale expense to the electric utility. The ~~public works and utilities energy services~~ director, after determining there were no wholesale charges incurred by the electric utility as a result of the customer's electrical peak demand as adjusted for power factor, may authorize the finance director to issue a credit to the customer's electric utility account for demand charges only; provided, that the temporary peak demand occurred during the first day of the billing period. A new peak demand adjusted for power factor will be calculated for the remaining portion of the subsequent billing period and billed at the rate in effect for the customer's rate class at the time the demand charge was first imposed. To be eligible to receive a demand charge credit under this section, the customer must deliver a written request for the credit to the ~~public works and utilities~~ energy services director within 60 days of the end of the billing period during which the artificially high demand charge was incurred.

B. The demand classes of customers covered by this section include:

General service single phase demand E-200.

General service three phase demand E-201.

General service single phase distributed generation E-202.

General service three phase distributed generation E-206.

Large customer/contractual E-600.

Primary service city-owned transformer E-204.

Primary service customer-owned transformer E-205.

(Ord. 4817 § 1, 2018; Ord. 4804 § 2, 2018; Ord. 4637 § 1, 2013)

**Section 84. Section 9.91.200 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4928, is hereby amended to read as follows:**

**9.91.200 Gas utility rate schedules.**

**A. Residential G-100.**

1. *Availability.* This rate schedule is available within the service area of the gas utility to single-family dwellings and multiple-family dwellings through a separate meter for each living unit. This rate schedule is not available for gas resale purposes, or where any part of the use is for purposes other than above stated.
2. *Character of service.* Service shall be through a single meter at a single point of delivery. Multiple meters used for delivery to the same customer shall not be combined for billing purposes.
3. *Rate.* The rate shall be composed of a consumption charge plus a daily customer charge computed as follows for each meter servicing the premises:

Legacy customers (service locations established on or before 7/25/2021):

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All Ccf at \$0.5794 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.6174 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.6530 per Ccf Plus \$0.2343 per Ccf, GHG emissions cap and invest adjustment Plus purchased gas cost adjustment per Ccf	All Ccf at \$0.6742 per Ccf Plus \$0.2717 per Ccf, GHG emissions cap and invest adjustment Plus purchased gas cost adjustment per Ccf
Customer charge:	\$0.5769 per day	\$0.6147 per day	\$0.6501 per day	\$0.6712 per day

Non-legacy customers (service locations established after 7/25/2021):

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All Ccf at \$0.5794 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.6174 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.6530 per Ccf Plus \$0.3626 per Ccf, GHG emissions cap and invest adjustment Plus purchased gas cost adjustment per Ccf	All Ccf at \$0.6742 per Ccf Plus \$0.4058 per Ccf, GHG emissions cap and invest adjustment Plus purchased gas cost adjustment per Ccf
Customer charge:	\$0.5769 per day	\$0.6147 per day	\$0.6501 per day	\$0.6712 per day

B. *Low-income senior citizen/low-income disabled citizen G-130.*

1. *Availability.* This rate is available for residential service to individuals who meet the definition of low-income senior citizen or low-income disabled citizen, who do not reside in federally subsidized housing and who agree to participate in energy conservation programs that are available at no charge. The rates established by this section will be published ~~by the public works and utilities department~~ on the city's website, and be made available from the city's finance department.

Failure to participate in an available energy conservation program after receipt of a utility discount shall constitute a basis for denial by the city of continued participation in the utility discount program until such conservation measures are installed. The customer may submit a written request, on a form provided by the city, identifying the reasons they should be exempt from participation in available conservation programs, which request is subject to approval or denial by the public works and utilities energy services director.

2. *Character of service.* Service shall be through a single meter at a single point of delivery. Multiple meters used for delivery to the same customer shall not be combined for billing purposes.

C. *Commercial and industrial G-200.*

1. *Availability.* This rate schedule is available to commercial, small volume industrial and municipal customers for all purposes except for resale. Commercial and small industrial users shall either possess a current city business license or present proof of engaging in commercial or industrial activity.
2. *Character of service.* Service shall be through a single meter at a single point of delivery. Multiple meters used for delivery to the same customer shall not be combined for billing purposes.

D. *Rate.* The rate shall be composed of a consumption charge plus a daily customer charge based on meter size and computed as follows for each meter servicing the premises:

Legacy customers (service locations established on or before 7/25/2021):

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All Ccf at \$0.3113 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.3308 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.3515 per Ccf Plus \$0.2343 per Ccf, GHG emissions cap and invest adjustment Plus purchased gas cost adjustment per Ccf	All Ccf at \$0.3647 per Ccf Plus \$0.2717 per Ccf, GHG emissions cap and invest adjustment Plus purchased gas cost adjustment per Ccf

Non-legacy customers (service locations established after 7/25/2021):

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All Ccf at \$0.3113 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.3308 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.3515 per Ccf Plus \$0.3626 per Ccf, GHG emissions cap	All Ccf at \$0.3647 per Ccf Plus \$0.4058 per Ccf, GHG emissions cap

				and invest adjustment Plus purchased gas cost adjustment per Ccf	and invest adjustment Plus purchased gas cost adjustment per Ccf
Customer charge:	275 cu. ft. and less	\$0.5769 per day	\$0.6130 per day	\$0.6513 per day	\$0.6757 per day
	415/425 cu. ft.	\$0.6914 per day	\$0.7346 per day	\$0.7805 per day	\$0.8098 per day
	750/800 cu. ft.	\$1.3820 per day	\$1.4684 per day	\$1.5602 per day	\$1.6188 per day
	1,000 cu. ft. and higher	\$2.7658 per day	\$2.9387 per day	\$3.1224 per day	\$3.2396 per day

E. *Interruptible industrial G-220.*

1. *Availability.* Service of natural gas by the city is available to industrial customers whose requirements are estimated to exceed 100,000 therms per year and who have adequate standby facilities which are alternately fueled to accept curtailment of their natural gas supply under this schedule. The city will provide natural gas under this schedule; provided, that:
  - a. Adequate gas volumes for such service are available;
  - b. Adequate capacity exists in the city's distribution system; and
  - c. The customer has executed a long-term interruptible natural gas service agreement with the city for service under this schedule.
2. *Character of service.* This service applies to customers who would otherwise use propane and who have installed standby capacity to use propane in equipment listed in their service agreement. All service rendered under this rate is to be supplied at one point of delivery and single metered and billed.

Service rendered under this schedule shall be subject to curtailment by the city when in the city manager's or his designee's sole judgment such curtailment is necessary or such interruption or curtailment has been requested of the city by its

supplier(s). Service under this schedule shall have a lower priority than service under any other gas utility rate schedule offered by the city including schedule G-300. The city shall not be liable in damages for or on account of any curtailment of service.

3. *Rate.* The rates under this rate schedule will be covered by individual contract between the city and the customer and shall include the non-legacy GHG emissions cap and invest adjustment.

Effective date	1/1/2024	1/1/2025
	Plus \$0.3626 per Ccf, GHG emissions cap and invest adjustment	Plus \$0.4858 per Ccf, GHG emissions cap and invest adjustment

4. *Restrictions.* In no event shall the city sell natural gas to the customer at a price less than the city's wholesale price plus the GHG emissions cap and invest adjustment, and any taxes based on gross revenues.

F. *Institutional service G-300.*

1. *Availability.* This rate schedule is available to institutional natural gas customers whose requirements are estimated to exceed 900,000 therms per year and who have adequate standby facilities to accept curtailment of their natural gas supply under this schedule. The city will provide natural gas under this schedule; provided, that the customer has executed a long-term natural gas service agreement with the city for service under this schedule.

2. *Character of service.* Service shall be through a single meter at a single point of delivery. Service is subject to interruption or curtailment at such times when, in the ~~public works and utilities~~ energy services director's judgment, such interruption or curtailment is necessary to preserve the integrity of the city's system or the city has been requested to interrupt or curtail load by its supplier(s). The ~~public works and utilities~~ energy services director shall consult with the city manager prior to any interruption or curtailment if circumstances allow. The city shall not be liable for damages for, or on account of, any curtailment of service. The customer may also choose to interrupt or curtail service as provided for in the service agreement.

3. *Rate.* The rates under this rate schedule will be covered by individual contract between the city and the customer and shall include the legacy GHG emissions cap and invest adjustment.

Effective date	1/1/2024	1/1/2025
	Plus \$0.2343 per Ccf, GHG emissions cap and invest adjustment	Plus \$0.2717 per Ccf, GHG emissions cap and invest adjustment

G. *Municipal G-400.*

1. *Availability.* This rate schedule is available to the city for use at all municipal buildings.
2. *Character of service.* Service shall be through a single meter at a single point of delivery.
3. *Rate.* The rate shall be composed of a consumption charge plus a daily customer charge computed as follows for each meter servicing the premises:

Legacy customers (service locations established on or before 7/25/2021):

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025
Consumption charge:	All Ccf at \$0.2701 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.2870 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.3049 per Ccf Plus \$0.2343 per Ccf, GHG emissions cap and invest adjustment Plus purchased gas cost adjustment per Ccf	All Ccf at \$0.3163 per Ccf Plus \$0.2717 per Ccf, GHG emissions cap and invest adjustment Plus purchased gas cost adjustment per Ccf

Non-legacy customers (service locations established after 7/25/2021):

Effective date	1/1/2022	1/1/2023	1/1/2024	1/1/2025

Consumption charge:	All Ccf at \$0.2701 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.2870 per Ccf plus the purchased gas cost adjustment	All Ccf at \$0.3049 per Ccf Plus \$0.3626 per Ccf, GHG emissions cap and invest adjustment Plus purchased gas cost adjustment per Ccf	All Ccf at \$0.3163 per Ccf Plus \$0.4058 per Ccf, GHG emissions cap and invest adjustment Plus purchased gas cost adjustment per Ccf
Customer charge:	275 cu. ft. and less	\$0.5769 per day	\$0.6130 per day	\$0.6513 per day
	415/425 cu. ft.	\$0.9394 per day	\$0.9981 per day	\$1.0605 per day
	750/800 cu. ft.	\$1.8774 per day	\$1.9947 per day	\$2.1194 per day
	1,000 cu. ft. and higher	\$3.7562 per day	\$3.9910 per day	\$4.2405 per day

H. *Nonprofit agency serving the disadvantaged G-700.*

1. *Availability.* This rate schedule is available to nonprofit agencies serving the disadvantaged. The rates established by this section will be published ~~by the public works and utilities department~~ on the city's website, and be made available from the city's finance department.
2. *Character of service.* Service shall be through a single meter at a single point of delivery. Multiple meters used for delivery to the same customer shall not be combined for billing purposes.

(Ord. No. 4928, § 1, 11-6-2023; Ord. 4897 § 2, 2022; Ord. 4844 § 7, 2019; Ord. 4817 § 1, 2018; Ord. 4804 § 2, 2018; Ord. 4684 § 8, 2014; Ord. 4639 § 3, 2013; Ord. 4555 § 8, 2009; Ord. 4503 § 2, 2007)

**Section 85. Section 9.91.300 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4933, is hereby amended to read as follows:**

**9.91.300 Sewer utility rate schedules.**

**A. *Residential single-family WW-11.***

1. *Availability.* This rate schedule is available to single-family dwellings having a single water service meter and churches.
2. *Character of service.* Service shall be nonmetered and at a single point of receipt.

**B. *Residential multifamily WW-12.***

1. *Availability.* This rate schedule is available to houses and other multiple-unit residential structures, including manufactured home parks. The residence units referred to in this schedule shall be those dwelling units contained in a single structure as the dwelling units are defined in the zoning ordinance.
2. *Character of service.* Service shall be charged to and collected from each residential unit or property user having a city sewer connection for their property.

**C. *Low-income senior citizen/low-income disabled citizen WW-13.***

1. *Availability.* This rate schedule is available for residential service to individuals who meet the definition of low-income senior citizen or low-income disabled citizen and who do not reside in federally subsidized housing. The rates established by this section will be published ~~by public works and utilities department~~ on the city's website, and be made available from the city's finance department.
2. *Character of service.* Service shall be nonmetered and at a single point of receipt.

**D. *Commercial, industrial and general service WW-21.***

1. *Availability.* This rate schedule is available to single and multiple services for commercial, industrial, residential units combined with commercial and/or industrial, schools, motels, hotels, trailer parks, social and fraternal facilities, governmental facilities, and other services not qualifying under other rate schedules.
2. *Character of service.* Service shall be based on water usage through water or other approved meter to determine volume of sewage to be treated.

3. *Rate.* The rate shall be composed of a monthly volume charge and a daily customer charge.
4. *Surcharges.* The surcharges shall apply when effluent strength differs substantially from domestic wastes as determined by the public works and utilities director.

E. *Central Washington University WW-22.*

1. *Availability.* This rate schedule is available to all Central Washington University facilities with the exception of single-family dwellings owned, leased or rented by the university.
2. *Character of service.* Service shall be based on water usage through water or other approved meter to determine volume of sewage to be treated.
3. *Rate.* The rate shall be composed of a monthly volume charge and a daily customer charge.
4. *Surcharges.* The surcharges shall apply when effluent strength differs substantially from domestic wastes as determined by the public works and utilities director.

F. *Multiple-family WW-23.*

1. *Availability.* This rate schedule is available on an optional basis to single-family residences, apartment houses and other multiple-unit residential structures, including manufactured home parks.
2. *Character of service.* Service shall be based on water usage through water or other approved meter to determine volume of sewage to be treated.
3. *Rate.* The rate shall be composed of a monthly volume charge and a daily customer charge.
4. *Surcharges.* The surcharges shall apply when effluent strength differs substantially from domestic wastes as determined by the public works and utilities director.

G. *Municipal WW-40.*

1. *Availability.* This rate schedule is available to city-owned buildings.
2. *Character of service.* Service shall be based on water usage through water or other approved meter to determine volume of sewage to be treated.

3. *Rate.* The rate shall be composed of a monthly volume charge and a daily customer charge.

H. *High-strength commercial WW-33.*

1. *Availability.* This rate schedule is available, subject to city council approval, to commercial businesses with strengths differing substantially from typical commercial customers.
2. *Character of service.* Service shall be based on water usage through water or other approved meter to determine volume of sewage to be treated.
3. *Rate.* The rates available under this schedule shall be established by contract between the city and the customer.

I. *Nonprofit agency serving the disadvantaged WW-70.*

1. *Availability.* This rate schedule is available to nonprofit agencies serving the disadvantaged. The rates established by this section will be published by the public works and utilities department on the city's website, and be made available from the city's finance department.
2. *Character of service.* Service shall be based on water usage through water or other approved meter to determine volume of sewage to be treated.

J. *Large customer/contractual WW-80.*

1. *Availability.* This rate schedule is available to new sewer customers whose sewer service is provided by contract authorized by the city council. The city will provide sewer service under this schedule; provided, that:
  - a. Adequate capacity exists in the city's wastewater collection system; and
  - b. Adequate capacity exists in the city's wastewater treatment plant; and
  - c. The customer has executed a sewer sales agreement with the city for services under this schedule.
2. *Character of service.* Service shall be based on water usage through water or other approved meter to determine volume of sewage to be treated.
3. *Rate.* The rates available under this schedule shall be established by contract between the city and the customer.

Sewer Rate Summary

Rate class	Rate effective date				Consumption unit
	1/1/2022	1/1/2023	1/1/2024	1/1/2025	
WW-11 residential single-family	\$1.2345	\$1.3401	\$1.4548	\$1.5793	Flat rate/day
WW-12 multifamily	\$1.2171	\$1.3212	\$1.4342	\$1.5570	Each/first four units/day
	\$0.9120	\$0.9900	\$1.0747	\$1.1667	Each additional unit/day
WW-21 commercial/industrial	\$1.4058	\$1.5429	\$1.6933	\$1.8584	Customer charge/day
	\$4.5234	\$4.9644	\$5.4484	\$5.9796	Per 1,000 gallons of water use
	\$0.3645	\$0.4000	\$0.4390	\$0.4818	Per lb BOD surcharge > 200 mg/l
	\$0.3645	\$0.4000	\$0.4390	\$0.4818	Per lb suspended solids > 250 mg/l
WW-22 CWU	\$1.4259	\$1.5649	\$1.7175	\$1.8850	Customer charge/day
	\$4.82	\$5.29	\$5.81	\$6.38	Per 1,000 gallons of water use
	\$0.3697	\$0.4057	\$0.4453	\$0.4887	Per lb BOD surcharge > 200 mg/l
	\$0.3697	\$0.4057	\$0.4453	\$0.4887	Per lb suspended solids > 250 mg/l
WW-23 multifamily	\$1.2171	\$1.3212	\$1.4342	\$1.5570	Customer charge/day
	\$3.92	\$4.25	\$4.62	\$5.01	Per 1,000 gallons of water use
	\$0.3697	\$0.4013	\$0.4356	\$0.4729	Per lb BOD surcharge > 200 mg/l

	\$0.3697	\$0.4013	\$0.4356	\$0.4729	Per lb suspended solids > 250 mg/l
WW-40 municipal	\$1.2967	\$1.4134	\$1.5406	\$1.6793	Customer charge/day
	\$4.39	\$4.78	\$5.21	\$5.68	Per 1,000 gallons of water use
WW-80 large customer/contractual	\$1.4058	\$1.5429	\$1.6933	\$1.8584	Customer charge/day
	\$4.94	\$5.43	\$5.95	\$6.54	Per 1,000 gallons of water use
	\$0.3645	\$0.4000	\$0.4390	\$0.4818	Per lb BOD surcharge > 200 mg/l
	\$0.3645	\$0.4000	\$0.4390	\$0.4818	Per lb suspended solids > 250 mg/l

(Ord. No. 4933, § 4, 12-4-2023; Ord. 4897 § 3, 2022; Ord. 4844 § 8, 2019; Ord. 4817 § 1, 2018; Ord. 4804 § 4, 2018; Ord. 4690 § 1, 2014; Ord. 4555 § 9, 2009; Ord. 4503 § 2, 2007)

**Section 86. Section 9.91.400 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4897, is hereby amended to read as follows:**

**9.91.400 Water utility rate schedules.**

**A. Residential W-110.**

1. *Availability.* This rate schedule is available to single-family dwellings, residential seasonal sprinkling service, and churches.
2. *Character of service.* Service shall be through metered delivery.
3. *Rate.* The rate shall be composed of a monthly consumption charge plus a daily customer charge based on meter size.

**B. Irrigation W-111.**

1. *Availability.* This rate schedule is available to irrigation systems served by a water meter dedicated to irrigation service.
2. *Character of service.* Service shall be through metered delivery.
3. *Rate.* The rate shall be composed of a monthly consumption charge plus a daily customer charge based on meter size.

C. *SF residential including fire service W-115.*

1. *Availability.* This rate schedule is available to single-family dwellings when a single-family residential customer elects to install a fire suppression system within the structure charged from city water service. The fire suppression system must be installed by a licensed professional fire installer permitted by the Kittitas County Fire District No. 2.
2. *Character of service.* Service shall be through metered delivery.
3. *Rate.* The rate shall be composed of a monthly consumption charge plus a daily customer charge based on meter size. The maximum meter size available at this rate is one inch.

D. *Residential multiple housing W-120.*

1. *Availability.* This rate schedule is available to buildings, grounds, and premises used for residential multiple housing purposes.
2. *Character of service.* Service shall be through metered delivery.
3. *Rate.* The rate shall be composed of a monthly consumption charge plus a daily customer charge based on meter size.

E. *Low-income senior citizen/low-income disabled citizen W-130.*

1. *Availability.* This rate is available for residential service to individuals who meet the definition of low-income senior citizen or low-income disabled citizen and who do not reside in federally subsidized housing.
2. *Character of service.* Service shall be through a single five-eighths-inch to three-fourths-inch meter at a single point of delivery.
3. *Rate.* The rate shall be composed of a monthly consumption charge plus a daily customer charge. The rates established by this section will be published by the public works and utilities department on the city's website, and be made available from the city's finance department.

F. *Commercial/industrial W-200.*

1. *Availability.* This rate schedule is available to commercial users, industrial users, and other customers who do not qualify under other rate schedules.
2. *Character of service.* Service shall be through a metered delivery.

3. *Rate.* The rate shall be composed of a monthly consumption charge plus a daily customer charge based on meter size.

G. *Private fire protection W-300.*

1. *Availability.* This rate schedule is available inside the city to any water user connected to the municipal water system for the use of fire protection only.
2. *Character of service.* Service shall be through a nonmetered connection and shall be separately piped within the premises for the purpose of fire protection only, and shall require installation of a detector device.
3. *Rate.* The daily rate shall be based on the diameter of pipe connecting the fire protection to the city main.

H. *Central Washington University W-600.*

1. *Availability.* This rate schedule is available to buildings, grounds and premises operated by Central Washington University.
2. *Character of service.* Service shall be through a metered delivery.
3. *Rate.* The rate shall be composed of a monthly consumption charge plus a daily customer charge based on meter size.

I. *Meter maintenance service W-610.*

1. *Availability.* This rate schedule is established for those water meters of Central Washington University which are used to measure the water which is the basis for determination of the sewer charge and not for water consumption billing.
2. *Character of service.* The charges are for the purpose of covering the expense of maintenance to the meters and additional labor and expense in meter reading and billing.
3. *Rate.* The rate shall be composed of a daily customer charge based on meter size.

J. *Nonprofit agency serving the disadvantaged W-700.*

1. *Availability.* This rate schedule is available to nonprofit agencies serving the disadvantaged. The rates established by this section will be published by the ~~public works and utilities department~~ on the city's website, and be made available from the city's finance department.
2. *Character of service.* Service shall be through a metered delivery.

3. *Rate.* The rate shall be composed of a monthly consumption charge plus a daily customer charge based on meter size.

**K. Municipal W-710.**

1. *Availability.* This rate schedule is available to buildings, grounds and premises operated by the city.
2. *Character of service.* Service shall be through a metered delivery.
3. *Rate.* The rate shall be composed of a monthly consumption charge plus a daily customer charge based on meter size.

**L. New large commercial/industrial contract W-800.**

1. *Availability.* This rate is available to customers whose services are provided by contract authorized by the city council. The city will provide water service under this schedule; provided, that:
  - a. Adequate capacity exists in the city's water distribution system;
  - b. Adequate capacity exists in the city's water supply system; and
  - c. The customer has executed a water sales agreement with the city for service under this schedule.
2. *Rate.* The rates under this schedule will be covered by individual contract between the city and the customer.
3. *Billing.* Billing shall be made on a calendar month basis or as otherwise covered by the agreement.

**Water Rate (Consumption)**

Rate class	Rate and effective date				Consumption unit
	1/1/2022 (\$/1,000 gal.)	1/1/2023 (\$/1,000 gal.)	1/1/2024 (\$/1,000 gal.)	1/1/2025 (\$/1,000 gal.)	
W-110 residential	\$1.92	\$2.03	\$2.15	\$2.27	First 15,000 gallons
	\$2.05	\$2.17	\$2.30	\$2.43	All over 15,000 gallons
W-111 irrigation	\$2.12	\$2.24	\$2.37	\$2.50	First 15,000 gallons

	\$2.26	\$2.39	\$2.53	\$2.67	All over 15,000 gallons
W-115 residential fire protection	\$1.92	\$2.03	\$2.15	\$2.27	First 15,000 gallons
	\$2.05	\$2.17	\$2.30	\$2.43	All over 15,000 gallons
W-120 multifamily	\$1.98	\$2.09	\$2.21	\$2.33	All consumption
W-200 commercial/industrial	\$2.01	\$2.13	\$2.25	\$2.37	First 100,000 gallons
	\$1.67	\$1.77	\$1.87	\$1.97	All over 100,000 gallons
W-300* private fire service	\$0.2099	\$0.2167	\$0.2237	\$0.2304	*Dollars/day/inch diameter of connection pipe
W-600 CWU	\$2.01	\$2.13	\$2.25	\$2.37	First 100,000 gallons
	\$1.67	\$1.77	\$1.87	\$1.97	All over 100,000 gallons
W-710 municipal	\$2.35	\$2.49	\$2.63	\$2.77	First 100,000 gallons
	\$1.94	\$2.05	\$2.17	\$2.29	All over 100,000 gallons

#### Water Rate (Customer Charge)

Service size	Daily fixed charge and effective date			
	1/1/2022 (\$/day)	1/1/2023 (\$/day)	1/1/2024 (\$/day)	1/1/2025 (\$/day)
5/8" or 3/4" meter	\$0.8482	\$0.8970	\$0.9486	\$1.0008
1" Meter for W-115 class only	\$0.8702	\$0.9202	\$0.9731	\$1.0266
1" or 1-1/4" meter	\$2.1202	\$2.2421	\$2.3710	\$2.5014

1-1/2" meter	\$4.2401	\$4.4839	\$4.7417	\$5.0025
2" meter	\$6.7841	\$7.1742	\$7.5867	\$8.0040
3" meter	\$12.7190	\$13.4503	\$14.2237	\$15.0060
4" meter	\$21.1992	\$22.4182	\$23.7072	\$25.0111
6" meter	\$42.3972	\$44.8350	\$47.4130	\$50.0207
8" meter	\$67.8365	\$71.7371	\$75.8620	\$80.0344

#### CWU Irrigation Meter Maintenance Fee W-610

Service size	Daily fixed charge and effective date: W-610			
	1/1/2022 (\$/day)	1/1/2023 (\$/day)	1/1/2024 (\$/day)	1/1/2025 (\$/day)
5/8" or 3/4" meter	\$0.2422	\$0.2561	\$0.2708	\$0.2857
1" or 1-1/4" meter	\$0.3874	\$0.4097	\$0.4333	\$0.4571
1-1/2" meter	\$0.5459	\$0.5773	\$0.6105	\$0.6441
2" meter	\$0.9565	\$1.0115	\$1.0697	\$1.1285
3" meter	\$1.5017	\$1.5880	\$1.6793	\$1.7717
4" meter	\$2.3993	\$2.5373	\$2.6832	\$2.8308
6" meter	\$4.9063	\$5.1884	\$5.4867	\$5.7885

(Ord. 4897 § 4, 2022; Ord. 4844 § 9, 2019; Ord. 4817 § 1, 2018; Ord. 4690 § 2, 2014; Ord. 4555 § 10, 2009; Ord. 4503 § 2, 2007)

**Section 87. Section 9.100.030 of the Ellensburg City Code, as last amended by Sections 3 & 4 of Ordinance 4804, is hereby amended to read as follows:**

#### **9.100.030 Definitions.**

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

*Base rate* means the stormwater user's fee for an equivalent residential unit (ERU).

*City* means the city of Ellensburg, Washington, a municipal corporation created and existing under the laws of the state of Washington.

*Credit* means the extent to which utility customers meeting specified criteria are billed at a reduced fee, such reduction representing a fee credit. The fee credit is provided in recognition that those utility customers who meet the specified criteria provide an in-kind service or contribution that offsets a portion of the burdens on the stormwater system imposed by the credited parcel.

*Developed property* means real property that has been altered from its natural state by the creation or addition of impervious surface areas, such as buildings, structures, pavement or other improvements.

*Dwelling unit* means a single unit providing complete, independent living facilities for one family including permanent provisions for living, sleeping, eating, cooking, and sanitation.

*Energy Services director* means the duly appointed director of the city of Ellensburg department of energy services or their designee.

*Engineer* means the duly appointed city engineer for the city or his or her designee.

*Equivalent residential unit* or *ERU* means, and is equal to, 3,900 square feet of impervious groundcover, which approximates the average impervious surface area contained on single-family residential parcels within the city as determined from measurements of a representative sampling of single-family residential properties in the city of Ellensburg. An ERU is the unit of impervious groundcover to be used by the utility in calculating service charges for each parcel of property.

*Fee or stormwater fee* means the charge established under this chapter for parcels or pieces of real property to fund the costs of stormwater management and of operating, maintaining, and improving the stormwater system in the city.

*Impervious surface* means a surface which is covered with material that is resistant to infiltration by water, including, but not limited to, most conventionally surfaced streets, roofs, sidewalks, patios, driveways, parking lots, and any other oiled, graveled, graded, compacted, or any other surface which impedes the natural infiltration of surface water.

*Impervious surface area* means the number of square feet of horizontal surface covered by buildings and other impervious surfaces.

*Multiple-family dwelling unit* means a building or portion thereof, designed for, or occupied by two or more families living independently in separate dwelling units.

*National Pollutant Discharge Elimination System* or *NPDES* refers to the federal permit system under the Clean Water Act for discharges of pollutants to surface waters of the United States.

Congress amended the Clean Water Act in 1987 to regulate stormwater. Under the revisions, NPDES Phase II permits are required for municipal stormwater discharges to surface waters.

*Nonresidential parcel* means a parcel which has been developed for any purpose other than a single-family residence, duplex, triplex, or four-plex and includes, but is not limited to, commercial parcels, industrial parcels, parking lots, hospitals, schools, hotels, offices, churches, governmental parcels and multiple-family dwelling units.

*Public works and utilities director* means the duly appointed director of the city of Ellensburg department of public works and utilities or ~~his or her~~ their designee.

*Residential parcel* means a parcel which has been developed as a single-family residence, a mobile home on a separate parcel, and other parcels where the primary use is residential.

*Single-family residence* means a parcel which has been developed with a residential structure designated for occupancy by one family or household unit, including mobile homes.

*Storm drainage and surface water management* means the planning, design, construction, regulation, improvement, repair, maintenance, and operation of facilities and programs relating to stormwater.

*Storm drainage and surface water management utility or stormwater utility or utility* means the storm drainage and surface water management utility created by this chapter as it may be amended from time to time.

*Stormwater* means that portion of precipitation that does not naturally percolate into the ground or evaporate, but flows via overland flow, interflow, pipes and other features of a stormwater drainage system into a defined surface waterbody, or a constructed infiltration facility.

*Stormwater control facility* means the streams, rivers, ponds, lakes, waterways, groundwater, and functionally related natural and manmade stormwater control facilities that combined constitute the city stormwater control facility.

*Stormwater management fund or fund* means the fund created by this chapter to operate, maintain, and improve the city's stormwater system.

*Stormwater and surface water system or stormwater system* means all properties, interest, physical and intangible rights of every kind or nature owned, held or operated by the city, however acquired, insofar as they contribute to the management of storm or surface water. It shall further include without limitation all such properties, interests and rights acquired by adverse possession or by prescription, directly or through another; in and to the drainage or storage, or both, of storm or surface waters, or both; and through, under, or over lands, landforms, watercourses, sloughs, streams, ponds, lakes and swamps. In each case or instance, their inclusion begins at a point where storm or surface waters first enter the stormwater control

facility of the city within the city limits, and ends where storm or surface waters exit from the stormwater control facility of the city, and in width to the full extent of inundation caused by the largest storm or flood condition.

*Waiver* means that determination by the engineer that a utility customer's property has met the criteria specified in ECC 9.100.120 to receive a waiver from paying stormwater fees. Any waiver will require a showing that parcels that meet the specified criteria provide an in-kind service or contribution that offsets the burdens on the stormwater system imposed by the parcels subject to the waiver.

(Ord. 4804 §§ 3, 4, 2018; Ord. 4549 § 5, 2009)

**Section 88. Section 9.110.030 of the Ellensburg City Code, as last amended by Sections 1 & 2 of Ordinance 4804, is hereby amended to read as follows:**

**9.110.030 Creation of telecommunications utility.**

A. For the purposes of this chapter and for the purposes of operating the metropolitan area network, there is created and established a telecommunications utility to be operated by the city's department of ~~public works and utilities~~ energy services, which, for purposes of this chapter, may also be referred to as "the department." The director of ~~public works and utilities~~ energy services shall have full charge and control of all work provided for and contemplated by this chapter, subject to the ultimate control and authority of the city manager and the city council.

B. The city shall have exclusive right to sell, lease and deliver access on the metropolitan area network. Rights of access and delivery of services across the telecommunications facilities owned by the city arising under the provisions of this chapter shall not be provided to any person or entity except as authorized herein.

C. The telecommunications utility shall perform the functions and have the authority, as set forth in this chapter, for managing, regulating, and controlling the city's metropolitan area network, including, but not limited to, the power and authority:

1. To operate, manage, and maintain telecommunications facilities owned by the city in the right-of-way to the point of delivery to public agencies, the city, telecommunications service companies, and customers within the city;
2. To extend and improve a high capacity metropolitan area network, and to use excess capacity thereon to provide access to network services, high capacity Internet, dark fiber, and other telecommunications services; provided, that the city shall not provide telephone services that are connected to the public switched telephone network and cable services to public agencies, telecommunications service companies, the city, and customers;

3. To contract with private sector providers for the operation, management and/or maintenance of the city's telecommunications facilities, if necessary; and
4. To interconnect telecommunications facilities owned by the city with telecommunications facilities owned by telecommunications service companies to provide access to the metropolitan area network for telecommunications service companies to provide telecommunications services as defined by ECC 11.40.030 and cable services as defined by ECC 11.40.030.

(Ord. 4804 §§ 1, 2, 2018; Ord. 4709 § 12, 2015; Ord. 4658 § 1, 2013)

**Section 89. Section 9.110.080 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4804, is hereby amended to read as follows:**

**9.110.080 Right-of-way, pole attachments and point of delivery.**

- A. The city hereby grants to the telecommunications utility established by this chapter authority to use the city's right-of-way to install telecommunications facilities and apparatus necessary to effectuate the purposes of this chapter, and the right to enter onto such public right-of-way to operate and maintain such telecommunications facilities, and to extend, improve and expand the telecommunications facilities owned by the city.
- B. The city may condition access to the telecommunications facilities owned by the city upon the dedication or conveyance to the city of a utility easement for the installation, operation and maintenance of such telecommunications facilities over, across, upon and under property owned or controlled by another. Such utility easement may be used for the purpose of providing delivery of telecommunications access and related services to the city as well as to other public agencies. Such utility easement shall permit access thereto by city employees and agents at all reasonable hours or at any time in an emergency situation, as determined by the city in its sole discretion. The city may also require such dedication or conveyance to be by warranty deed or it may require execution of an indemnification covenant assuring good and merchantable title thereto.
- C. Any telecommunications facilities attached to any pole owned by the city shall be subject to all ordinances and regulations pertaining to such pole attachments, including payment of pole attachment fees.
- D. The city shall own, install and maintain all overhead and underground communication cables up to the point of delivery. The point of delivery is defined to mean the customer premises equipment between the city telecommunications facilities and the customer-provided building communication cables, typically located within the customer's building. In the event of any dispute or uncertainty about the location of a point of delivery, the records of the telecommunications utility that show the location of the particular point of delivery shall control.

E. If any telecommunications facilities owned by a telecommunications service company are to be interconnected to the telecommunications facilities owned by the city, then the initial and ongoing costs of the interconnection shall be approved in advance by the ~~public works and utilities~~ energy services director, and such interconnection shall be at a meet me location or at a point of service delivery that is mutually agreed upon. The initial and ongoing costs of the interconnection shall be paid by the requesting entity, unless otherwise mutually agreed upon.

(Ord. 4804 § 2, 2018; Ord. 4777 § 2, 2017; Ord. 4709 § 14, 2015; Ord. 4658 § 1, 2013)

**Section 90. Section 11.01.030 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**11.01.030 Map and specifications to be filed with the city of Ellensburg.**

Prior to commencement of any construction of any portion of the transmission system, franchisee shall file with the city's director of public works ~~and utilities~~ its plans and specifications to do such work. Plans and specifications submitted to the director of public works ~~and utilities~~ shall show the position, depth, or height, and location of all lines and facilities sought to be constructed, laid, installed or erected at that time, and shall show their relative position to existing city roads, rights-of-way, or other city property, upon plans drawn to scale indicating exact distance hereinafter collectively referred to as the "map of definite location." The transmission system shall be constructed in exact conformity with said map of definite location, except in instances in which franchisee determines that a deviation may be necessary, and after consultation with the director of public works ~~and utilities~~.

(Ord. 4804 § 4, 2018; Ord. 4673 § 4, 2014)

**Section 91. Section 11.01.060 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**11.01.060 City roads to be restored.**

In any work which requires breaking of surface of the city roads or rights-of-way subject to this franchise for the purpose of locating, constructing, installing, relocating, removing, maintaining and/or repairing the transmission system, franchisee shall be governed by and strictly conform to the plans and specifications submitted to the city's director of ~~public works and utilities~~. Franchisee, at its own expense and with all reasonable speed, shall complete the work for which the road or right-of-way surface has been broken and repair and restore the affected city road or right-of-way and the surface thereof to a condition as good as that which existed before the work was commenced.

(Ord. 4804 § 4, 2018; Ord. 4673 § 7, 2014)

**Section 92. Section 11.01.070 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**11.01.070 City of Ellensburg may change and improve roads without liability.**

If the city of Ellensburg shall at any time improve or change any city road or right-of-way subject to this franchise by grading, regrading, surfacing, or paving the same, or by changing, altering, repairing, or relocating the grade thereof or by construction of drainage facilities, franchisee shall, upon written notice from the city's director of public works ~~and utilities~~, at franchisee's sole expense, with all reasonable speed, change the location or readjust the elevation of its transmission system and other facilities so that the same shall not interfere with such city work and so such lines and facilities shall conform to such new grades as may be established. The city shall in no respect be held liable for any damages, costs, or expenses to franchisee that may occur by reason of any of the city's improvements, changes or work above enumerated, except insofar as such damages, costs or expenses shall be caused by the sole negligence of the city's employees or agents.

(Ord. 4804 § 4, 2018; Ord. 4673 § 8, 2014)

**Section 93. Section 11.01.080 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**11.01.080 Reference monuments and markers.**

Before any work is performed under this franchise, which may affect any existing monuments or markers of any nature relating to subdivisions, plats, roads, and all other surveys, franchisee shall reference all such monuments and markers. The reference points shall be so located that they will not be disturbed during franchisee's operation under this franchise. The method of referencing these monuments or other points to be referenced shall be approved by the city's director of public works ~~and utilities~~. The replacement of all such monuments or markers disturbed during construction shall be made as expeditiously as conditions permit, and as directed by the director of public works. The cost of monuments or other markers lost, destroyed or disturbed, and the expense of replacement by approved monuments shall be borne by franchisee.

(Ord. 4804 § 4, 2018; Ord. 4673 § 9, 2014)

**Section 94. Section 11.20.080 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4804, is hereby amended to read as follows:**

**11.20.080 Location of facilities.**

A. Use of streets. Franchisee may, subject to terms of this franchise, erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across and along the city streets and rights-of-way such lines, cables, conductors, ducts, conduits, vaults, utility access covers,

amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a telecommunications system within the city. All installation, construction, alteration and/or maintenance of any and all telecommunications system facilities within city streets and rights-of-way incident to provision of telecommunications services by franchisee shall, regardless of who performs installation, construction, alteration and/or maintenance, be and remain the responsibility of franchisee.

B. Construction or alteration.

1. *Permits.* Franchisee shall in all cases comply with all lawful city ordinances and regulations regarding the acquisition of permits and other such items as may be reasonably required in order to install, construct, alter and maintain the telecommunications system. Franchisee shall apply for and obtain all permits necessary for installation, construction, alteration and/or maintenance of any such facilities, and for excavation and laying of any telecommunications system facilities within city streets and rights-of-way. Franchisee shall pay all applicable fees due for any such permits.
2. *Schedule and maps.* Prior to beginning installation, construction, alteration or maintenance of the telecommunications system, franchisee shall provide the city with an initial work schedule for work to be conducted in city streets and rights-of-way and the estimated total cost of such work. Franchisee shall, upon request, provide information to the city regarding its progress in completing or altering the telecommunications system.
3. *Good engineering.*
  - a. Franchisee promises all of its property and facilities shall be constructed, operated and maintained in good order and condition in accordance with good engineering practice, in connection with the civil works of the franchisee's telecommunications system, such as, but not limited to, trenching, paving, compaction and locations. Franchisee will comply with the edition of the American Public Works Association Standard Specifications which is in current or future use by the city, together with the city's supplemental specifications thereto, all as now or hereafter amended.
  - b. Franchisee's telecommunications system shall comply with the applicable federal, state and local laws, the National Electric Safety Code and the Washington Electrical Construction Code, where applicable.
4. *Facilities placement.*

- a. *General standards.* The telecommunications system shall be constructed and maintained in such manner as not to obstruct, hinder, damage or otherwise interfere with sewers, water pipes, other utility fixtures or any other property of the city, or any other pipes, wires, conduits or other facilities that may have been installed in city streets or rights-of-way by or under the city's authority. Franchisee shall maintain a minimum underground horizontal separation of five feet from city water facilities and ten feet from aboveground city water facilities; provided, that for development in new areas, the city, together with franchisee and other utility purveyors or authorized users of city streets or rights-of-way, will develop and follow the city's determination of a consensus for guidelines and procedures for determining specific utility locations, subject additionally to this franchise.
- b. *Limited access.* The city reserves the right to limit or exclude access by franchisee to a specific route, right-of-way or other location when there is inadequate space, a pavement cutting moratorium, potential for unnecessary damage to public property, public expense, inconvenience, interference with city utilities, or for any other reason determined by the city.
- c. *Consistency with designated use.* Notwithstanding the grant to use city streets and rights-of-way contained in this franchise, no street or right-of-way shall be used by franchisee if the city, in its sole opinion, determines that such use is inconsistent with the terms, conditions or provisions by which such streets or rights-of-way were created or dedicated or presently used under state and local laws.
- d. *Noninterference.* Franchisee shall exert its best efforts to construct and maintain the telecommunications system so as not to interfere with other uses of city streets or rights-of-way. Franchisee shall, where possible in the case of aboveground lines, make use of existing poles and other facilities available to franchisee. Franchisee shall individually notify all residents affected by any proposed installation, construction, alteration or maintenance of the telecommunications system of such work where and when such notification is reasonably possible.
- e. *Undergrounding.* The city finds that overhead lines and aboveground wire facilities and installations in the streets or rights-of-way and other franchised areas adversely impact upon the public use and enjoyment of property in the city, including an aesthetic impact. Therefore, franchisee shall place underground all of its transmission lines that are located or are

to be located above or within city streets or rights-of-way in the following cases where:

- i. All existing utilities are located underground;
- ii. Transmission or distribution facilities of the local exchange carrier and/or the electric utility are underground or hereafter placed underground;
- iii. Statute, ordinance, policy or other regulation of the city requires utilities to be placed underground;
- iv. Franchisee is unable to obtain pole clearance;
- v. Underground easements are obtained from developers of new residential areas; or
- vi. Utilities are overhead but residents prefer same to be located underground (such undergrounding to be provided at residents' expense).

C. The franchisee shall be responsible for obtaining permission from subscribers to install overhead and underground fiber optic facilities on private property. New fiber optic facilities:

1. May be installed on existing overhead facilities within the communication worker safety zone; no fiber optic facilities may be installed by the franchisee in the supply space of city-owned utility poles.
2. Shall not be installed on existing metal street lighting standards or traffic signal standards.
3. Shall comply with all National Electric Safety Code (NESC) clearance requirements and NESC requirements for overcurrent protection. All new aerial fiber cable shall meet the minimum ground clearance requirements of the Washington State Department of Transportation. Where excavation is necessary, the franchisee shall be responsible for obtaining all locates as required in chapter 19.122 RCW, Washington State's "underground utilities" statute, and will also comply with local procedures, custom and practice relating to the one-number locator service program. Any damage to other underground facilities shall be reported without delay. The director of ~~public works and utilities~~ energy services may waive any of the above guidelines, other than clearance requirements, on a case-by-case basis if the cost to comply is clearly excessive in comparison to the estimated cost of overhead installation.

D. Coordination with other users. Franchisee shall reasonably coordinate its activities with other utilities and users of city streets and rights-of-way to avoid unnecessary cutting, damage or disturbance of such streets and rights-of-way and shall conduct its planning, design, installation, construction, alteration and maintenance of the telecommunications system at all times so as to maximize the life and usefulness of the paving and municipal infrastructure. In addition, the city may determine with respect to franchised uses, in the exercise of reasonable discretion, when and where reasonable accommodation shall be made by franchisee to the city for public needs or, where requested, other third party needs, how such accommodation should be made and a reasonable apportionment of any expenses of same; provided, that this franchise creates no third party beneficial interests or accommodation. Notwithstanding the foregoing, it remains the responsibility of franchisee to reasonably anticipate and avoid conflicts with other city streets or rights-of-way occupants or users, other utilities, franchisees or permittees. The city assumes no responsibility for such conflicts. Further, franchisee shall give appropriate notices to any other city streets or rights-of-way occupants or users, other utilities, franchisees, permittees, divisions of the city or other units of government owning or maintaining facilities which may be affected by the planning, design, installation, construction, alteration or maintenance of franchisee's telecommunications system.

E. Relocation.

1. The city shall have the right during the term of this franchise, as it may be extended, renewed or otherwise altered in accordance with this franchise, to require franchisee to change the location of its telecommunications system within city streets and rights-of-way when the public convenience requires such change. If the city or any government entity elects or requires a third party to alter, repair, realign, abandon, improve, vacate, reroute or change the grade of any street, public way or other public property; or to construct, maintain or repair any public improvement; or to replace, repair, install, maintain or otherwise alter any cable, wire, wire conduit, towers, antenna, pipe, line, pole, wireholding structure, structure or other facility, including a facility used for the provision of utility or other services or transportation of drainage, sewage or other liquids, franchisee shall, upon request, except as otherwise hereinafter provided, at no expense to the city, remove or relocate as necessary its poles, wires, cables, underground conduits, vaults, pedestals, utility access covers and any other facilities which it has installed.
2. If the city requires franchisee to remove or relocate its facilities located within city streets or rights-of-way, the city will make a reasonable effort to provide franchisee with an alternate for its facilities within city streets or rights-of-way.
3. The city shall provide franchisee with the standard notice given under the circumstances to other franchisees, licensees or permittees.

4. The city reserves the right to require franchisee to relocate its facilities within the public rights-of-way in the interest of public convenience, necessity, health, safety or welfare at no cost to the city. Franchisee shall promptly commence the relocation of its facilities within a reasonable period of time after written notice to do so from the city. Before requiring a relocation of facilities, the city shall, with the assistance and consent of franchisee, which consent shall not be unreasonably withheld, conditioned or delayed, identify a reasonable alignment for the relocated facilities within the public rights-of-way of the city.
5. In an instance in which franchisee had paid the cost of relocation of its facilities at the request of the city within the previous five years, the share of the cost of relocation of franchisee will be paid by the city if relocation of the same facilities is subsequently requested by the city, except in an emergency as determined by the city.
6. If during the term of this franchise, as it may be extended, renewed or otherwise altered in accordance with this franchise, another entity which holds a franchise or any utility requests franchisee to remove or relocate its telecommunications system facilities to accommodate the construction, maintenance or repair of the requesting party's facilities, or the more efficient use of such facilities, or to "make ready" the requesting party's facilities for use by others, or because franchisee is using a facility which the requesting party has a right or duty to remove, and the city has determined that such removal or relocation serves the best interests of the city in the management of its rights-of-way, then franchisee shall remove or relocate its telecommunications system facilities at the requesting party's sole expense. Franchisee may request payment in advance from such third party prior to any preparation for any removal or relocation. The city shall not be liable for any such cost(s).
7. Any person requesting franchisee to remove or relocate its facilities shall give franchisee no less than 180 days' advance written notice advising franchisee of the date or dates removal or relocation is to be undertaken.
8. If franchisee fails, neglects or refuses to remove or relocate its facilities as directed by the city, the city may do such work or cause it to be done and the cost, including all direct, indirect and/or consequential costs and expenses incurred by the city due to the failure, neglect or refusal by franchisee thereof, shall be paid solely by franchisee.
9. If franchisee causes any damage to private property or public property in the process of removing or relocating its facilities, franchisee shall pay the owner of the property for such damage.

10. Franchisee does hereby promise to protect and save harmless the city, its officers, agents and employees from any customer or third party claims for service interruption or other losses in connection with any removal or relocation of telecommunications system facilities.

F. Movement of buildings. Franchisee shall, upon request by any person holding a building permit, franchise or other approval issued by the city, temporarily remove, raise or lower its transmission or other wires appurtenant to the telecommunications system to permit the movement of buildings. The expense for such removal, raising or lowering shall be paid by the person requesting the same and franchisee shall be authorized to require such payment in advance. The city shall require all building movers to provide not less than 30 business days' notice to franchisee for such temporary wire changes.

G. Tree trimming. Franchisee, with 24-hour notice to the property owner, shall have the authority to trim or cause to have trimmed trees upon and overhanging streets, alleys, sidewalks and rights-of-way so as to prevent the branches of such trees from coming in contact or otherwise interfering with the telecommunications system; provided, that the cost for such trimming of trees shall be paid solely by franchisee.

H. Restoration.

1. Whenever franchisee damages or disturbs any area in or near city streets, rights-of-way, paved area or public improvement, franchisee shall, at its sole expense and liability, restore such area in or near city streets, rights-of-way, paved area or public improvement to its prior condition to the satisfaction of the city.
2. Whenever any opening is made by franchisee in a hard surface pavement in any city street or rights-of-way, franchisee shall refill, restore, patch and repave entirely all surfaces opened as determined necessary by the city in order to maintain and preserve the useful life thereof.
3. For pavement restorations, any patch or restoration shall be thereafter properly maintained in good condition and repair by franchisee until such time as the area is resurfaced or reconstructed.
4. The city hereby reserves the right, after providing reasonable notice to franchisee, to remove and/or repair any work done by franchisee which, in the determination of the city, is inadequate. The cost thereof, including the cost of inspection and supervision, shall be paid solely by franchisee.
5. Should franchisee fail, neglect, refuse or delay in performing any obligation here or elsewhere stated, or where the city deems necessary to protect public rights-of-way or to avoid liability, risk or injury to the public or the city, after reasonable

notice to franchisee, the city may proceed to perform or cause to have performed such obligation, including any remedial or preventative action deemed necessary, at the sole expense of franchisee. Prior to undertaking corrective effort, the city shall make a reasonable effort to notify franchisee, except no notice is needed if the city declares an emergency or determines a need for expedient action. This remedy is supplemental and not alternative to any other municipal right.

6. Whenever franchisee damages or disturbs any area in or near city streets, rights-of-way, paved area or public improvement, franchisee stipulates that the city may:
  - a. Require franchisee to repave an entire lane or greater affected area within any cut or disturbed location if the integrity of such area has been severely compromised by franchisee; and/or
  - b. Require franchisee to common trench with any other underground installation in city streets or rights-of-way, with cost sharing to be negotiated between the parties involved, or in the absence of agreement, as directed by the city.
7. All work performed by franchisee under this section shall be done in strict compliance with all applicable rules, regulations and ordinances of the city.
8. All restoration work is subject to inspection and final approval by the city. If restoration is not made to the satisfaction of the city within the established timeframe, the city may make the restoration itself at the cost of franchisee or have them made at the cost of franchisee.
9. Franchisee shall perform all restoration work promptly.

I. City right to require removal of property.

1. At the expiration of the term for which this franchise is granted, providing no extension or renewal is granted by the city, or upon the forfeiture or revocation of this franchise, as provided for in this franchise, the city shall have the right to require franchisee to remove, at the sole expense of franchisee, all or any part of the telecommunications system from all city streets and rights-of-way within the franchise service area, where the abandoned facilities interfere with reasonable uses of city streets and rights-of-way. If franchisee fails to do so, the city may perform the work or cause such work to be performed and collect the cost thereof from franchisee. The actual cost thereof, including direct and indirect administrative costs, shall be a lien upon all plant and property of franchisee effective upon filing of the lien with the Kittitas County auditor.

2. Any order by the city council to remove any of the franchisee telecommunications system facilities shall be mailed to franchisee not later than 30 calendar days following the date of expiration of this franchise. Franchisee shall file written notice with the clerk of the city council not later than 30 calendar days following the date of expiration or termination of this franchise of its intention to remove any telecommunications system facilities intended to be removed and a schedule for removal by location. The schedule and timing of removal shall be subject to approval and regulation by the city. Removal shall be completed by not later than 12 months following the date of expiration of this franchise.
3. Franchisee shall not remove any underground facilities which require trenching or other opening of city streets or rights-of-way along the extension of the facilities to be removed, except as hereinafter provided. Franchisee may voluntarily remove any underground facilities from city streets and rights-of-way which have been installed in such a manner that they can be removed without trenching or other opening of city streets and rights-of-way along the extension of the facilities to be removed.
4. Subject to applicable law, franchisee shall remove, at its sole cost and expense, any underground facilities by trenching or opening city streets and rights-of-way along the extension thereof or otherwise which is ordered to be removed by the city council based upon a determination, in the sole discretion of said council, that removal is required in order to eliminate or prevent a hazardous condition. Underground facilities in city streets and rights-of-way that are not removed shall be deemed abandoned and title thereto shall be vested in the city.

J. Emergency repairs. In the event that emergency repairs to the telecommunications system are necessary, franchisee shall notify the city of the need for such repairs. Franchisee may immediately initiate such emergency repairs and shall apply for appropriate permits the next business day following discovery of the emergency.

K. City right of inspection. The city shall have the right to inspect and approve all installation, construction, alteration or maintenance work performed by franchisee within the franchise service area and to make such tests as it deems necessary to ensure compliance with the terms and conditions of this franchise and other pertinent provisions of law, the cost thereof to be paid solely by franchisee, but no action or inaction by the city shall create any duty or obligation by the city to inspect, test or approve any installation, construction, alteration or maintenance work performed by franchisee.

L. After-acquired facilities. Franchisee expressly acknowledges and agrees, by acceptance of this franchise, that any telecommunications system facilities located within city streets or rights-of-way which are subsequently acquired by franchisee or upon addition or annexation to

the city of any area in which franchisee retains or acquires any such facilities (if acquired prior to this original franchise grant) and which would have been subject to this franchise and the permitting authority related thereto shall immediately be subject to the provisions of this franchise and all permits related thereto.

M. Information. Franchisee hereby promises to maintain and supply to the city, at the sole expense of franchisee, any information requested by the city to coordinate municipal functions with the activities of franchisee within city streets and rights-of-way. Franchisee shall provide such information, upon request, either in hard copy and/or electronic format compatible with the city's database system, as now or hereafter existing, including the city's geographic information service (GIS) database. Franchisee shall keep the city informed of its long-range plans so as to allow coordination with the city's long-range plans.

N. The installation of new utility poles by franchisee is not permitted to establish service. Franchisee must place its facilities underground in accordance with ECC 11.60.030(C) except as otherwise expressly provided herein. Subject to the terms and conditions of this franchise, franchisee may place optical cable, optical cable housing, and splicing connections on existing city-owned utility poles as overhead facilities if approved by city pursuant to a separate agreement for such use, or by the owner of the non-city utility poles. All other facilities, including, without limitation, facilities required for operating or maintaining such optical cable and optical cable housing, and splicing connections, must be underground facilities if they are located in a public way.

(Ord. 4804 § 2, 2018; Ord. 4679 § 8, 2014)

**Section 95. Section 11.24.080 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4804, is hereby amended to read as follows:**

**11.24.080 Location of facilities.**

A. Use of streets. Franchisee may, subject to terms of this franchise, erect, install, construct, repair, replace, reconstruct and retain in, on, over, under, upon, across and along the city streets and rights-of-way such lines, cables, conductors, ducts, conduits, vaults, utility access covers, amplifiers, appliances, pedestals, attachments and other property and equipment as are necessary and appurtenant to the operation of a telecommunications system within the city. All installation, construction, alteration and/or maintenance of any and all telecommunications system facilities within city streets and rights-of-way incident to provision of telecommunications services by franchisee shall, regardless of who performs installation, construction, alteration and/or maintenance, be and remain the responsibility of franchisee.

B. Construction or alteration.

1. *Permits.* Franchisee shall in all cases comply with all lawful city ordinances and regulations regarding the acquisition of permits and other such items as may be reasonably required in order to install, construct, alter and maintain the telecommunications system. Franchisee shall apply for and obtain all permits necessary for installation, construction, alteration and/or maintenance of any such facilities, and for excavation and laying of any telecommunications system facilities within city streets and rights-of-way. Franchisee shall pay all applicable fees due for any such permits.
2. *Schedule and maps.* Prior to beginning installation, construction, alteration or maintenance of the telecommunications system, franchisee shall provide the city with an initial work schedule for work to be conducted in city streets and rights-of-way and the estimated total cost of such work. Franchisee shall, upon request, provide information to the city regarding its progress in completing or altering the telecommunications system.
3. *Good engineering.*
  - a. Franchisee promises all of its property and facilities shall be constructed, operated and maintained in good order and condition in accordance with good engineering practice. In connection with the civil works of the franchisee's telecommunications system, such as, but not limited to, trenching, paving, compaction and locations. Franchisee will comply with the edition of the American Public Works Association Standard Specifications which is in current or future use by the city, together with the city's supplemental specifications thereto, all as now or hereafter amended.
  - b. Franchisee's telecommunications system shall comply with the applicable federal, state and local laws, the National Electric Safety Code and the Washington Electrical Construction Code, where applicable.
4. *Facilities placement.*
  - a. *General standards.* The telecommunications system shall be constructed and maintained in such manner as not to obstruct, hinder, damage or otherwise interfere with sewers, water pipes, other utility fixtures or any other property of the city, or any other pipes, wires, conduits or other facilities that may have been installed in city streets or rights-of-way by or under the city's authority. Franchisee shall maintain a minimum underground horizontal separation of five feet from city water facilities and ten

feet from above-ground city water facilities; provided, that for development in new areas, the city, together with franchisee and other utility purveyors or authorized users of city streets or rights-of-way, will develop and follow the city's determination of a consensus for guidelines and procedures for determining specific utility locations, subject additionally to this franchise.

- b. *Limited access.* The city reserves the right to limit or exclude access by franchisee to a specific route, right-of-way or other location when there is inadequate space, a pavement cutting moratorium, potential for unnecessary damage to public property, public expense, inconvenience, interference with city utilities, or for any other reason determined by the city.
- c. *Consistency with designated use.* Notwithstanding the grant to use city streets and rights-of-way contained in this franchise, no street or rights-of-way shall be used by franchisee if the city, in its sole opinion, determines that such use is inconsistent with the terms, conditions or provisions by which such street or rights-of-way were created or dedicated or presently used under state and local laws.
- d. *Noninterference.* Franchisee shall exert its best efforts to construct and maintain the telecommunications system so as not to interfere with other uses of city streets or rights-of-way. Franchisee shall, where possible in the case of aboveground lines, make use of existing poles and other facilities available to franchisee. Franchisee shall individually notify all residents affected by any proposed installation, construction, alteration or maintenance of the telecommunications system of such work where and when such notification is reasonably possible.
- e. *Undergrounding.* The city finds that overhead lines and aboveground wire facilities and installations in the streets or rights-of-way and other franchised areas adversely impact upon the public use and enjoyment of property in the city, including an aesthetic impact. Therefore, franchisee shall place underground all of its transmission lines that are located or are to be located above or within city streets or rights-of-way in the following cases where:
  - i. All existing utilities are located underground;

- ii. Transmission or distribution facilities of the local exchange carrier and/or the electric utility are underground or hereafter placed underground;
- iii. Statute, ordinance, policy or other regulation of the city requires utilities to be placed underground;
- iv. Franchisee is unable to obtain pole clearance;
- v. Underground easements are obtained from developers of new residential areas; or
- vi. Utilities are overhead but residents prefer same to be located underground (such undergrounding to be provided at residents' expense).

C. The franchisee shall be responsible for obtaining permission from subscribers to install overhead and underground fiber optic facilities on private property. New fiber optic facilities:

- 1. May be installed on existing overhead facilities within the communication worker safety zone; no fiber optic facilities may be installed by the franchisee in the supply space of city-owned utility poles.
- 2. Shall not be installed on existing metal street lighting standards or traffic signal standards.
- 3. Shall comply with all National Electric Safety Code (NESC) clearance requirements and NESC requirements for overcurrent protection. All new aerial fiber cable shall meet the minimum ground clearance requirements of the Washington State Department of Transportation. Where excavation is necessary, the franchisee shall be responsible for obtaining all locates as required in chapter 19.122 RCW, Washington State's "underground utilities" statute, and will also comply with local procedures, custom and practice relating to the one-number locator service program. Any damage to other underground facilities shall be reported without delay. The director of ~~public works and utilities~~ energy services may waive any of the above guidelines, other than clearance requirements, on a case-by-case basis if the cost to comply is clearly excessive in comparison to the estimated cost of overhead installation.

D. Coordination with other users. Franchisee shall reasonably coordinate its activities with other utilities and users of city streets and rights-of-way to avoid unnecessary cutting, damage or disturbance of such streets and rights-of-way and shall conduct its planning, design, installation, construction, alteration and maintenance of the telecommunications system at all times so as to maximize the life and usefulness of the paving and municipal infrastructure. In addition, the city

may determine with respect to franchised uses, in the exercise of reasonable discretion, when and where reasonable accommodation shall be made by franchisee to the city for public needs or, where requested, other third party needs, how such accommodation should be made and a reasonable apportionment of any expenses of same; provided, that this franchise creates no third party beneficial interests or accommodation. Notwithstanding the foregoing, it remains the responsibility of franchisee to reasonably anticipate and avoid conflicts with other city streets or rights-of-way occupants or users, other utilities, franchisees or permittees. The city assumes no responsibility for such conflicts. Further, franchisee shall give appropriate notices to any other city streets or rights-of-way occupants or users, other utilities, franchisees, permittees, divisions of the city or other units of government owning or maintaining facilities which may be affected by the planning, design, installation, construction, alteration or maintenance of franchisee's telecommunications system.

**E. Relocation.**

1. The city shall have the right during the term of this franchise, as it may be extended, renewed or otherwise altered in accordance with this franchise, to require franchisee to change the location of its telecommunications system within city streets and rights-of-way when the public convenience requires such change. If the city or any government entity elects or requires a third party to alter, repair, realign, abandon, improve, vacate, reroute or change the grade of any street, public way or other public property; or to construct, maintain or repair any public improvement; or to replace, repair, install, maintain or otherwise alter any cable, wire, wire conduit, towers, antenna, pipe, line, pole, wireholding structure, structure or other facility, including a facility used for the provision of utility or other services or transportation of drainage, sewage or other liquids, franchisee shall, upon request, except as otherwise hereinafter provided, at no expense to the city, remove or relocate as necessary its poles, wires, cables, underground conduits, vaults, pedestals, utility access covers and any other facilities which it has installed.
2. If the city requires franchisee to remove or relocate its facilities located within city streets or rights-of-way, the city will make a reasonable effort to provide franchisee with an alternate for its facilities within city streets or rights-of-way.
3. The city shall provide franchisee with the standard notice given under the circumstances to other franchisees, licensees or permittees.
4. The city reserves the right to require franchisee to relocate its facilities within the public rights-of-way in the interest of public convenience, necessity, health, safety or welfare at no cost to the city. Franchisee shall promptly commence the relocation of its facilities within a reasonable period of time after written notice to

do so from the city. Before requiring a relocation of facilities, the city shall, with the assistance and consent of franchisee, which consent shall not be unreasonably withheld, conditioned or delayed, identify a reasonable alignment for the relocated facilities within the public rights-of-way of the city.

5. In an instance in which franchisee had paid the cost of relocation of its facilities at the request of the city within the previous five years, the share of the cost of relocation of franchisee will be paid by the city if relocation of the same facilities is subsequently requested by the city, except in an emergency as determined by the city.
6. If, during the term of this franchise, as it may be extended, renewed or otherwise altered in accordance with this franchise, another entity which holds a franchise or any utility requests franchisee to remove or relocate its telecommunications system facilities to accommodate the construction, maintenance or repair of the requesting party's facilities, or the more efficient use of such facilities, or to "make ready" the requesting party's facilities for use by others, or because franchisee is using a facility which the requesting party has a right or duty to remove, and the city has determined that such removal or relocation serves the best interests of the city in the management of its rights-of-way, then franchisee shall remove or relocate its telecommunications system facilities at the requesting party's sole expense. Franchisee may request payment in advance from such third party prior to any preparation for any removal or relocation. The city shall not be liable for any such cost(s).
7. Any person requesting franchisee to remove or relocate its facilities shall give franchisee no less than 180 days' advance written notice advising franchisee of the date or dates removal or relocation is to be undertaken.
8. If franchisee fails, neglects or refuses to remove or relocate its facilities as directed by the city, the city may do such work or cause it to be done and the cost, including all direct, indirect and/or consequential costs and expenses incurred by the city due to the failure, neglect or refusal by franchisee thereof, shall be paid solely by franchisee.
9. If franchisee causes any damage to private property or public property in the process of removing or relocating its facilities, franchisee shall pay the owner of the property for such damage.
10. Franchisee does hereby promise to protect and save harmless the city, its officers, agents and employees from any customer or third party claims for service interruption or other losses in connection with any removal or relocation of telecommunications system facilities.

F. Movement of buildings. Franchisee shall, upon request by any person holding a building permit, franchise or other approval issued by the city, temporarily remove, raise or lower its transmission or other wires appurtenant to the telecommunications system to permit the movement of buildings. The expense for such removal, raising or lowering shall be paid by the person requesting the same and franchisee shall be authorized to require such payment in advance. The city shall require all building movers to provide not less than 30 business days' notice to franchisee for such temporary wire changes.

G. Tree trimming. Franchisee, with 24-hour notice to the property owner, shall have the authority to trim or cause to have trimmed trees upon and overhanging streets, alleys, sidewalks and rights-of-way so as to prevent the branches of such trees from coming in contact or otherwise interfering with the telecommunications system; provided, that the cost for such trimming of trees shall be paid solely by franchisee.

H. Restoration.

1. Whenever franchisee damages or disturbs any area in or near city streets, rights-of-way, paved area or public improvement, franchisee shall, at its sole expense and liability, restore such area in or near city streets, rights-of-way, paved area or public improvement to its prior condition to the satisfaction of the city.
2. Whenever any opening is made by franchisee in a hard surface pavement in any city street or rights-of-way, franchisee shall refill, restore, patch and repave entirely all surfaces opened as determined necessary by the city in order to maintain and preserve the useful life thereof.
3. For pavement restorations, any patch or restoration shall be thereafter properly maintained in good condition and repair by franchisee until such time as the area is resurfaced or reconstructed.
4. The city hereby reserves the right, after providing reasonable notice to franchisee, to remove and/or repair any work done by franchisee which, in the determination of the city, is inadequate. The cost thereof, including the cost of inspection and supervision, shall be paid solely by franchisee.
5. Should franchisee fail, neglect, refuse or delay in performing any obligation here or elsewhere stated, or where the city deems necessary to protect public rights-of-way or to avoid liability, risk or injury to the public or the city, after reasonable notice to franchisee, the city may proceed to perform or cause to have performed such obligation, including any remedial or preventative action deemed necessary, at the sole expense of franchisee. Prior to undertaking corrective effort, the city shall make a reasonable effort to notify franchisee, except no notice is needed if

the city declares an emergency or determines a need for expedient action. This remedy is supplemental and not alternative to any other municipal right.

6. Whenever franchisee damages or disturbs any area in or near city streets, rights-of-way, paved area or public improvement, franchisee stipulates that the city may:
  - a. Require franchisee to repave an entire lane or greater affected area within any cut or disturbed location if the integrity of such area has been severely compromised by franchisee; and/or
  - b. Require franchisee to common trench with any other underground installation in city streets or rights-of-way, with cost sharing to be negotiated between the parties involved, or in the absence of agreement, as directed by the city.
7. All work performed by franchisee under this section shall be done in strict compliance with all applicable rules, regulations and ordinances of the city.
8. All restoration work is subject to inspection and final approval by the city. If restoration is not made to the satisfaction of the city within the established timeframe, the city may make the restoration itself at the cost of franchisee or have them made at the cost of franchisee.
9. Franchisee shall perform all restoration work promptly.

I. City right to require removal of property.

1. At the expiration of the term for which this franchise is granted, providing no extension or renewal is granted by the city, or upon the forfeiture or revocation of this franchise, as provided for in this franchise, the city shall have the right to require franchisee to remove, at the sole expense of franchisee, all or any part of the telecommunications system from all city streets and rights-of-way within the franchise service area, where the abandoned facilities interfere with reasonable uses of city streets and rights-of-way. If franchisee fails to do so, the city may perform the work or cause such work to be performed and collect the cost thereof from franchisee. The actual cost thereof, including direct and indirect administrative costs, shall be a lien upon all plant and property of franchisee effective upon filing of the lien with the Kittitas County auditor.
2. Any order by the city council to remove any of the franchisee telecommunications system facilities shall be mailed to franchisee not later than 30 calendar days following the date of expiration of this franchise. Franchisee shall file written notice with the clerk of the city council not later than 30 calendar days following the date of expiration or termination of this franchise of its intention to remove

any telecommunications system facilities intended to be removed and a schedule for removal by location. The schedule and timing of removal shall be subject to approval and regulation by the city. Removal shall be completed by not later than 12 months following the date of expiration of this franchise.

3. Franchisee shall not remove any underground facilities which require trenching or other opening of city streets or rights-of-way along the extension of the facilities to be removed, except as hereinafter provided. Franchisee may voluntarily remove any underground facilities from city streets and rights-of-way which have been installed in such a manner that they can be removed without trenching or other opening of city streets and rights-of-way along the extension of the facilities to be removed.
4. Subject to applicable law, franchisee shall remove, at its sole cost and expense, any underground facilities by trenching or opening city streets and rights-of-way along the extension thereof or otherwise which is ordered to be removed by the city council based upon a determination, in the sole discretion of said council, that removal is required in order to eliminate or prevent a hazardous condition. Underground facilities in city streets and rights-of-way that are not removed shall be deemed abandoned and title thereto shall be vested in the city.

J. Emergency repairs. In the event that emergency repairs to the telecommunications system are necessary, franchisee shall notify the city of the need for such repairs. Franchisee may immediately initiate such emergency repairs and shall apply for appropriate permits the next business day following discovery of the emergency.

K. City right of inspection. The city shall have the right to inspect and approve all installation, construction, alteration or maintenance work performed by franchisee within the franchise service area and to make such tests as it deems necessary to ensure compliance with the terms and conditions of this franchise and other pertinent provisions of law, the cost thereof to be paid solely by franchisee, but no action or inaction by the city shall create any duty or obligation by the city to inspect, test or approve any installation, construction, alteration or maintenance work performed by franchisee.

L. After-acquired facilities. Franchisee expressly acknowledges and agrees, by acceptance of this franchise, that any telecommunications system facilities located within city streets or rights-of-way which are subsequently acquired by franchisee or upon addition or annexation to the city of any area in which franchisee retains or acquires any such facilities (if acquired prior to this original franchise grant) and which would have been subject to this franchise and the permitting authority related thereto shall immediately be subject to the provisions of this franchise and all permits related thereto.

M. Information. Franchisee hereby promises to maintain and supply to the city, at the sole expense of franchisee, any information requested by the city to coordinate municipal functions with the activities of franchisee within city streets and rights-of-way. Franchisee shall provide such information, upon request, either in hard copy and/or electronic format compatible with the city's database system, as now or hereafter existing, including the city's geographic information service (GIS) database. Franchisee shall keep the city informed of its long-range plans so as to allow coordination with the city's long-range plans.

N. The installation of new utility poles by franchisee is not permitted to establish service. Franchisee must place its facilities underground in accordance with ECC 11.60.030(C) except as otherwise expressly provided herein. Subject to the terms and conditions of this franchise, franchisee may place optical cable, optical cable housing, and splicing connections on existing city-owned utility poles as overhead facilities if approved by city pursuant to a separate agreement for such use, or by the owner of the non-city utility poles. All other facilities, including, without limitation, facilities required for operating or maintaining such optical cable and optical cable housing, and splicing connections, must be underground facilities if they are located in a public way.

(Ord. 4804 § 2, 2018; Ord. 4704 § 8, 2015)

**Section 96. Section 11.40.030 of the Ellensburg City Code, as last amended by Sections 1 & 3 of Ordinance 4804, is hereby amended to read as follows:**

**11.40.030 Definitions.**

For the purposes of this chapter, the following terms, phrases, words, and abbreviations shall have the meanings given herein, unless otherwise expressly stated.

*Affiliate* means a person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person.

*Application fee* means the charge specified in ECC 11.40.060(C) or, as to private communication facilities, is set by resolution.

*Cable facility* means a facility consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include:

1. A facility that serves only to retransmit the television signals of one or more television broadcast stations.
2. A facility that serves subscribers without using any public right-of-way.

3. A facility of a common carrier which is subject, in whole or in part, to the provisions of Title II (Common Carriers) of the Communications Act of 1934, as amended, except that such facility shall be considered a cable system to the extent it is used in the transmission for a charge of video programming directly to nongovernmental private subscribers, unless the extent of such use is solely to provide interactive on-demand services.
4. Any facilities of any electric utility used solely for operating its electric utility systems.

A reference to a cable facility includes pedestals, equipment enclosures, amplifiers, power guards, nodes, cables, fiber optics and other equipment necessary to operate the cable system.

*Cable service* means:

1. The one-way transmission to subscribers of video programming or other programming service; and
2. Subscriber interaction, if any, required for the selection or use of such video programming or other programming service.

*City* means the city of Ellensburg and all of its departments, divisions, and agencies.

*City manager* means the city manager or the city manager's designee.

*Communications facility* means a device which alone or as part of an aggregation of devices is capable of transmitting signals from place to place.

*Communications system* refers to a telecommunications system or cable system.

*Construction, operation or repair* means the named actions interpreted broadly, encompassing, among other things, installation, extension, maintenance, replacement of components, relocation, undergrounding, grading, site preparation, adjusting, testing, make-ready, and excavation.

*FCC* means the Federal Communications Commission or its successor.

*Franchise* refers to the authorization granted by the city to a person for the nonexclusive right to occupy the space, or use facilities upon, across, beneath, or over any public right-of-way in the city and to provide a specified service within a franchise area. Any franchise shall be issued in the form of an ordinance, and must be accepted by the franchisee to become effective in the time and manner specified in the ECC or the franchise ordinance. A franchise shall not include or be a substitute for:

1. Any other permit or authorization required for the privilege of transacting and carrying on a business within the city required by the ordinances and laws of the city;
2. Any permit, agreement or authorization required in connection with operations on or in public streets or property, including by way of example and not limitation street cut or public works permits;
3. Any permits or agreements for occupying any other property of the city or private entities to which access is not specifically granted by the franchise, including permits and agreements for placing devices on or in poles, conduits, other structures, or railroad easements, whether owned by the city, including the departments of public works and utilities and energy services, or a private entity; or
4. The right to place devices in the public rights-of-way, such as pay telephones, for end user use in terminating or originating transmissions.

By way of example, this chapter shall not be read to diminish or in any way affect the authority of the departments of public works and utilities or energy services to control and charge for the use of real estate, fixtures or personal property. Therefore, any person who desires to use such property must obtain additional approvals, franchises, or agreements for that purpose, as may be required by the city.

*Franchise area* means the area of the city that a franchisee is authorized to serve by the terms of its franchise or by operation of law.

*Franchisee* refers to a person holding a franchise granted by city ordinance.

*License* refers to the legal authorization, terminable at will, to use a particular, discrete, and limited portion of the public rights-of-way to construct, operate, or repair a communications facility or a private communications system. The term "license" shall not mean or include:

1. Any other permit or authorization required for the privilege of transacting and carrying on a business within the city required by the ordinances of the city;
2. Any permit, agreement, or authorization required in connection with operations on public streets or property, including street cut or public works permits;
3. Any permits or agreements for occupying any other property of the city or private entities to which access is not specifically granted by the license including, without limitation, permits and agreements for placing devices on or in poles, conduits, other structures, or railroad easements, whether owned by the city or a private entity; or

4. The right to place devices in the right-of-way, such as pay telephones, for end-user use in originating and terminating transmissions.

*Person* includes any individual, corporation, partnership, association, joint stock company, trust, or any other legal entity, but not the city.

*Private communications system* means a facility placed in whole or in part in the public rights-of-way for the provision of communications in connection with a person's business, but not encompassing in any respect the provision of telecommunications services to the general public.

*Public rights-of-way* means the public streets, alleys and easements which, under the Ellensburg City Code, ordinances and applicable laws, the city has authority to grant franchises, permits, or licenses for use thereof or over which the city has regulatory authority.

*Telecommunications facility* means a tangible facility used to provide one or more telecommunications services, any portion of which occupies public rights-of-way; the term includes wires, equipment cabinets, guys, conduit, radio transmitting towers, poles, other supporting structures, and associated and appurtenant facilities used to transmit telecommunications signals. The term "telecommunications facility" also includes all devices mounted on light poles in the public rights-of-way through which telecommunications services are originated or terminated. A cable system is not a telecommunications facility to the extent it provides only cable service.

*Telecommunications service* means the transmission for hire of information in electronic or optical form, including voice, video, or data, whether or not the transmission medium is owned by the provider itself. "Telecommunications service" includes telephone service but does not include cable service or over-the-air broadcasts to the public at large from facilities licensed by the Federal Communications Commission.

*Transfer* includes any transaction in which:

1. There is any change, acquisition, or transfer of control of the franchisee or licensee; or
2. The rights and/or obligations held by the franchisee or licensee under the franchise or license are transferred, sold, assigned, or leased, in whole or in part, directly or indirectly, to another party. It will be presumed that any transfer or cumulative transfer of voting interest of 20 percent or more is transfer of control within the meaning of this subsection.

*Underground facilities* refers to electric utility and communications facilities located under the surface of the ground.

(Ord. 4804 §§ 1, 3, 2018; Ord. 4161, 1998)

**Section 97. Section 11.41.020 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4824, is hereby amended to read as follows:**

**11.41.020 Definitions.**

The following words and phrases shall have the meanings assigned for use in this chapter and in chapters 11.70 and 15.395 ECC:

*Director.* The “director” is the city’s director of ~~public works and utilities~~ energy services or such other person as the city manager may designate.

*Franchise.* A “franchise” is the contractual authorization whereby a public utility or other qualified service provider is granted permission to utilize the public right-of-way in order to provide services to the general public. A franchise is a master permit within the meaning of RCW 35.99.010(3).

*Public right-of-way.* “Public right-of-way” means land acquired or dedicated for public roads and streets but does not include:

1. State highways;
2. Road dedicated for roads, streets, highways not opened and not improved for motor vehicle use by the public;
3. Structures including poles and conduits located within the right-of-way;
4. Federally granted trust lands or forest board trust lands;
5. Lands owned or managed by the state parks and recreation commission;
6. Federally granted railroad rights-of-way acquired under 43 U.S.C. Section 912 and related provisions of federal law that are not open for vehicular use; or
7. Leasehold or city-owned property to which the city holds fee title or other title, and which is utilized for park, utility or governmental or proprietary use.

*Right-of-way use permit.* A “right-of-way use permit” is an administrative permit issued to a franchisee to enter the right-of-way in order to exercise the rights granted under a franchise.

*Small wireless facilities.* “Small wireless facilities” shall be defined in accordance with 47 CFR Section 1.6002.

*Structure.* A “structure” for the purposes of this chapter and chapter 15.395 ECC is a pole, tower, base station or other building, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless service (whether on its own or commingled with

other types of service). Utility poles and light standards are types of structures that may be used for the deployment of small wireless facilities.

*Telecommunication facilities.* “Telecommunication facilities” are those facilities defined in RCW 35.99.010(2), as currently enacted or as hereafter amended, and utilized by a provider in the provision of telecommunication service.

*Telecommunication service.* “Telecommunication service” is defined as provided in RCW 35.99.010(7) as currently enacted or as hereafter amended.

(Ord. 4824 § 1, 2019)

**Section 98. Section 11.70.020 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4824, is hereby amended to read as follows:**

**11.70.020 Application.**

A. Applications for a franchise for small wireless deployment shall generally conform to the requirements of this chapter. The ~~public works and utilities~~ energy services director, or such other department director as the city manager shall direct, is charged with administration of small wireless deployments established under this chapter. Service providers seeking to utilize the city’s right-of-way for small wireless deployments shall specify the geographic boundaries for the small wireless deployment described in the application. The applicant may designate the entire city at its discretion or any portion thereof as the franchise boundary. Phased development is permitted, but an applicant is required to specify at least the initial small wireless deployment in its application.

B. The following additional information shall be provided by all applicants for franchises seeking to deploy small wireless facilities. Existing grantees who seek to utilize a small wireless deployment to expand or implement an existing franchise shall provide the information as a part of a small wireless permit application for small wireless deployment.

1. *Designation of facilities.* The application shall provide specific locational information including Geographic Information Systems (“GIS”) coordinates of all facilities to the extent known and specify whether and where small wireless facilities are to be located on existing utility poles, including city-owned light standards, or will utilize replacement utility poles, new poles, towers, and/or other structures. To the extent known, conduit and/or ground-mounted equipment necessary for and intended for use in the deployment shall also be specified regardless of whether the additional facilities are to be constructed by the applicant or leased from an infrastructure provider. Detailed schematics and visual renderings of facilities sought to be approved by franchise or small wireless permit shall be provided by the applicant. Failure to provide sufficient detail may

result in a later finding of a significant change in the facility if significant elements of the facility were not shown on the originally approved franchise exhibit. Failure to include significant elements may also result in the requirement that new or undocumented elements complete the approval processes detailed in this chapter and as applicable in chapter 15.395 ECC.

2. *Radio frequency (RF) certification.* The applicant shall submit a sworn affidavit signed by an RF engineer with knowledge of the proposed project affirming that the small wireless deployment will be compliant with all FCC and other governmental regulations in connection with human exposure to radio frequency emissions for every frequency at which the small wireless facility will operate. If facilities necessary to the small wireless deployment are to be provided by a third party, then the small wireless deployment in the initial franchise or in a subsequent small wireless permit shall be conditioned on an RF certification by the third party and the requirement that the third party obtain a franchise. If such facilities will emit RF emissions, this additional RF certification shall address the cumulative impact of the RF emissions and certify compliance with federal requirements. The applicant or grantee shall immediately remove any facilities that exceed FCC RF emissions requirements. A modification of the facility by an eligible facilities request requires a new RF certification.
3. *Regulatory authorization.* Issuance of the right-of-way permit for the facilities shall also be contingent upon the applicant's provision of proof of FCC and other regulatory approvals required to provide the service(s) or utilize the technologies sought to be installed.

(Ord. 4824 § 2, 2019)

**Section 99. Section 14.04.050 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4876, is hereby amended to read as follows:**

**14.04.050 Exemptions.**

The following development activities are exempt or partially exempt from paying traffic impact fees because they do not have a measurable impact on the city's transportation facilities, or because the city has chosen to exempt them, pursuant to RCW 82.02.060(2) or (4), as development with broad public purposes, and as provided for in subsection (E) of this section:

- A. Existing dwelling unit. Any alteration, expansion, reconstruction, remodeling, replacement, or demolition/removal of an existing single-family, duplex or multifamily dwelling unit that does not result in the generation of additional peak hour trips.

B. Existing nonresidential building. Any alteration, reconstruction, remodeling, replacement, or demolition/removal of an existing nonresidential building that does not result in the generation of any new peak hour trips.

C. Any development activity in the central commercial district is considered to be redevelopment, not new development, and therefore is not subject to this chapter.

D. The director of public works ~~and utilities~~ shall be authorized to determine whether a particular development activity falls within an exemption from traffic impact fees identified in this section or under other applicable law. Determinations of the director of public works ~~and utilities~~ shall be in writing and shall be subject to appeal to the city council as provided in ECC 14.02.300.

E. Low-income housing, as defined in ECC 14.04.030, or early learning centers, as defined in RCW 43.31.565, shall qualify for an exemption from the payment of traffic impact fees, subject to the following:

1. Any claim for an exemption under this section must be made before payment of the traffic impact fee. Any claim not so made shall be deemed waived.
2. The claim for exemption must comply with the requirements for recording a covenant mandated by RCW 82.02.060, as currently enacted or hereafter amended. Before final approval of the exemption, the department shall approve the form of the lien and covenant. Within ten days of exemption approval, the applicant shall execute and record the approved lien and covenant with the county auditor. The lien and covenant shall run with the land.
3. Upon determination by the director that a particular development falls within an exemption for low-income housing or early learning center, the request will be brought to city council for a decision on granting a partial or full exemption, as permitted in RCW 82.02.060(2) or (4), based on budget considerations, development activity, affordable housing needs and priorities, requirements for such exemptions for early learning centers in RCW 82.02.060(4) and such other considerations as deemed appropriate by the city council.
4. In the event that the housing unit is not used for low-income housing or early learning center for the prescribed period, or in the event that other exempted development activity is converted to a nonexempt use during the prescribed period, the current owner shall pay the traffic impact fees then in effect plus interest to the date of the payment, or such other amount as required by RCW 82.02.060.

F. Transitional exemption. This chapter is not applicable to building permits for development projects for which the city's SEPA official has issued a final SEPA determination prior to the effective date of the ordinance codified in this chapter for which a final traffic impact mitigation has been determined. For purposes of this exemption, a SEPA determination will include the issuance of a final declaration of nonsignificance (DNS), final mitigated declaration of nonsignificance (MDNS), and, if an environmental impact statement (EIS) was required, issuance of a final EIS.

(Ord. 4876 § 1, 2021; Ord. 4845 § 1, 2019; Ord. 4808 § 2, 2018; Ord. 4804 § 4, 2018; Ord. 4534 § 1, 2009)

**Section 100. Section 14.04.070 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4808, is hereby amended to read as follows:**

**14.04.070 Traffic impact fee fund established.**

A. This section establishes a special purpose traffic impact fee fund to receive traffic impact fees. All traffic impact fees and any investment income generated by such fees shall remain in that fund until spent, encumbered or refunded pursuant to the provisions of this chapter.

B. On an annual basis, the finance director shall provide a report to the city council on the traffic impact fee fund showing the source and amount of all monies collected, earned, or received, and system improvements that were financed in whole or in part by traffic impact fees. Additionally, on an annual basis, the public works and utilities director shall provide a report to the city council on the amount of traffic impact fee that was not collected as a result of the provisions of ECC 14.04.175.

(Ord. 4808 § 2, 2018; Ord. 4804 § 4, 2018; Ord. 4534 § 1, 2009)

**Section 101. Section 14.04.090 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4808, is hereby amended to read as follows:**

**14.04.090 Traffic impact fee determination and collection.**

A. At the time of building permit issuance, city staff shall determine the total traffic impact fee owed based on the fee schedule in effect at the time of such issuance.

B. Traffic impact fee collection shall also occur at the time of building permit issuance. Alternatively, the applicant may post a bond in favor of the city for the traffic impact fee at the time of building permit issuance, subject to the conditions set forth in this section. If bond is posted, cash payment of the traffic impact fee shall be due and payable at the time of issuance of certificate of occupancy or upon such earlier demand by the city in the event the city, in its sole judgment, determines either: (1) that the applicant's development is substantially complete (regardless of whether or not a certificate of occupancy has been requested); or (2) that the traffic

impact fee is at risk of not being paid. In the event the traffic impact fee is not paid when due, the city shall have immediate recourse against the bond which shall be written in a manner entitling the city to immediate receipt of the full amount of the bond upon the city's demand. The following conditions also apply:

1. The bond or security shall be in a form and upon such terms deemed acceptable by the city to ensure full payment upon demand of an amount equivalent to the traffic impact fee owed.
2. The bond shall be in an amount equal to 125 percent of the traffic impact fee owed on the development.
3. The bond shall be in the form of a surety bond, performance bond or irrevocable assignment of a savings account, with terms and conditions acceptable to the city attorney and public works and utilities director, and with a company authorized to do business in the state of Washington. The terms of the bond shall include a provision entitling the city to recover from the surety the city's costs, expenses and reasonable attorney's fees incurred in bringing any action or litigation to enforce the terms of the bond.
4. Bonds or other security authorized by this section shall remain in effect until the city receives full payment of the traffic impact fee secured by the bond or security.
5. Depletion, failure, or collection of bond funds shall not discharge the obligation of the applicant or development to pay the traffic impact fee.
6. The terms of the bond shall incorporate by reference the provisions of this section.

C. An applicant may request that the traffic impact fee be calculated in advance of building permit issuance, but any such advance calculation shall not be binding upon the city and should only be used as guidance by the applicant. Applicants should note that it is not possible to have a vested right to pay a particular traffic impact fee in advance of building permit issuance. If the city council revises the traffic impact fee formula or the traffic impact fees themselves prior to the time that a building permit is issued for a particular development, the formula or fee amount in effect at the time of building permit issuance shall apply to the development.

(Ord. 4808 § 2, 2018; Ord. 4804 § 4, 2018; Ord. 4534 § 1, 2009)

**Section 102. Section 14.04.100 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4808, is hereby amended to read as follows:**

**14.04.100 Traffic impact fee adjustments, independent calculations.**

An applicant may request an adjustment to the traffic impact fees determined according to the fee schedule adopted by this chapter by preparing and submitting to the public works ~~and utilities~~ director an independent fee calculation for the development activity for which a building permit is sought. The documentation submitted shall show the basis upon which the independent fee calculation was made. Independent fee calculations for traffic impact fees shall use the same formulas and methodology used to establish the traffic impact fees in this chapter and shall be limited to adjustments in trip generation rates used in the traffic impact fee study, and shall not include travel demand forecasts, trip distribution, traffic assignment, transportation service areas, costs of road projects, or cost allocation procedures.

- A. If the public works ~~and utilities~~ director agrees with the independent fee calculation, a written agreement to accept such amount shall be transmitted to the applicant who shall, in turn, present it to the public works ~~and utilities~~ department upon traffic impact fee collection.
- B. If the public works ~~and utilities~~ director does not agree with the independent fee calculation, the feepayer may appeal this decision to the city council through procedures outlined in ECC 14.02.300.

(Ord. 4808 § 2, 2018; Ord. 4804 §§ 3, 4, 2018; Ord. 4534 § 1, 2009)

**Section 103. Section 14.04.110 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4808, is hereby amended to read as follows:**

**14.04.110 Traffic impact fee credits.**

- A. An applicant shall be entitled to a credit against the applicable traffic impact fee collected under the fee schedule adopted by this chapter for the value of any dedication of land for, improvement to, or new construction of any system improvements provided by the applicant, to facilities that are:
  1. Included within the six-year transportation improvement plan and identified as system improvements that are to be funded in part by traffic impact fees;
  2. At suitable sites and constructed at an acceptable quality as determined by the city; and
  3. Are completed, dedicated, or otherwise transferred to the city prior to the determination and award of a credit as set forth in this section.
- B. No credit shall be given for project improvements.
- C. The value of a credit for improvements shall be established by original receipts provided by the applicant for one or more of the same system improvements for which the traffic impact fee is being charged.

D. The value of a credit for land shall be established on a case-by-case basis by an appraiser selected by or acceptable to the city. The appraiser must be licensed in good standing by the state of Washington for the category of the property appraised. The appraisal and review shall be at the expense of the applicant. The appraisal shall be in accordance with the most recent version of the Uniform Standards of Professional Appraisal Practice, as published by the Appraisal Foundation, and shall be subject to review and acceptance by the city.

E. Upon the effective date of this chapter, whenever a development is granted approval subject to a condition that road improvements that are identified in the six-year transportation plan be constructed or provided, or whenever the applicant has agreed, pursuant to the terms of a voluntary agreement with the city, to donate or dedicate land for road facilities that are identified in the six-year transportation plan, and which are included in the list of road projects that are used to determine the traffic impact fee, as listed in the traffic impact fee study, the applicant shall be entitled to a credit for the value of the land or actual costs of capital facility construction against the fee that would be chargeable under the formula provided. The land value or costs of construction shall be determined pursuant to this section.

F. This subsection (F) applies only to residential developments and the residential portion of a mixed-use development. In cases where a developer would be entitled to a credit under this section, but the amount of the credit has yet to be determined on a per-dwelling-unit basis, the city shall take the total credit amount available to the entire plat or project, calculated by applying subsections (A) through (C) of this section, and divide that amount by the number of dwelling units approved for that plat or project. The traffic impact fee and credit may then be calculated and collected on a per-dwelling-unit basis as building permits are issued for those dwelling units. Where building permits for some, but not all, of the dwelling units within a plat or project have already been obtained at the time the ordinance codified in this chapter becomes effective, the credit for the unpermitted dwelling units will be calculated to arrive at a per-dwelling-unit amount in the same manner. For example, if a plat has been approved for 20 dwelling units, and building permits have only been issued for ten of those units, the per-dwelling-unit credit for the remaining ten units will equal the total credit amount divided by 20 dwelling units.

G. This subsection (G) applies to nonresidential developments, or the nonresidential portion of a mixed-use development. In cases where a developer would be entitled to a credit under this section, but the amount of the credit has yet to be determined on a per-square-foot basis, the city shall take the total credit amount available to the entire plat or project, calculated by applying subsections (A) through (C) of this section, and divide that amount by the number of square feet approved for that plat or project. The traffic impact fee and credit may then be calculated and collected on a per-square-foot basis as building permits are issued for that square footage. Where building permits for some, but not all, of the square footage within a plat or project have already been obtained at the time the ordinance codified in this chapter becomes effective, the credit for the unpermitted square footage will be calculated to arrive at a per-square-footage amount in the

same manner. For example, if a 20,000-square-foot commercial project has been approved, and building permits have only been issued for 10,000 square feet of the project, the per-square-foot credit for the remaining 10,000 square feet will equal the total credit amount divided by 20,000 square feet.

H. Pursuant to and consistent with the requirements of RCW 82.02.060, traffic impact fee schedules have been adjusted for future taxes and other revenue sources to be paid by the new development which are earmarked or proratable to the same new public facilities which will serve the new development.

I. After receiving the receipts for improvements, the appraisal of land value, the receipts and calculations of prior payments earmarked or proratable to the same system improvements for which the traffic impact fee is imposed, the director of public works ~~and utilities~~ shall provide the applicant with a letter setting forth the dollar amount of the credit, the reason for the credit, the legal description of the site donated where applicable, and the legal description or other adequate description of the project or development to which the credit may be applied. The applicant must sign and date a duplicate copy of such letter indicating their agreement to the terms of the letter and return such signed document to the city before the traffic impact fee credit will be awarded. The failure of the applicant to sign, date, and return such document within 60 calendar days shall nullify the credit.

J. If the amount of the credit is less than the calculated fee amount, the difference remaining shall be chargeable as a traffic impact fee and paid at the time of application for the building permit. In the event the amount of the credit is calculated to be greater than the amount of the traffic impact fee due, the applicant shall forfeit such excess credit.

K. A claim for credit will be processed by the city using whichever of the following options is selected by the applicant:

1. Claims for credits that are submitted prior to or with an application for a building permit for which a traffic impact fee will be due will be processed by the city before payment of the traffic impact fee is due in order to allow any credit authorized by the city to reduce the amount of the traffic impact fee; or
2. Claims for credits that are submitted no later than 30 days after the issuance of a building permit for which a traffic impact fee is due shall be processed by the city after the traffic impact fee is paid in full, and any credit authorized by the city will be refunded to the applicant within 90 days of receipt of the claim for credit.

L. Claims for credits that are submitted more than 180 calendar days after the issuance of a building permit for which a traffic impact fee is due are deemed to be waived and shall be denied.

M. Determinations made by the director of public works ~~and utilities~~ pursuant to this section shall be subject to appeal to the city council subject to the procedures set forth in ECC 14.02.300.

(Ord. 4808 § 2, 2018; Ord. 4804 § 4, 2018; Ord. 4534 § 1, 2009)

**Section 104. Section 15.130.160 of the Ellensburg City Code, as last amended by Section 3 of Ordinance 4936, is hereby amended to read as follows:**

**15.130.160 P definitions.**

*Park* means those areas of land under public ownership devoted to passive and active recreation activities and facilities. Such activities include open spaces, playgrounds, athletic fields, athletic or recreation structures.

*Parking space, off-street.* “Off-street parking space” means an off-street parking space available for the parking of one motor vehicle conforming to the standards set forth in chapter 15.550 ECC and section 6, parking standards, public works development standards.

*Pedestrian accessway* refers to a publicly accessible walkway or trail that provides a mid-block connection between streets. See ECC 15.420.020(A)(3) for applicable standards.

*Pedestrian-oriented space* is defined in ECC 15.520.030(C).

*Permanent supportive housing* is subsidized, leased housing with no limit on length of stay that prioritizes people who need comprehensive support services to retain tenancy and utilizes admissions practices designed to use lower barriers to entry than would be typical for other subsidized or unsubsidized rental housing, especially related to rental history, criminal history, and personal behaviors. Permanent supportive housing is paired with on-site or off-site voluntary services designed to support a person living with a complex and disabling behavioral health or physical health condition who was experiencing homelessness or was at imminent risk of homelessness prior to moving into housing to retain their housing and be a successful tenant in a housing arrangement, improve the resident’s health status, and connect the resident of the housing with community-based health care, treatment, or employment services. Permanent supportive housing is subject to all of the rights and responsibilities defined in Chapter 59.18 RCW.

*Permeable pavement* is a paving system which allows rainfall to percolate through it into the underlying soil or an aggregate reservoir. Examples include porous asphalt, porous concrete, interlocking concrete pavers, and open cell paving grids.

*Permit, project permit, or project permit application* means any land use or environmental permit or license required from a local government for a project action, including but not limited to building permits, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits or approvals required

by critical area ordinances, site-specific rezones authorized by a comprehensive plan or subarea plan, but excluding the adoption or amendment of a comprehensive plan, subarea plan, or development regulations except as otherwise specifically included in this subsection.

*Person* means any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity, or other entity or group of persons, however organized. "Person" includes a trustee, a receiver, an assignee, or a similar representative.

*Personal service* means a use that provides a service that is nonmedical as a primary use and may include accessory retail sales of products related to the services. Examples would include but not be limited to: barber, beautician, masseur, tailors, clothing rental, shoe repair shops, and steam and sauna baths.

*Personally identifiable information*, for the purpose of chapter 15.370 ECC, means any information that includes, but is not limited to, data that uniquely identify, distinguish, or trace a person's identity, such as the person's name, or address, either alone or when combined with other sources, that establish the person is a qualifying patient or designated provider.

*Places of assembly* means a structure for groups of people to gather for an event or regularly scheduled program. Examples include but are not limited to arenas, religious institutions, lecture halls, banquet facilities, and similar facilities.

*Planning commission* means the Ellensburg planning commission created by chapter 1.14 ECC.

*Plant* means, for the purpose of chapter 15.370 ECC, an organism 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 shall be considered part of the same single plant.

*Precision instrument approach* is, for the purpose of chapter 15.350 ECC, designed to provide an approach path for exact alignment and descent of an aircraft on final approach to a runway.

*Precision instrument runway 29* is, for the purpose of chapter 15.350 ECC, a 50,000-foot-long trapezoid that is 1,000 feet wide at the point where it meets the primary surface. It has a 50:1 slope for the first 10,000 feet and a slope of 40:1 for the remaining 40,000 feet. The approach surface is 16,000 feet wide at the outermost point.

*Preliminary subdivision or plat* means a scaled drawing of a proposed subdivision showing the general layout of streets, lots, blocks, rights-of-way, easements and other required elements of a plat which shall furnish a basis for the preliminary approval or disapproval of the general layout of the subdivision and preparation of a final subdivision. See chapter 15.260 ECC.

*Premises* means a specified lot or tract of land under single ownership.

*Preservation planner* means, for the purposes of chapter 15.280 ECC, the department of community development employee or consultant assigned to staff the Ellensburg landmarks and design commission and administer the historic preservation program.

*Primary surface* means, for the purpose of airport overlay zone regulations set forth in chapter 15.350 ECC, a surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends 200 feet beyond each end of that runway. For military runways or when the runway has no specially prepared hard surface, or planned hard surface, the primary surface ends at each end of that runway. The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.

*Process* means, for the purpose of chapter 15.370 ECC, to handle or process cannabis in preparation for medical use.

*Produce* means, for the purpose of chapter 15.370 ECC, to plant, grow, or harvest cannabis for medical use.

*Public agency or utility office* means a building or portion thereof used primarily for administration purposes by a public agency or utility.

*Public meeting* means an informal meeting of people to obtain comments from a city commission, committee, or public agency and members of the public prior to a decision on a project permit application.

*Public place* includes, for the purpose of chapter 15.370 ECC, streets and alleys of incorporated cities and towns; state or county or township highways or roads; buildings and grounds used for school purposes; public dance halls and grounds adjacent thereto; premises where goods and services are offered to the public for retail sale; public buildings, public meeting halls, lobbies, halls and dining rooms of hotels, restaurants, theaters, stores, garages, and filling stations which are open to and are generally used by the public and to which the public is permitted to have unrestricted access; railroad trains, stages, buses, ferries, and other public conveyances of all kinds and character, and the depots, stops, and waiting rooms used in conjunction therewith which are open to unrestricted use and access by the public; publicly owned bathing beaches, parks, or playgrounds; and all other places of like or similar nature to which the general public has unrestricted right of access, and which are generally used by the public.

*Public transportation.*

1. *Public transportation* means the conveyance of passengers and/or freight by buses, trains, airplanes or taxis for a fare.

2. *Passenger terminals* means the facilities used as transfer areas, ticketing agencies and administrative offices for “public transportation,” excluding taxi stands or bus stops along prescribed bus routes.
3. *Deadhead stations* means the facilities used for the storage and mechanical maintenance of vehicles engaged in “public transportation.”

*Public use* means any use of land by the public or a local, state or federal government agency.

*Public utility* means any use of land by a local, state, or federal agency, or by any person, firm or corporation licensed or franchised by such a government agency involving the transportation or transmission of materials, signals or electrical energy by vehicle or through conduit, wire, pipe or other similar device. Typical examples of this would include water, gas and sewer mains, television or telephone lines, and refuse collection. For the purpose of this title, such uses located or to be located on the properties they are to serve shall not be included in this definition.

*Public works development standards* means those standards filed by the director of public works and utilities with the Ellensburg city clerk, as approved and adopted by reference in ECC 4.04.020, including any amendments thereto made in accordance with ECC 4.04.040.

(Ord. 4887 § 13, 2022; Ord. 4804 § 4, 2018; Ord. 4656 § 1 (Exh. O2), 2013; Ord. No. 4936, § 3, 2-5-2024)

**Section 105. Section 15.260.060 of the Ellensburg City Code, as last amended by Section 32 of Ordinance 4807, is hereby amended to read as follows:**

**15.260.060 Preliminary subdivision (long plat)—Review procedures and criteria.**

**A. *Procedures.***

1. Land subdivisions that create ten or more lots (sometimes referred to as long plats) are subject to the Type IV review process as set forth in chapter 15.210 ECC.
2. Time limits. Subdivisions that are granted preliminary approval shall be effective for a period set forth in RCW 58.17.140, during which time the final subdivision application shall be submitted for approval and recording.

The city shall make a decision on approval or denial of a preliminary subdivision application within 90 calendar days of the determination that the application is complete.

**B. *Application contents.* Applications for a preliminary subdivision shall contain the following:**

1. The minimum application requirements set forth in ECC 15.220.020 and a completed subdivision application form provided by the department, which shall include the signatures of all owners of interest in the land involved in the preliminary subdivision;
2. Payment of the application fee in the amount established in the city's adopted fee schedule;
3. A completed SEPA checklist and payment of the SEPA application fee;
4. A completed critical area information form or critical area report pursuant to division VI, if applicable;
5. A title report of the property to be subdivided;
6. A recorded copy of the deed for the property to be subdivided;
7. Copies of all existing or proposed restrictive covenants involving the land within the proposed subdivision;
8. Names and addresses of the owner(s) of the property to be subdivided and of any person or entity holding an interest in the property as identified on the title report in subsection (B)(5) of this section;
9. Names and addresses of all property owners within 300 feet of the boundaries of the proposed subdivision as those names appear on the records of the Kittitas County assessor;
10. The preliminary subdivision plat drawing which shall comply with all general drafting standards and tier 3 drafting guidelines required by the city's public works development standards (section 5, drafting standards). Five copies of the drawing shall be provided with the application, along with an electronic copy on CD media in a format readable by the city's current version of AutoCAD, and one reduced copy not to exceed 11 inches by 17 inches. In addition to the drafting standards set forth in the city's public works development standards, such drawing shall clearly show the following:
  - a. Vicinity sketch showing the parcel boundaries and the major street system, with street names, within a one-quarter-mile radius;
  - b. Zoning of the property proposed for subdivision;
  - c. Location and size of existing and proposed utilities, railroads, and irrigation rights-of-way on the property proposed for subdivision;

- d. Plan view of proposed streets, their names and widths, pedestrian ways, all utilities and easements;
- e. Location and size of all proposed ditches, culverts, catch basins, detention or retention ponds or other parts of the design for the control of surface water drainage;
- f. Approximate boundaries of all areas subject to irrigation or stormwater overflow;
- g. Location, width and direction of flow of all watercourses on the site; and
- h. Location and identification of all critical areas, including associated buffers, on the property proposed for subdivision or on adjacent properties, as required by division VI.

- 11. Preliminary grading plan pursuant to public works ~~and utilities~~ department requirements;
- 12. Preliminary stormwater plan pursuant to public works ~~and utilities~~ department requirements;
- 13. Preliminary landscaping plan pursuant to divisions IV and V of this title;
- 14. A narrative addressing ownership and maintenance of open spaces, stormwater facilities, public trails and critical areas, and the applicable approval criteria and standards of the Ellensburg Municipal Code. It should also address any proposed building conditions or restrictions;
- 15. Transportation study, if required by the public works ~~and utilities~~ department;
- 16. Location of any proposed building envelopes on the lots being created; and
- 17. Any other information in the opinion of the director which is necessary to determine if the proposed subdivision makes appropriate provisions for physical problems or hazards involving public health, safety and/or welfare.

C. *Referral to city departments and other agencies for comments.* The community development department shall distribute one copy of the preliminary subdivision application to the public works ~~and utilities~~ department, energy services department, building department, fire marshal, and any public agency that may be affected by the proposed preliminary subdivision.

Whenever the property proposed to be subdivided is located within one-half mile of the corporate limits of the unincorporated county, a copy of the proposed preliminary subdivision application shall be distributed to the respective jurisdiction.

The community development department will transmit any department or agency review materials to the hearing examiner as part of the staff report on the application.

D. *Hearing examiner recommendation.* The hearing examiner shall be responsible for holding an open record public hearing pursuant to procedures established in chapter 15.210 ECC to review the proposed preliminary subdivision application together with accompanying materials and documents, land use applications, staff reports and public testimony. Based on the comments and testimony established at the public hearing, the hearing examiner shall make a recommendation on the preliminary subdivision application and any other related land use applications to the city council or return the preliminary subdivision application to the applicant with a request for additional information. If the hearing examiner makes a recommendation, such recommendation shall be for approval, disapproval, or approval with conditions. In recommending any proposed preliminary subdivision, the hearing examiner shall propose written findings of fact and conclusions of law to the city council which shall state fully the reasons for the recommendation.

E. *City council action.*

1. The hearing examiner recommendation, findings and all supporting documents shall be forwarded to the city council. The community development department shall set a date and time for a public hearing before the city council to review the recommendation of the hearing examiner in a closed record hearing at which no new testimony or information may be presented. The city council shall then make its own decision supported by written findings of fact and conclusions of law and approve, approve with conditions, or disapprove the preliminary subdivision application.
2. Prior to making a decision the city council may refer the preliminary subdivision application back to the hearing examiner for further consideration or may require the applicant to modify the preliminary subdivision application, or require more information to be submitted.

F. *Decision criteria.* The city may approve, approve with conditions, or deny a preliminary subdivision application based on conformance with the following decision criteria:

1. The preliminary subdivision conforms to all applicable zoning standards of the city as set forth in the LDC, including the building setback and intensity standards in chapter 15.320 ECC, the streetscape design standards in chapter 15.410 ECC, the subdivision design standards in chapter 15.420 ECC, the project design standards in division V, and the public works development standards;
2. All lots within the preliminary subdivision are provided with satisfactory access established consistent with the requirements of the public works development

standards, ECC title 4, public works, the streetscape design standards and subdivision design and block standards in division IV, and the project design standards in division V;

3. All lots within the preliminary subdivision are provided with adequate provisions for water supplies, sanitary wastewater facilities, and storm drainage and surface water facilities consistent with the requirements of the public works development standards and ECC title 9, utilities;
4. All lots within the preliminary subdivision are provided with adequate provisions for electric service, and for natural gas service if applicable, consistent with the requirements of the city's ~~public works and utilities~~ energy services department design standards and with ECC title 9, utilities;
5. The preliminary subdivision conforms to all applicable critical areas standards set forth in division VI; and
6. The preliminary subdivision makes appropriate provisions for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, natural gas mains and services, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school.

(Ord. 4807 § 32, 2018; Ord. 4804 §§ 1, 3, 2018; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 106. Section 15.260.070 of the Ellensburg City Code, as last amended by Section 1 of Ordinance 4892, is hereby amended to read as follows:**

**15.260.070 Preliminary subdivision—Required minimum improvement standards.**

**A. *Public works improvements.*** In order to meet the public interest, the following minimum public works improvements shall be required and shall be constructed in accordance with the public works development standards and other city utility standards:

1. Installation of concrete curbs and gutters according to the public works development standards;
2. Construction of streets in accordance with the public works development standards;
3. Installation of monuments and monument cases in accordance with the public works development standards;

4. Installation of storm drainage system including inlet, pipe, manholes, detention or retention facilities if deemed necessary, all in accordance with the public works development standards;
5. Installation of iron pipe or reinforcing rods at the corners of all lots, plots or tracts in accordance with the public works development standards;
6. Construction of sidewalks on abutting sides of all public streets in accordance with the public works development standards; and
7. Installation of water and sewer mains, water service lines and side sewers to serve each lot platted in accordance with the public works development standards.

B. *Public utility improvements.* In order to meet the public interest, the following minimum public electric utility improvements, and public natural gas utility improvements, if applicable, shall be required to be constructed within the subdivision and shall be constructed in accordance with the public works development standards and the ~~public works and utilities~~ energy services department development standards:

1. Installation of underground ducts, manholes and vaults to accommodate the electrical distribution system within the subdivision; and
2. Communication and television signal service facilities with ducting provided for communication and television service at the right-of-way crossings through a minimum two-inch PVC duct type unless otherwise required by the city based on recommendation from the respective utility.

(Ord. 4892 § 1, 2022; Ord. 4804 § 1, 2018; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 107. Section 15.260.100 of the Ellensburg City Code, as last amended by Section 33 of Ordinance 4807, is hereby amended to read as follows:**

**15.260.100 Final subdivision application review procedures and criteria.**

A. *Procedures.* Final subdivision applications are subject to the Type I review process as set forth in chapter 15.210 ECC, with exceptions provided herein.

B. *Application contents.* Applications for a final subdivision shall contain the following:

1. The minimum application requirements set forth in ECC 15.220.020 and a completed final subdivision application form provided by the department, which shall include the signatures of all owners of interest in the land involved in the subdivision application as verified by the title report in subsection (B)(4) of this section;

2. A final subdivision plat drawing on mylar or other reproducible material which shall comply with all general drafting standards and tier 3 drafting guidelines required by the city's public works development standards (section 5, drafting standards). Three copies of the drawing shall be provided with the application, along with an electronic copy on CD media in a format readable by the city's current version of AutoCAD, and one reduced copy not to exceed 11 inches by 17 inches. In addition to meeting the drafting standards set forth in the city's public works development standards, such drawing shall clearly show the following:
  - a. Name of the owner(s) of the property being subdivided and mortgagee(s) of said property, if any;
  - b. Legal description of the property;
  - c. Boundary and lot lines, lot dimensions, lot area in square feet, and lot and block numbers;
  - d. Name and official seal of the licensed professional surveyor preparing the final subdivision plat certifying that the plat is a true and accurate survey;
  - e. Date, scale and north arrow;
  - f. Location of rights-of-way and easements, with easement purpose identified;
  - g. Statements of approval and places for signatures for the city engineer, city ~~public works and utilities~~ energy services director, community development director, the mayor of the city of Ellensburg, irrigation water district representative if applicable, and the county auditor;
  - h. A certification signed by the county treasurer's office that all taxes and delinquent assessments for which the property may be liable as of the date of certification have been duly paid; and
  - i. A notarized acknowledgment by the owner(s) and mortgagee(s), if any, of the approval of the final subdivision plat and the dedication of streets and other public places.
3. Engineered design drawings for all required minimum improvements as shown on the approved preliminary subdivision plat drawing, which drawings shall meet the requirements of the public works development standards, and be approved by the city engineer prior to filing of the final subdivision application;

4. A title report of the property to be subdivided if the final subdivision application is not submitted to the administrator for review within 120 calendar days of the approval of the preliminary subdivision application; and
5. If required public improvements are not to be installed prior to final subdivision application and will be bonded for instead, a subdivision improvements agreement shall be submitted including the following:
  - a. Public improvements to be provided in the subdivision as shown on the approved engineering design drawings;
  - b. Estimated cost of constructing said public improvements;
  - c. Phases of development of the subdivision, if phasing was provided for and approved in the preliminary subdivision approval, and completion dates for said phases;
  - d. Provisions for the dedication of park land or payment of fees in lieu of such land if applicable;
  - e. A bond guaranteeing the installation of the public improvements which shall meet the requirements of the public works development standards and be approved and accepted by the city engineer; and
  - f. In lieu of a bond the applicant may fulfill the public improvements requirement by actually installing the improvements required in the preliminary subdivision approval under the direction of the city engineer.
6. A copy of any deeds, covenants, conditions, or restrictions together with a copy of the documents which establish and govern any homeowners' association which may be required.

C. *Recommendations as prerequisites for final subdivision approval.* Each preliminary subdivision submitted for final approval shall be accompanied by the following recommendations:

1. Director's recommendation as to compliance with the terms of preliminary approval of the proposed subdivision; and
2. City engineer's recommendation as to compliance with the terms of preliminary approval of the proposed subdivision.

Except as provided in RCW 58.17.140, an agency or person issuing a recommendation for subsequent approval under subsections (C)(1) and (2) of this section shall not modify the terms of its recommendations without the consent of the applicant.

D. *Decision criteria.* A final subdivision application shall be approved if the subdivision proposed for approval:

1. Conforms to all of the preliminary subdivision terms and conditions of approval; and
2. Meets all other applicable final subdivision requirements as set forth in chapter 58.17 RCW, other applicable state laws, this chapter, and any other applicable city ordinances which were in effect at the time of preliminary subdivision approval.
3. Approval and inscription. The city council shall make written findings of fact relating to its decision on the final subdivision application. If the decision is to approve the final subdivision application, a specific written finding of fact shall also be made that:
  - a. Appropriate provisions are made for the public health, safety, and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, natural gas mains and services, parks and recreation, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
  - b. The public use and interest will be served by the approval of such subdivision and dedication.
4. Upon approval of the final subdivision, the city council shall authorize the mayor to suitably inscribe and execute council's written approval on the face of the final subdivision plat drawing.

E. *Effect of final subdivision approval.* Any lots in a final subdivision filed for record shall be a valid land use, notwithstanding any change in zoning laws, for a period of five years from the date of filing. A subdivision shall be governed by the terms of approval of the final subdivision, and the statutes, ordinances and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of five years after final plat approval unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the subdivision.

F. *Time frame for approval.* The final subdivision application, or portion thereof, shall be approved, disapproved, or returned to the applicant by the city within 30 calendar days of the determination that the application is complete.

G. *Recording.* The final subdivision plat, in the form specified in this chapter, shall be recorded by the director with the Kittitas County auditor within ten working days after the appeal period has expired and shall be recorded in the presence of the applicant and with the cost of recording paid by the applicant.

(Ord. 4807 § 33, 2018; Ord. 4804 § 2, 2018; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 108. Section 15.260.120 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4929, is hereby amended to read as follows:**

**15.260.120 Short subdivision plat (sometimes referred to as short plats) – Review procedures and criteria.**

A. Procedures. Short subdivisions are divisions that create nine or fewer lots and are sometimes referred to as short plats. Short subdivision applications are subject to the Type II review process as set forth in Chapter 15.210 ECC, with exceptions provided herein.

B. Application Contents. Applications for a preliminary short subdivision shall contain all of the items required for a preliminary subdivision in ECC 15.260.060(B) except as follows: no SEPA checklist is required unless the proposed short subdivision is determined to not be exempt from SEPA review.

C. Referral to City Departments and Other Agencies for Comments. The community development department shall distribute one copy of the preliminary short subdivision application to the public works department, energy services department, building department, fire marshal, and any public agency that may be affected by the proposed preliminary subdivision.

Whenever the property proposed to be subdivided is located within one-half mile of the corporate limits of the unincorporated county, a copy of the proposed preliminary short subdivision application shall be distributed to the respective jurisdiction.

Comments may be submitted for 14 days after the date of issuance of the notice of application.

D. Decision Criteria. The director may approve, approve with conditions, or deny a short subdivision application based on conformance with the following decision criteria:

1. Conformance with applicable provisions of the LDC, including the form and intensity standards in Chapter 15.320 ECC, the streetscape design standards in Chapter 15.410 ECC, the subdivision design standards in Chapter 15.420 ECC, the project design standards in Division V, the public works development standards, and applicable critical areas standards set forth in Division VI;

2. **Integration of Specific Provisions.** Short subdivisions shall integrate appropriate provisions for the public health, safety and general welfare and for such open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, natural gas mains and services, parks and recreation, playgrounds, schools and school grounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who walk to and from school;

3. **Public Interest.** The public's interest shall be served by the short subdivision and dedication.

E. **Time Frame for Approval.** The administrator shall make a decision on approval or denial of a preliminary short subdivision application within 30 days of the determination that the application is complete. An approved preliminary short subdivision application is valid for one year from date of approval. Failure to submit the final short subdivision application within that one-year time frame will result in a lapse of the preliminary short subdivision approval. [Ord. 4656 § 1 (Exh. O2), 2013.]

**Section 109. Section 15.260.150 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4804, is hereby amended to read as follows:**

**15.260.150 Short subdivision final plat—Certifications and filing.**

A. Upon approval of the final short subdivision application, the administrator, city ~~public works and utilities~~ energy services director, and the city engineer shall sign the final short subdivision plat drawing. The final short subdivision plat drawing shall then be presented by the director to the county treasurer for review and signature in the presence of the applicant and shall be recorded with the county auditor with the cost of recording paid by the applicant. Such signatures and approval of the final short plat drawing shall be subject to the following determinations:

1. The requirements of chapter 58.17 RCW and other applicable state law, the city's comprehensive plan, and any other applicable city ordinances that were in effect at the time of preliminary short subdivision approval, and this chapter have been met;

2. Conditions imposed on the preliminary short subdivision approval, if any, have been met;
3. The bond or other proposed security for required improvements meets the requirements of the public works development standards and has been approved and accepted by the city engineer; and
4. Every approved short subdivision containing a deed, dedication or easement filed for record shall be accompanied by a title report confirming that title of the land as described and shown on the short subdivision plat drawing is in the name of the owner(s) signing the certificate.

B. If the final short subdivision application is not approved by the administrator, the decision, along with reasons for denial, shall be communicated in writing to the applicant.

C. Effect of final short subdivision application approval. Any lots in a final short subdivision filed for record shall be a valid land use, notwithstanding any change in zoning laws, for a period of five years from the date of filing. A short subdivision shall be governed by the terms of approval of the final short subdivision application, and the statutes, ordinances and regulations in effect at the time of approval under RCW 58.17.150(1) and (3) for a period of five years after final short subdivision approval unless the city council finds that a change in conditions creates a serious threat to the public health or safety in the short subdivision.

(Ord. 4804 § 2, 2018; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 110. Section 15.260.180 of the Ellensburg City Code, as last amended by Section 2 of Ordinance 4804, is hereby amended to read as follows:**

**15.260.180 Binding site plan review procedures and criteria.**

A. *Purpose.* This chapter shall govern a subdivision of land through the optional binding site plan process provided for in RCW 58.17.035, or its successor. If approved under this chapter, a division of land authorized by a binding site plan is exempt from the subdivision and short subdivision regulations and processes. Binding site plans are authorized by RCW 58.17.035, or its successor, to be used for condominiums and for the division of commercial or industrial zoned properties.

B. *Applicability.* The underlying zoning district standards shall apply for development utilizing the binding site plan process. The binding site plan option shall apply to the following:

1. Commercial zoned property in the C-H, C-T and C-C II zoning districts;
2. Industrial zoned property in the I-H and I-L zoning districts;

3. Condominiums for one or more units in any R-S, R-L, R-M, R-H, C-N, C-C or C-C II zoning district that are owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest; and
4. Land divisions for the purpose of leasing property that is located:
  - a. Within a manufactured home park; provided, that no residential structure other than manufactured homes is to be placed on the land within a manufactured home park; and
  - b. Within the C-T zoning district; provided, that no residential structure other than recreational vehicles is to be placed on the land within an approved recreational vehicle park.

C. *Application—Administration.* All applications shall be submitted to the administrator. Binding site plan applications shall be processed as a Type III permit pursuant to the requirements set forth in ECC 15.210.030(C).

D. *Complete application requirements.* All requests for a binding site plan shall be filed with the administrator together with the application fee as set forth in the adopted fee schedule. An application for a binding site plan shall not be determined to be complete until all of the following have been provided on the binding site plan drawing or on any other supporting documentation submitted along with the binding site plan drawing:

1. The minimum application requirements set forth in ECC 15.220.020 and a completed binding site plan application form provided by the department, which shall include the signatures of all owners of interest in the land involved in the subdivision application.
2. A recorded copy of the deed for the property proposed for the binding site plan.
3. A current title report on the property proposed for the binding site plan.
4. Copies of all existing or proposed restrictive covenants to be imposed upon land in the binding site plan.
5. Textual description of phasing if proposed, including the timing for all public improvements, required landscaping and binding site plan amenities to be installed with each phase.
6. Names and addresses of all property owners within 300 feet of the boundaries of the property proposed for the binding site plan as those names appear on the records of the county assessor.

7. Any information in the opinion of the administrator which is necessary to determine if the proposed binding site plan makes appropriate provision for physical problems or hazards involving public health, safety and/or welfare.
8. A completed SEPA checklist and payment of the SEPA application fee.
9. A completed critical area information form or critical area report pursuant to division VI, if applicable.
10. A preliminary binding site plan drawing which shall comply with all general drafting standards and tier 3 drafting guidelines required by the city's public works development standards (section 5, drafting standards). Five copies of the drawing shall be provided with the application, along with an electronic copy on CD media in a format readable by the city's current version of AutoCAD, and one reduced copy not to exceed 11 inches by 17 inches. In addition to the drafting standards set forth in the city's public works development standards, such drawing shall clearly show the following:
  - a. Vicinity sketch showing the parcel boundaries and the major street system within a one-quarter-mile radius.
  - b. Zoning of the property within the binding site plan.
  - c. The names and locations of adjacent subdivisions, short subdivisions, and binding site plans.
  - d. Location and size of existing and proposed utilities, railroads and irrigation rights-of-way within the binding site plan.
  - e. Plan view of proposed streets with their names and widths, any proposed pedestrian ways, and all proposed utilities and easements.
  - f. Location and size of all proposed ditches, culverts, catch basins, detention or retention ponds or other parts of the design for the control of surface water drainage.
  - g. Approximate boundaries of all areas within the binding site plan subject to irrigation or stormwater overflow and the location, width and direction of flow of all watercourses and the extent and location on the site of the 100-year flood flow from said watercourses.
  - h. Name and address of the owner(s) of the binding site plan property and all mortgagee(s) of said property.
  - i. Legal description of the binding site plan property.

- j. Surveyed boundary lines of the binding site plan property with complete bearings, lineal dimensions and the acreage.
- k. The length of each lot line, together with bearings and other data necessary for the location of any lot line in the field; lot area in square feet; and number of lots and blocks which shall be numbered consecutively from one to total number of lots.
- l. All section, township, municipal and city lines lying within or adjacent to the binding site plan property.
- m. Name, address and official seal of the licensed professional land surveyor preparing the binding site plan drawing.
- n. Ties and controlling reference points to existing and permanent points, monuments and markers.
- o. Date, scale, north point and origin of meridian, with the scale shown at 100 feet to the inch unless otherwise approved by the city engineer.
- p. Proposed phasing plan with clear delineation of each phase.
- q. Locations of land areas intended to be dedicated for public use or reserved for use of owners of the property in the binding site plan, along with a textual declaration of the dedication or reservation. Any roads not dedicated to the public must be clearly marked on the face of the binding site plan drawing as private roads. (Any dedication, donation or grant as shown on the face of the binding site plan shall be considered for all intents and purposes as a quitclaim deed to the donee or donees, grantee or grantees for his, her, or their use for the purposes intended by the donors or grantors).
- r. Location, centerline, and width of all existing and proposed rights-of-way and easements along with name of all existing or proposed streets within and adjoining the binding site plan and the name and auditor's file number for all easements.
- s. The areas and locations of open space, recreational amenities, and critical areas including prescribed critical area buffers.
- t. Areas designated for landscaping, vehicle use, parking, truck loading, and nonmotorized transportation corridors or pathways.
- u. The location of all existing and proposed structures.

- v. A declaration that all development of the property shall conform to that shown on the binding site plan drawing and conditions placed upon the binding site plan; and all provisions, conditions, and requirements of the binding site plan shall be legally enforceable on the purchaser or any other person acquiring a lease or other ownership interest of any lot, parcel, or tract created pursuant to the binding site plan.
- w. Signatures and date lines for:
  - i. Certification by a registered land surveyor of the state of Washington that the binding site plan and legal descriptions were prepared under his or her direct supervision;
  - ii. The approvals of the city engineer, ~~public works and utilities~~ energy services director and community development director;
  - iii. The county treasurer indicating that the real property taxes are current;
  - iv. All owners and all others holding an interest in the binding site plan property with acknowledgments for all such signatures;
  - v. Approval by the mayor; and
  - vi. Approval by the irrigation district, if applicable.
- x. If the binding site plan is in conjunction with condominiums, pursuant to chapter 64.32 or 64.34 RCW, the following statement must be included on the face of the binding site plan:

All development and use of the land described herein shall be in accordance with this binding site plan, as it may be amended with the approval of the city, town, or county having jurisdiction over the development of such land, and in accordance with such other governmental permits, approvals, regulations, requirements, and restrictions that may be imposed upon such land and the development and use thereof. Upon completion, the improvements on the land shall be included in one or more condominiums or owned by an association or other legal entity in which the owners of units therein or their owners' associations have a membership or other legal or beneficial interest. This binding site plan shall be binding upon all individuals or entities now and hereafter having any interest in the land described herein.

- y. All binding site plan designs shall include, as determined by the director, overall site landscaping, pedestrian walkways and connections, parking and circulation, recreational amenities, walls and fences, architectural design guidelines, lighting, and other site plan standards as set forth by the underlying zoning district. For commercial, business park, and industrial divisions, building envelope or use does not have to be identified at the time of the binding site plan. However, site plan review for subsequent building size, location and use will be required when submitted.

E. *Design standards and dedications.* In order to meet the public interest:

1. A binding site plan shall conform to the applicable zoning and development standards of the city of Ellensburg land development code codified in this title and the public works development standards and all other city utility development standards;
2. Each lot in a binding site plan shall be provided with satisfactory access established consistent with the requirements of the public works development standards and ECC title 4, public works;
3. Each lot in a binding site plan shall be provided with adequate provisions for water supplies, sanitary wastewater facilities and stormwater and drainage facilities consistent with the requirements of the public works development standards and ECC title 9, utilities;
4. Each lot in a binding site plan shall be provided with adequate provisions for electric utility service, and natural gas utility service if applicable, consistent with the requirements of the city ~~public works and utilities~~ energy services department and ECC title 9, utilities; and
5. Approval of binding site plans may be conditioned upon dedications to the city of drainage ways, other public ways, water supplies, sanitary waste facilities, parks, playgrounds, sites for schools, and other needs of the public.

F. *Administrative review.* Upon deeming the binding site plan to be a complete application and issuing the notice of application pursuant to ECC 15.220.040, the director shall transmit the binding site plan to city departments, the Kittitas Valley Fire and Rescue fire marshal, the SEPA responsible official for any required SEPA review pursuant to chapter 15.270 ECC, and to the landmarks and design commission for any required landmark and design review pursuant to chapter 15.280 ECC. The director shall concurrently perform critical area review if such review is required pursuant to division VI of this title. The community development department will transmit any department or agency review materials to the planning commission as part of the staff report on the application.

G. *Planning commission recommendation.* The planning commission shall be responsible for holding an open record public hearing pursuant to procedures established in chapter 15.210 ECC to review the proposed binding site plan together with accompanying materials and documents, land use applications, staff reports, and public testimony. Based on the comments and testimony established at the public hearing, the planning commission shall make a recommendation to the city council on the binding site plan for approval, disapproval, or approval with conditions.

H. *City council action.* The planning commission recommendation, findings and all supporting documentation shall be forwarded to the city council. The community development department shall set a date for a closed record public hearing before the city council to review the recommendation of the planning commission in a closed record hearing at which no new testimony or information may be presented. The city council shall then make its own decision supported by written findings of fact and conclusions of law and approve, approve with conditions, or disapprove the binding site plan.

I. *Decision criteria.* The city council may approve, approve with conditions, or disapprove a binding site plan based on conformance with the following decision criteria:

1. Whether the binding site plan conforms to this section;
2. If appropriate provisions are made for, but not limited to, the public health, safety, and general welfare, for open spaces, drainage ways, streets or roads, alleys, other public ways, transit stops, potable water supplies, sanitary wastes, parks and recreation, playgrounds, schools and school grounds, and shall consider all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
3. Whether the public interest will be served by the approval of the binding site plan and any dedication.

J. *Findings and conclusions.* The city council shall not approve any binding site plan unless written findings are made that:

1. The binding site plan conforms to this section;
2. Appropriate provisions are made for the public health, safety, and general welfare and for other such open spaces, drainage ways, streets or roads, alleys, playgrounds, schools and schoolgrounds and all other relevant facts, including sidewalks and other planning features that assure safe walking conditions for students who only walk to and from school; and
3. The public use and interest will be served by the approval of the binding site plan and any dedication.

K. *Time limit on action.* An application for a binding site plan shall be approved, approved conditionally or disapproved by the city council within 90 calendar days from the date the application was deemed complete unless the applicant consents to a time extension; provided, that if an environmental impact statement is required as provided in RCW 43.21C.030, the 90-day period shall not include the time spent preparing and circulating the environmental impact statement.

L. *Duration of approval.* Preliminary approval of the binding site plan shall be effective for five years from the date of such approval by the city council, during which time the final binding site plan may be submitted.

M. *Irrigation water district approval.* Any binding site plan which lies in whole or in part in an irrigation district organized pursuant to chapter 87.03 RCW shall provide for such irrigation water rights-of-way and any other improvements as shall be required by the irrigation district for each parcel of land in such district and such rights-of-way shall be evidenced by the respective binding site plan submitted for final approval to the city council.

N. *Final binding site plan—Submittal deadline.* Failure to submit the final binding site plan application within five years of preliminary approval will result in a lapse of the preliminary binding site plan approval.

O. *Final binding site plan—Application.* The final binding site plan application shall include the same information as for a final subdivision application as set forth in ECC 15.260.100.

P. *Final binding site plan—Administrative action.*

1. Upon receipt of the final binding site plan application containing the items identified in subsection (O) of this section, the city council shall have 30 calendar days for review to determine conformance with the approved preliminary binding site plan and all applicable regulations and standards. The city council shall make written findings of fact relating to its decision on the final binding site plan and, if approved, shall direct the mayor to sign the final binding site plan. Upon approval by the city council, the director, the city public works and utilities energy services director, and the city engineer shall sign the final binding site plan document and shall present the final binding site plan document to the mayor for signature. The final binding site plan shall then be presented to the county treasurer for review and signature. Such signatures and approval of the final binding site plan document shall be subject to the following determinations:
  - a. The requirements of chapter 58.17 RCW and other applicable state law, the city's comprehensive plan, and any other applicable city ordinances that were in effect at the time of preliminary binding site plan approval, and this title have been met;

- b. Conditions imposed on the preliminary binding site plan approval, if any, have been met; and
- c. The bond or other proposed security meets the requirements of the public works development standards and has been approved and accepted by the city engineer.

2. If the final binding site plan is not approved by city council, the decision, along with reasons for denial, shall be communicated in writing to the applicant.

**Q. *Final binding site plan—Filing.*** The final binding site plan shall not be officially complete until the signed original final binding site plan and subdivision improvements agreement, if required, have been recorded with the county auditor. Said documents shall be recorded by the director within ten working days after the appeal period has expired, in the presence of the applicant and with the cost of recording paid by the applicant. Filing of the final binding site plan shall not relieve the property owner of the obligation to complete the minimum public improvements.

**R. *Amendment, modification and vacation.*** Amendment, modification and vacation of a binding site plan shall be accomplished by following the same procedure and satisfying the same laws, rules and conditions as required for a new binding site plan application, as set forth in this chapter. The vacated portion shall constitute one lot unless the property is subsequently divided by an approved subdivision or short plat. In the event the vacation is of a dedicated road right-of-way, the review process shall follow the city's road vacation process.

(Ord. 4807 § 36, 2018; Ord. 4804 §§ 1, 2, 2018; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 111. Section 15.310.040 of the Ellensburg City Code, as last amended by Section 5 of Ordinance 4936, is hereby amended to read as follows:**

**15.310.040 Use tables.**

Table 15.310.040  
Residential-Based Uses

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-H	C-C	C-II	I-L	NC-MU	RC-MU	I-H	P-R	MH-P
<b>RESIDENTIAL, GENERAL</b>															
Dwelling, single-family*	P	P	P		P										P

(ECC 15.540.020)															
Dwelling, cottage* (ECC 15.540.050)	P	P	P		P										A <sup>6</sup>
Dwelling, duplex* (ECC 15.540.030)	P <sup>2</sup>	P <sup>2</sup>	P		P			P <sup>7</sup>	P <sup>7</sup>						A <sup>6</sup>
Dwelling, townhouse* (ECC 15.540.060)	P <sup>2</sup>	P <sup>2</sup>	P	P	P	P <sup>3</sup>		P <sup>7</sup>	P <sup>7</sup>	P	P				A <sup>6</sup>
Dwelling, multifamily* (Division V of this title)	P <sup>1</sup> , 5	P <sup>1</sup> , 5	P	P	P	P <sup>3</sup>	C	P <sup>7</sup>	P <sup>7</sup>	P	P				A <sup>6</sup>
Dwelling, live-work*	P <sup>4</sup>	P <sup>4</sup>	P <sup>4</sup>	P <sup>4</sup>	P <sup>4</sup>	P		P <sup>7</sup>	P <sup>7</sup>	P	P				
Manufactured home park* (ECC 15.340.040)	C	C	C	P	C										A <sup>6</sup> P
<b>GROUP RESIDENCES</b>															
Boarding houses, lodging houses		C	P	P	C			P <sup>7</sup>	P <sup>7</sup>	P	P				A <sup>6</sup>
Adult family home*	P	P	P	P	P	P		P <sup>7</sup>	P <sup>7</sup>	P	P				A <sup>6</sup>

Community residential facility*			C	C	C	C			P <sup>7</sup>	P <sup>7</sup>		P	P		P/A <sup>6</sup>	
Senior citizen assisted housing*			P	P	P	P			P <sup>7</sup>	P <sup>7</sup>		P	P		A <sup>6</sup>	
Transitional housing*	P <sup>5</sup> , 9	P <sup>5</sup> , 9	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>3</sup> , 9	C <sup>9</sup>	P <sup>7</sup> , 9	P <sup>7</sup> , 9		P <sup>9</sup>	P <sup>9</sup>		P <sup>9</sup>		
Permanent supportive housing*	P <sup>5</sup> , 9	P <sup>5</sup> , 9	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>3</sup> , 9	C <sup>9</sup>	P <sup>7</sup> , 9	P <sup>7</sup> , 9		P <sup>9</sup>	P <sup>9</sup>		P <sup>9</sup>		
Indoor emergency shelter*	C <sup>9</sup>	C <sup>9</sup>	C <sup>9</sup>	C <sup>9</sup>	C <sup>9</sup>	C <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>		P <sup>9</sup>	P <sup>9</sup>		P <sup>9</sup>		
Indoor emergency housing*	C <sup>9</sup>	C <sup>9</sup>	C <sup>9</sup>	C <sup>9</sup>	C <sup>9</sup>	C <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>	P <sup>9</sup>		P <sup>9</sup>	P <sup>9</sup>		P <sup>9</sup>		
<b>RESIDENTIAL ACCESSORY USES</b>																
Accessory dwelling unit* (ECC 15.540.040)	P	P	P	P	P				P <sup>7</sup>	P <sup>7</sup>						
Home occupations* (ECC 15.340.020)	P	P	P	P	P	P	P	P <sup>7</sup>	P <sup>7</sup>	P	P	P	P	P <sup>6</sup>	P	
Yard sale use	A <sup>8</sup>	A <sup>8</sup>	A <sub>8</sub>	A <sub>8</sub>	A <sub>8</sub>	A <sub>8</sub>	A <sub>8</sub>	A <sub>8</sub>	A <sub>8</sub>	A <sub>8</sub>	A <sup>8</sup>	A <sup>8</sup>	A <sub>8</sub>	A <sup>8</sup>	A <sup>8</sup>	
<b>TEMPORARY LODGING</b>																

Bed and breakfast (ECC 15.340.010)	P	P	P	P	P			P <sup>7</sup>	P <sup>7</sup>		P	P		
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Development conditions:

1. Subject use may be permitted subject to density bonus incentives set forth in table 15.320.030 and chapter 15.330 ECC.
2. Duplexes and townhomes are permitted in the R-L and R-S zones on infill lots (preexisting legal lots of record as of December 31, 2021) notwithstanding the maximum density limits in table 15.320.030. For lots recorded after this date, duplexes and townhomes are permitted in the R-L and R-S zones but must meet the density requirements of ECC 15.320.030.
3. Residential uses are permitted in the C-N zone provided nonresidential uses occupy the ground floor of all buildings fronting on the street. For example, residential uses could be on upper levels of buildings fronting on the street or, for deep lots, subject residential uses may occupy any buildings away from the street and behind the buildings that front onto the street.
4. Nonresidential uses may be permitted within live-work dwellings subject to the permitted uses in the underlying zoning district.
5. Multifamily dwelling units shall not be located adjacent to existing single-family dwellings, except where such uses were approved on an individual plat.
6. All uses permitted in the P-R zone must be either outright permitted and operated as a public use or must be an accessory use to the primary public use (see ECC 15.310.050).
7. Except for lobbies or similar entrances, all permitted residential uses in the C-C and C-C II zones are prohibited within 30 feet of the sidewalk on the ground floor of properties fronting on storefront streets per ECC 15.510.050(E).
8. Yard sales are permitted as an accessory use to a dwelling; provided, that the following conditions are met:
  - a. Only two yard/garage sales per dwelling unit not exceeding three consecutive days in duration are allowed per year;

- b. The occupant or tenant of the dwelling unit shall supervise and be responsible for the yard/garage sale activities including ensuring that there is no impediment to the passage of traffic on public roads and sidewalks adjacent to the sale;
- c. No goods are to be displayed in public rights-of-way without first obtaining a right-of-way use permit from the public works ~~and utilities~~ department; and
- d. Signs advertising the sale shall not be attached to any public structure, sign, sign or utility pole or traffic control devices and shall be removed within 24 hours of the sale completion.

9. Subject to the permanent supportive, transitional housing, emergency housing and emergency shelter facilities standards set forth in ECC 15.340.080.

**Table 15.310.040**  
**Nonresidential Uses**

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-H	C-C	C-C II	NC-MU	RC-MU	I-L	I-H	P-R
<b>RETAIL</b>														
Auto sales, new and used								P	P <sup>2</sup>	P		P		
Automobile fueling							P	P	P	P		P	P	
Automobile, electric vehicle battery charging station	P <sup>1</sup>	P	P	P	P	P	P	P	P	P				
Farmers' markets*						P		P	P	P	P			
Fruit stands*	P	P	P	P	P									

Heavy retail (ECC 15,130.080)							P	P <sup>2</sup>	P		P	P	P	
Nurseries and greenhouses	P						P	P	P	P	P	P	P	
Restaurants	P	P	P	P	P	P	P	P	P	P	P	P		A <sup>6</sup>
Bars and brewpubs*						P	P	P	P	P	P	P		A <sup>6</sup>
Coffee house, espresso bar	P <sup>5</sup>	P <sup>5</sup>	P	P	P	P	P	P	P	P	P	P		A <sup>6</sup>
Retail, small scale (<2,000 sf floor area)	P <sup>5</sup>	P <sup>5</sup>	P	P	P	P	P	P	P	P	P			A <sup>6</sup>
Retail, medium scale (2,000— 20,000 sf floor area)						P	P	P	P	P	P			A <sup>6</sup>
Retail, large scale (20,001— 60,000 sf floor area)						P <sup>3</sup>	P	P	P	P	P			
Retail, very large scale (60,001— 100,000 sf floor area)							P	C	C		P			
Retail, super scale (>100,001 sf floor area)							C				C			

Regional retail commercial projects* (subject to the requirements in chapter 15.390 ECC)	P <sup>8</sup>			P <sup>8</sup>	P <sup>8</sup>	P <sup>8</sup>								
Marijuana retailer*						P <sup>9</sup>								
<b>PERSONAL AND GENERAL SERVICE</b>														
Day care I facilities*	P	P	P	P	P	P	P	P	P	P	P	P	P	A <sup>6</sup>
Day care II facilities*	C	C	C	C	P	P	P	P	P	P	P			A <sup>6</sup>
Heavy services (see heavy retail and services definition in ECC 15.130.080)*						P	P <sup>2</sup>	P		P	P	P		
Hotels/motels*						P	P	P	P	P				
Hospitals*	C	C	C		P		C	P		C				A <sup>6</sup>
Offices, medical*					P	P	P	P	P	P	P			P/A <sup>6</sup>
Kennels*						P		P			P			
Nursing homes*	C	C	C	P	P		P	P						P/A <sup>6</sup>
Marijuana cooperative*	P <sup>10</sup>													

Personal service establishments*	P <sup>5</sup>	P <sup>5</sup>	P	P	P	P	P	P	P	P	P	P	P			A <sup>6</sup>
Laundromats and dry cleaners			P	P	P	P	P	P	P	P	P	P	P			
Places of assembly*	C	C	C	C	P	P	P	P	P	C	C	C				A <sup>6</sup>
Radio station (commercial)		C					P			P	P	C	C			A <sup>6</sup>
Veterinary clinic					C	C	P	P	P	P	P	C				
<b>BUSINESS SERVICE</b>																
Conference center*							P	P	P	P	P					A <sup>6</sup>
Offices, business or professional*, small scale (<2,000 sf floor area)	P <sup>5</sup>	P <sup>5</sup>			P	P	P	P	P	P	P	P <sup>4</sup>				P/A <sup>6</sup>
Offices, business or professional*, medium scale (2,000—20,000 sf floor area)	P <sup>5</sup>	P <sup>5</sup>				P	P	P	P	P	P					P/A <sup>6</sup>
Offices, business or professional*, large scale (20,001—						P	P	P	P	P	P					P/A <sup>6</sup>

60,000 sf floor area)													
Minarehouse facility*			C								C	C	
<b>INDUSTRIAL</b>													
Light manufacturing*							P	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P <sup>2</sup>	P	P
Light industry (ECC 15.130.120)								P <sup>2,7</sup>	P <sup>2,7</sup>	P <sup>2,7</sup>	P	P	
Hazardous waste treatment (off-site) (see definition of "off-site" in ECC 15.130.150)											C	C	
Hazardous waste treatment (on-site) (see definition of "on-site" in ECC 15.130.150)							C	C	C		C	C	A <sup>6</sup>
Heavy industry (ECC 15.130.080)												C	
Marijuana processor*											P <sup>14</sup>		
Marijuana producer*											P <sup>14</sup>		
Tow vehicle storage area*											P	P	

Vehicle wrecking yard*													C	
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Development conditions:

1. Vehicle battery charging stations are permissible for the primary use of residents and their guests in all residential zones. Battery charging station clusters are permitted for multifamily uses located in the R-M and R-H zones.
2. Use must be enclosed entirely within a building.
3. Grocery stores shall be the only retail uses permitted with more than 20,000 square feet of gross floor area.
4. Except for office uses that are accessory to a permitted use, office uses may be permitted through the purchase of transferable development rights, subject to the adoption of a TDR program by the city.
5. Subject nonresidential uses may be permitted in the R-S and R-L zones if the planned uses are at least 1,200 feet from an existing C-N zone or commercial use.
6. All uses permitted in the P-R zone must be either outright permitted and operated as a primary public use or must be an accessory use to that primary public use. See ECC 15.310.050.
7. Includes light industrial activities that result in the production of goods placed for on-site retail sale. Special restrictions:
  - a. No power tools or equipment are allowed which by their decibel, frequency, and/or other feature of their operation would negatively impact the surrounding area by reason of decibel levels, light (see chapter 15.580 ECC for standards), dust or other physical effect; and
  - b. Production or manufacturing activity shall not occur between the hours of 10:00 p.m. and 6:00 a.m.
8. Regional retail is administered as an overlay zone pursuant to chapters 15.390 and 15.390A ECC, and only permitted within the designated boundaries identified in figure 15.390.040(A), the south interchange area, and figure 15.390.040(B), the west interchange area. Permitted uses and use restrictions within a regional retail commercial project are described in ECC 15.390.030. Design criteria for regional retail is governed by chapter 15.390A ECC.

9. All marijuana retail, production and processing facilities are subject to the requirements of chapter 15.370 ECC.
10. All marijuana cooperatives are subject to the requirements of ECC 15.370.030, chapter 314-55 WAC and chapter 69.51A RCW.

Table 15.310.040  
Special Uses

Use	R-S	R-L	R-M	R-H	R-O	C-N	C-H	C-C	C-C II	NC-MU	RC-MU	I-L	I-H	P-R
<b>PARK, OPEN SPACE AND RECREATIONAL</b>														
Cemeteries, columbarium or mausoleums	P	P												
Golf course	P													P <sup>11</sup>
Golf driving range (not associated with a golf course)	C						C							P <sup>11</sup>
Recreation—outdoor (commercial)*							P			P	P	C		A
Recreation—indoor (commercial)*					C		P	P	P	P	P	C		A
Recreation—small-scale indoor studios (commercial)*	P	P	P	P	P	P	P	P	P	P	P	C		
Recreational vehicle parks							P							

(ECC 15.340.050)														
Parks, playgrounds (public or private)	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P <sup>1</sup>	P
<b>CULTURAL AND ENTERTAINMENT</b>														
Adult entertainment establishment*								P <sup>2</sup>						
Art, performing arts, and recording studios	C	C	C	C	P	P	P	P	P	P	P	P	P	P/A ?
Museums	C <sup>1</sup> 2	C <sup>1</sup> 2	C <sup>1</sup> 2	C <sup>1</sup> 2	P	P	P	P	P	P	P	P	P	P/A ?
Theaters					P	P	P	P	P	P	P	P	C	
<b>EDUCATIONAL</b>														
Schools	C	C	C	C	C		C	C	C					P <sup>5</sup>
<b>GOVERNMENTAL</b>														
Court							P	P	P					P
Fire facility							P				P	P		P
Police facility						P <sup>3</sup>	P	P <sup>3</sup>	P		P	P		P
Public agency or utility office*						P	P	P	P	P	P	P	P	P/A
Public agency or utility yard	P <sup>4</sup>	P <sup>4</sup>	P <sup>4</sup>	P <sup>4</sup>	P <sup>4</sup>	P	P	C <sup>4</sup>	P		P	P	P	P/A

Utility facility* 8	P	P	P		P	P	P	P	P			P	P	P
Fairgrounds														P
Public transportation passenger terminals							P	P	P		P	P	P	P
<b>RESOURCE</b>														
Gardening or fruit raising (accessory use or noncommercial )	P	P	P	P	P	P	P	P	P	P	P	P	P	P/A 7
Agriculture*	P <sup>9</sup>													
Small wind energy systems (ECC 15.340.060)	P <sup>10</sup>	P <sup>10</sup>	P <sup>10</sup>	P <sup>10</sup>	P <sup>1</sup> 0	P <sup>10</sup>	P <sup>10</sup>	P <sup>1</sup> 0	P <sup>1</sup> 0	P <sup>10</sup> /A <sup>7</sup>				
<b>REGIONAL</b>														
Airport														PC <sup>6</sup>

**Development conditions:**

1. Lighting for structures and fields shall be directed away from residential areas through the use of exterior full cut-off shields or through optics within the fixture.
2. Adult entertainment is regulated pursuant to chapter 6.72 ECC. Zoning locational standards within the C-H zone for adult entertainment establishments are:  
  
All such establishments must be at least 1,000 feet from any residential zone, parks, schools, historic district, any dwelling, freeway, highway, interstate, or major arterial (see map on file in the city clerk's office).
3. Limited to "storefront" police offices. Such offices shall not have:

- a. Holding cells;
- b. Suspect interview rooms (except in the C-N zone); or
- c. Long-term storage of stolen properties.

4. Public agency or utility yard conditions:

- a. Utility yards are only on sites with utility district offices; or
- b. Public agency yards are limited to material storage, vehicle maintenance, and equipment storage for road maintenance, facility maintenance, and parks facilities.

5. Excluding private or nonprofit commercial schools, for which the principal course work is business, vocational, or technical.

6. A conditional use permit is required for the following uses:

- a. Facilities to sell, service and store airplanes, service airport patrons, and those ordinarily incidental and essential to operation of a municipal airport; and
- b. Airport landing areas.

7. All uses permitted in the P-R zone must be either outright permitted and operated as a public use or must be an accessory use to the primary public use; see ECC 15.310.050. Subject uses must be managed by a public agency.

8. Wireless communication facilities, including wireless communication support towers and antenna arrays, are subject to the provisions of ECC 15.340.070 and chapter 15.395 ECC.

9. Agriculture uses are permitted in the subject zone provided the following conditions are met:

- a. The raising of swine, poultry or goats shall be restricted to youth educational projects or limited household consumption occurring on the same lot, or lots of record;
- b. No nuisances, such as noise, odor, air pollution, wastes, vibration, traffic or physical hazards, shall result therefrom; and
- c. Fencing and housing adequate to certain livestock shall be provided where livestock are kept, and all livestock shall be kept and maintained in accordance with applicable laws and regulations.

10. Small wind energy systems on properties listed in the Ellensburg landmarks register are subject to landmarks and design commission certificate of appropriateness.
11. Subject use shall be permitted only if it is a public facility.
12. Museums within the R-S, R-L, R-M and R-H zoning districts are permissible within existing buildings, or if for new construction only if the building is 2,000 square feet or less, and for both options through approval of a conditional use permit.

(Ord. No. 4929, § 3, 11-6-2023; Ord. 4887 § 22, 2022; Ord. 4807 § 44, 2018; Ord. 4804 § 3, 2018; Ord. 4769 § 13, 2017; Ord. 4728 § 4, 2016; Ord. 4724 § 4, 2016; Ord. 4696 § 3, 2015; Ord. 4669 § 3, 2014; Ord. 4656 § 1 (Exh. O2), 2013; Ord. No. 4936, § 5, 2-5-2024)

**Section 112. Section 15.410.020 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**15.410.020 Arterial street design.**

A. *Purpose.* Provide safe and attractive arterial streets to facilitate movement of multi-modal traffic through the city and to regional and community destinations. As mobility is the primary function of the arterial streets, access to property may be limited to accommodate traffic flow.

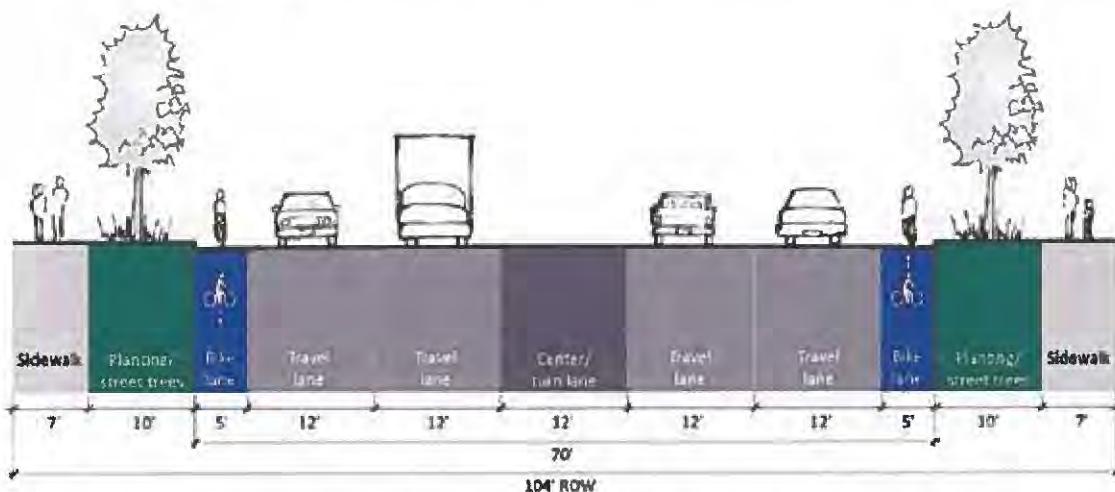
B. *Implementation.* Street section connections to existing curbs/sidewalks shall be as follows:

1. When curbs/sidewalks exist on one abutting end of proposed project, the new development shall transition from existing location to the new street section as provided by current code requirements.
2. When existing curbs/sidewalks exist on both abutting ends of a proposed project (infill), or along the frontage of the proposed project, the project applicant may petition the public works ~~and utilities~~ director for a departure from the code streetscape requirements. This departure, if granted, would allow for the continuation of the existing roadway section across the proposed development. As a condition of departure, the applicant shall be required to dedicate necessary rights-of-way to construct improvements and execute a deferral agreement to participate in a future project to construct said improvement(s) in accordance with ECC 4.06.060.

C. *Principal arterial street design.*

1. *Design.* Principal arterials typically include two lanes of travel in each direction, a center/left turn lane, bicycle lanes, planting strips with street trees, and sidewalks.

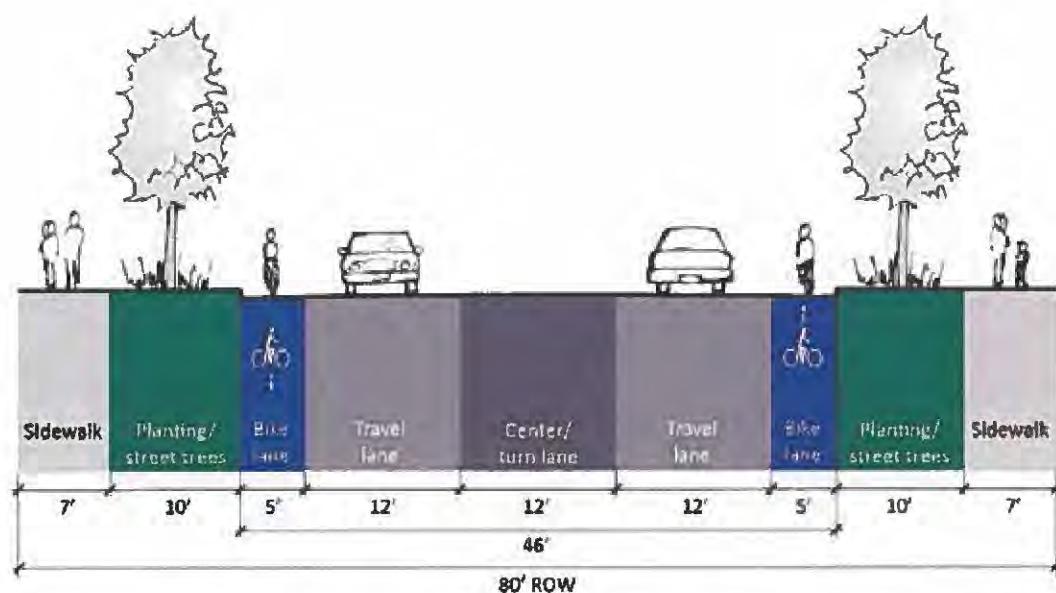
On-street parking may be included in single-family zones and in commercial zones where storefronts are permitted (see chapter 15.510 ECC). See section 3, street standards, of the city's public works development standards for detailed standards.



**Figure 15.410.020(B). Cross-section of standards for typical new principal arterial streets with standard dimensions. Variations could include on-street parking lanes in single-family zones and commercial zones in special circumstances, and wider sidewalks with trees in grates in commercial zones.**

**D. *Minor arterial street design.***

1. **Design.** Minor arterials typically include one lane of travel in each direction, a center/left turn lane, bicycle lanes, planting strips with street trees, and sidewalks. On-street parking may be included in single-family zones and in special circumstances in commercial zones. See section 3, street standards, of the city's public works development standards for detailed standards.



**Figure 15.410.020(D). Cross-section of standards for new minor arterial streets located in commercial, industrial, and multifamily zones (with standard dimensions). Variations could include on-street parking lanes in single-family zones and commercial zones in special circumstances, and wider sidewalks with trees in grates in commercial zones.**

(Ord. 4804 § 4, 2018; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 113. Section 15.410.030 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**15.410.030 Collector street design.**

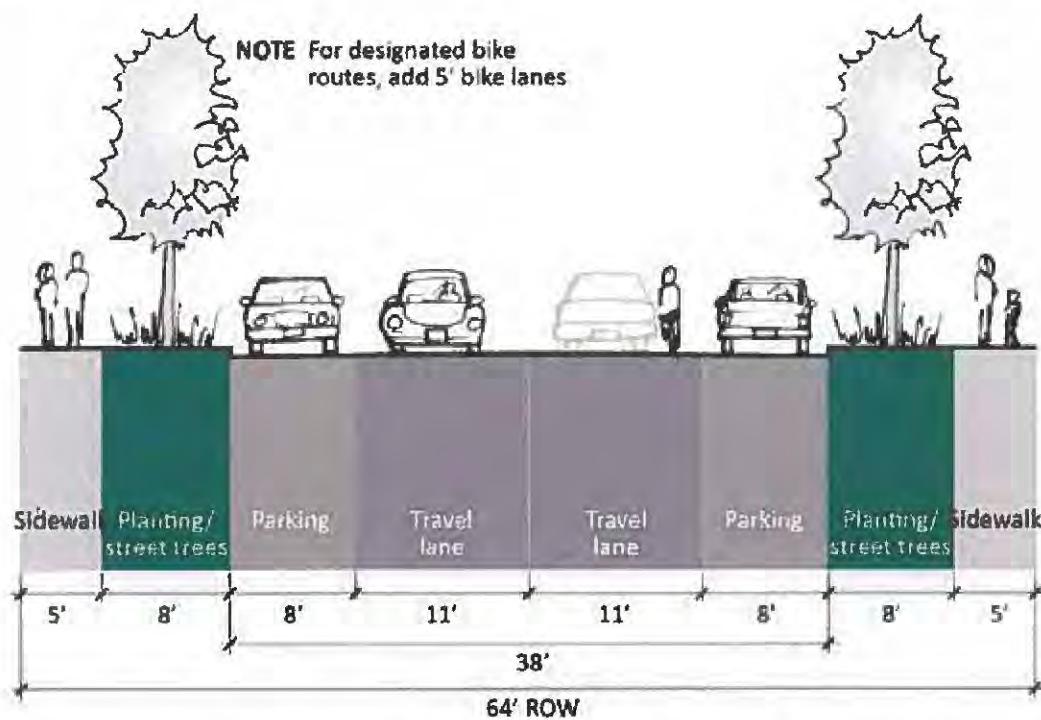
**A. Purpose.** Provide safe and attractive collector streets that balance mobility and access to encourage flow of traffic from neighborhoods and provide access to property.

**B. Implementation.** Street section connections to existing curbs/sidewalks shall be as follows:

1. When curbs/sidewalks exist on one abutting end of proposed project, the new development shall transition from existing location to the new street section as provided by current code requirements.
2. When existing curbs/sidewalks exist on both abutting ends of a proposed project (infill), or along the frontage of the proposed project, the project applicant may petition the public works and utilities director for a departure from the code streetscape requirements. This departure, if granted, would allow for the continuation of the existing roadway section across the proposed development. As

a condition of departure, the applicant shall be required to dedicate necessary rights-of-way to construct improvements and execute a deferral agreement to participate in a future project to construct said improvement(s) in accordance with ECC 4.06.060.

C. *Design.* Collector streets typically include one lane of travel in each direction with shared auto and bicycle lanes, on-street parking, planting strips with street trees, and sidewalks. See section 3, street standards, of the city's public works development standards for detailed standards.



**Figure 15.410.030. Cross-section of standards for collector streets (with standard dimensions). Variations could include removal of on-street parking lanes in single-family zones (where alleys and other provisions for off-street parking are provided to adjacent lots) and commercial zones in special circumstances, and wider sidewalks with trees in grates in commercial zones.**

(Ord. 4804 § 4, 2018; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 114. Section 15.410.040 of the Ellensburg City Code, as last amended by Section 11 of Ordinance 4929, is hereby amended to read as follows:**

**15.410.040 Collector street design.**

A. *Purpose.* Provide safe and attractive local access streets that provide access to property.

B. *Implementation.* Street section connections to existing curbs/sidewalks shall be as follows:

1. When curbs/sidewalks exist on one abutting end of proposed project, the new development shall transition from existing location to the new street section as provided by current code requirements. The project applicant may apply to the public works ~~and utilities~~ director for a departure from the code streetscape improvements. This departure, if granted, would allow for the continuation of the existing roadway section into future phases of a development, provided the development received preliminary plat approval prior to the effective date of Ordinance 4929. The applicant must define the boundaries of the development proposed for exclusion from the new streetscape requirements and comply with the departure criteria of ECC 15.210.060.
2. When existing curbs/sidewalks exist on both abutting ends of a proposed project (infill), or along the frontage of the proposed project, the project applicant may petition the public works ~~and utilities~~ director for a departure from the code streetscape requirements. This departure, if granted, would allow for the continuation of the existing roadway section across the proposed development. As a condition of departure, the applicant shall be required to dedicate necessary rights-of-way to construct improvements and execute a deferral agreement to participate in a future project to construct said improvement(s) in accordance with ECC 4.06.060.

C. *Design.* There are three optional designs for local access streets, including 20-foot, 24-foot, and 30-foot-wide streets, to allow flexibility for subdivision design while accommodating functional access needs and community design goals. Travel lanes are shared auto and bicycle lanes. Planting strips with street trees and sidewalks are included on both sides of the street. See section 3, street standards, of the city's public works development standards for detailed standards.

1. *Continuity.* The designs shall be consistent on individual blocks. An exception is for a hybrid design. An example would be a 20-foot street that integrates parking pockets on one side of the street.

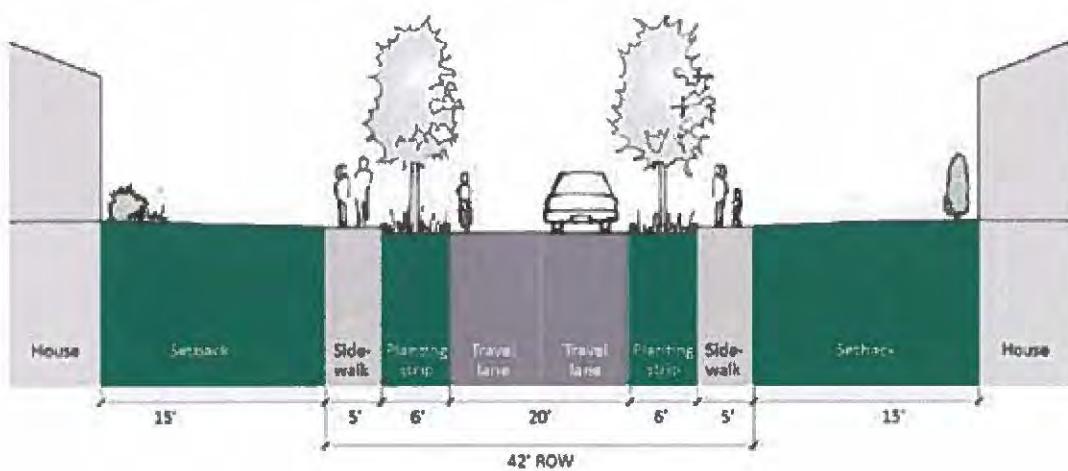
2. *Limitation for 20-foot streets.* The 20-foot street is intended to be used only in special cases where there is available guest parking on nearby streets or additional off-street parking is provided within walking distance of homes. All dwelling units shall be within 500 feet (measured along sidewalks or other internal pathways) of available on-street or off-street guest parking equal to one space per dwelling unit, minimum. Developments may integrate parallel parking bulb-outs (see figure 15.410.040) along these streets, provided the bulb-outs take up no more than 50 percent of the planting strip length. Use of this street shall only be permitted when

in compliance with the International Fire Code. The 20-foot wide travel lane will be required to be increased to 26 feet when block length exceeds fire code limitations as determined by the city's fire marshal.

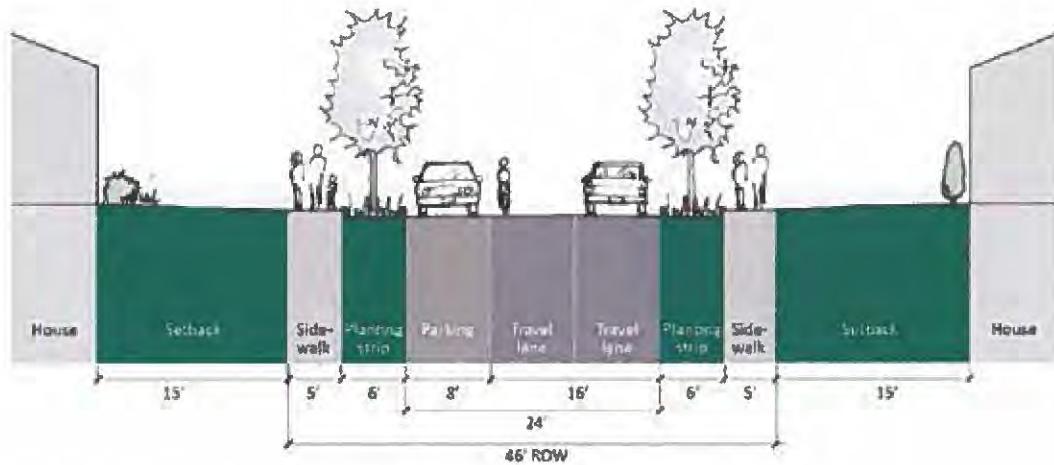


**Figure 15.410.040. Example of a local access street with integrated parallel parking bulb-outs.**

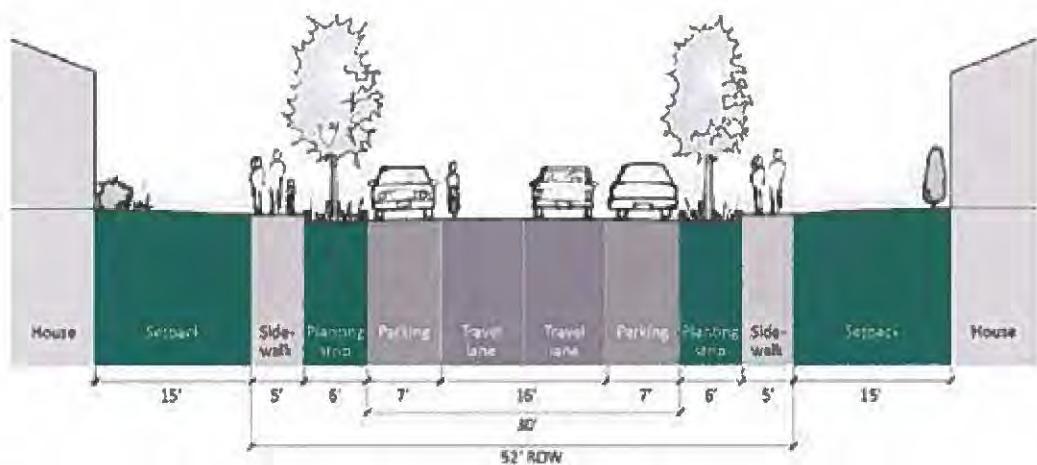
#### 20' Wide Street



### 24' Wide Street



### 30' Wide Street



**Figure 15.410.040. Cross-sections for local access street design options (with standard dimensions).**

(Ord. No. 4929, § 11, 11-6-2023; Ord. 4804 § 4, 2018; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 115. Section 15.420.050 of the Ellensburg City Code, as last amended by Section 56 of Ordinance 4807, is hereby amended to read as follows:**

#### **15.420.050 Lot design.**

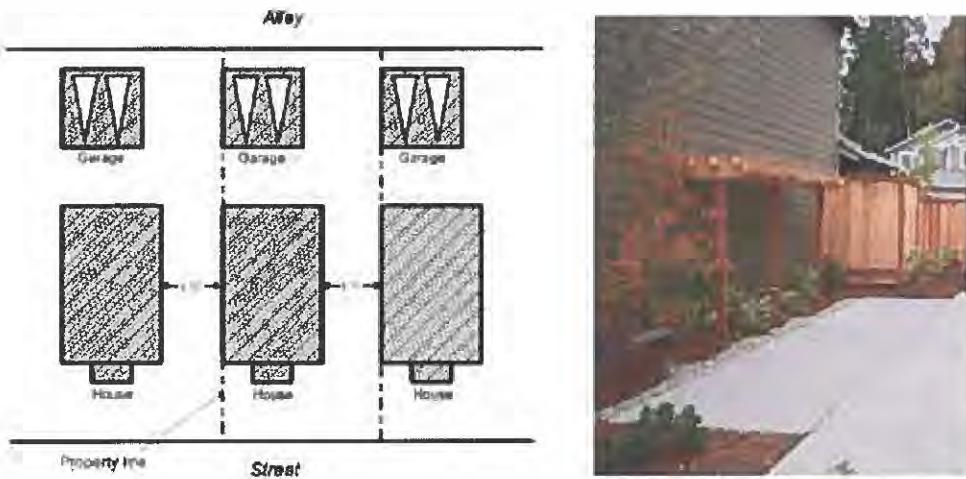
Lots within subdivisions shall be designed to allow placement of dwelling units to address functional design issues. Lots shall be designed to contain a usable building area. If the building area would be difficult to develop, the lot shall be redesigned or eliminated, unless special conditions can be imposed that will ensure the lot is developed consistent with the standards of this code and does not create nonconforming structures, uses or lots.

The placement and orientation of lots and dwelling units should consider privacy, solar orientation, access, location and access to open space and other factors that can contribute to the overall livability of the dwelling and its relationship to the surrounding environment. Flexibility shall be encouraged in spatial orientation of dwellings on lots to address these issues and create interesting and attractive streetscapes with homes having a high functional value that might not otherwise occur with a less flexible approach.

To maximize site efficiency and usable open space, small lot developments (generally less than 5,000 square feet in area and less than 50 feet wide) are encouraged to utilize zero-lot line and courtyard access configurations (as described below) or related design schemes provided they meet access, design, and other applicable standards set forth in this title.

A. *Zero lot line.* This is a configuration where the house and/or garage is built up to one of the side property lines, providing the opportunity for more usable side yard space. Standards:

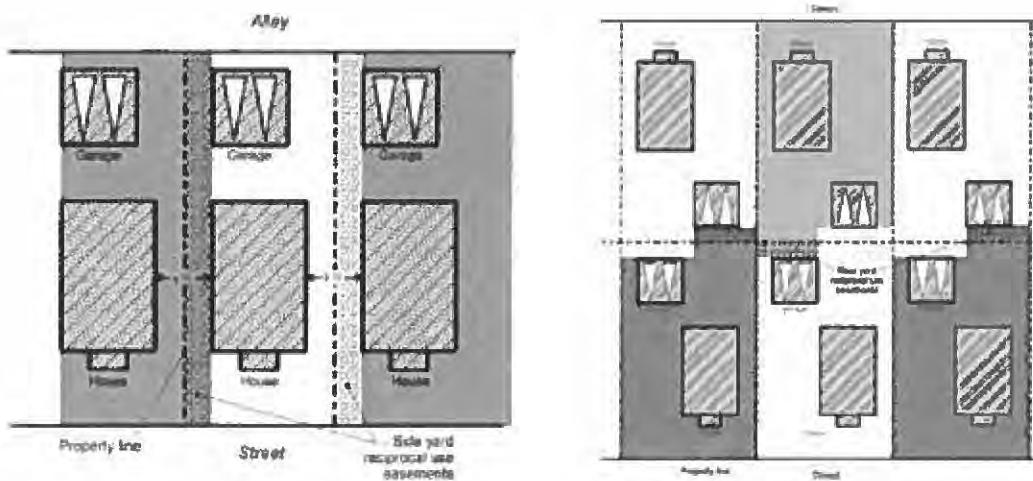
1. Dwelling units and accessory structures may be placed on one interior side property line. The opposite side yard shall be at least ten feet. Also see ECC 15.540.020 for single-family standards, including minimum usable open space.
2. Privacy wall. In order to maintain privacy, no windows, doors, air conditioning units, or any other types of openings in the walls along a zero lot line structure are allowed except for windows that do not allow for visibility into the side yard of the adjacent lot. Examples include clerestory or obscured windows. See figure 15.420.050(A) for an example of a privacy wall for a zero lot line house.
3. Eaves along a zero lot line may project a maximum of 18 inches over the property line.
4. Lots intended for zero lot line dwellings shall be noted on the plat, together with minimum side yard areas and maximum building envelopes.



**Figure 15.420.050(A). Zero lot line layout example (left). The right image shows the side yard and privacy wall for a zero lot line house.**

B. *Reciprocal use easement lots.* This works similar to the zero lot line configuration, except that the dwelling units and accessory structures meet the standard setbacks and easements are granted on one side yard to allow consolidated use of the side yards by the adjacent property (see figure 15.420.050(B) for example). Also, configurations providing for reciprocal use easements in the rear yard are allowed to maximize usable open space (see figure 15.420.050(B) for example). Standards/provisions:

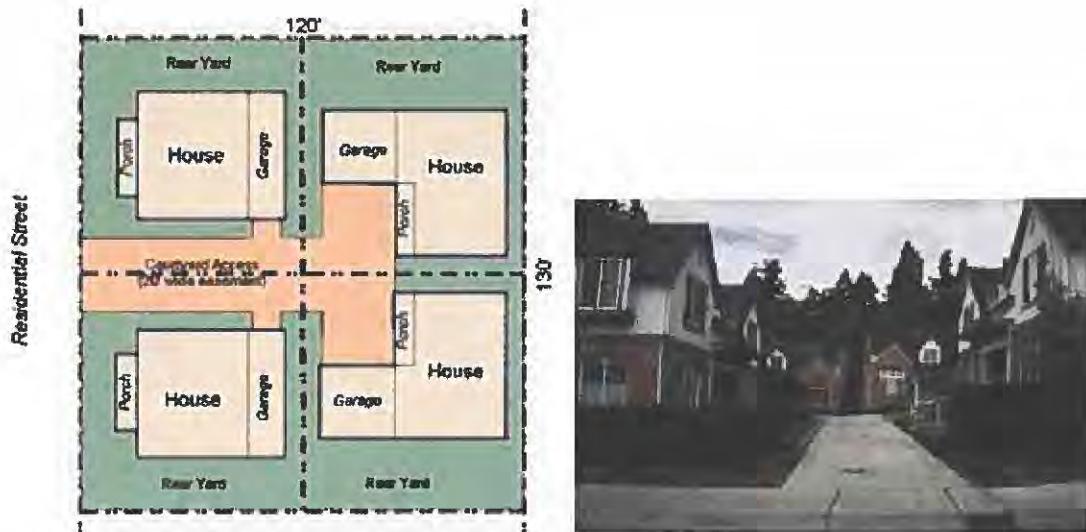
1. Reciprocal easements shall be noted on the plat. Easement areas may be used for minimum usable open space requirements set forth in ECC 15.540.020(D).
2. Privacy wall. In order to maintain privacy, no windows, doors, air conditioning units, or any other types of openings in the walls of a structure along a reciprocal use easement are allowed except for windows that do not allow for visibility into the side yard of the adjacent lot. Examples include clerestory or obscured windows. See figure 15.420.050(A) for an example of a privacy wall.
3. Areas within reciprocal use easements may count towards usable open space requirements for applicable lots.



**Figure 15.420.050(B). Example of a reciprocal side yard easement configuration (left image) and reciprocal rear yard easement configuration (right image).**

C. *Courtyard access lots.* This includes a series of lots clustered around a private internal roadway. Standards:

1. Maximum number of lots served by a courtyard access: five (this includes lots fronting the street on either side of the courtyard access).
2. Maximum length of a courtyard access: 100 feet (or deeper if approved by the fire code official). The length may be increased to 150 feet if all structures beyond 100 feet of the street are equipped with automatic fire sprinkler systems.
3. Surface width of courtyard access: 15 feet minimum, to provide access for ambulances. Provisions shall be made to keep the access clear of snow, vehicles ("no parking" signs), and vegetation.
4. An easement of 20 feet in width shall be secured over the applicable parcels to allow lots legal access to the public street. A maintenance agreement shall be required for all applicable lots and must be recorded on the plat.
5. Buildings accessed from a courtyard access are limited to two stories in height, due to aerial apparatus access limitations.



**Figure 15.420.050(C). Examples of courtyard access lots.**

D. *Pedestrian-only entry lots.* This includes configurations where one or more lots are clustered around a pedestrian easement and/or common open space and do not front on a street (see figure 15.420.050(D) for an example). Most cottage housing developments (see ECC 15.540.050) are an example of this. Standards:

1. A pedestrian entry easement shall be provided to all dwellings that do not front on a street, alley, or common open space.
2. Pedestrian entry easements shall be five to ten feet wide with a five-foot minimum sidewalk constructed per local access street standards in section 3 of the public works development standards.
3. Fire sprinklers are required for dwellings more than 100 feet from a fire access road.
4. Buildings within pedestrian-only entry lots are limited to two stories in height.
5. Dwellings more than 150 feet from a street will require fire department access as defined in the current International Fire Code (IFC).
6. These lots must contain private detached or shared garages off an alley or other access if approved by the public works and utilities director.



**Figure 15.420.050(D). Pedestrian-only entry lot configuration examples.**

E. *Alley access lots.* This includes configurations where lots are provided with vehicular access by an alley designed per section 3, street standards, of the city's public works development standards. Pedestrian access to each alley access lot shall be provided by either a public street (per chapter 15.410 ECC and section 3, street standards, of the city's public works development standards) or a pedestrian easement a minimum of ten feet wide with a five-foot minimum sidewalk constructed per local access street standards in section 3, street standards, of the public works development standards.



**Figure 15.420.050(E). Alley access lot examples. The left example, Wheaton Court in Ellensburg, features direct pedestrian access to the street in the front and garage access off of an alley in the back. In the right image, lots feature pedestrian access from a trail/open space corridor (easement) with garage access off of an alley in the back.**

F. *Protective covenants.* The styles of developments discussed above require special consideration to ensure conflicts between neighbors are minimized and that opportunities are provided for a homeowners' association to deal with unique issues created by these development forms. Covenants for these development styles shall be written to address issues unique to small

lot developments that use reciprocal use and easement agreements. The city shall review and approve any necessary easements and/or covenant agreement.

(Ord. 4807 § 56, 2018; Ord. 4804 § 4, 2018; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 116. Section 15.550.070 of the Ellensburg City Code, as last amended by Section 4 of Ordinance 4804, is hereby amended to read as follows:**

**15.550.070 Loading space requirements.**

A. Every nonresidential building engaged in retail, wholesale, manufacturing, or storage activities, excluding self-service storage facilities, shall provide loading spaces in accordance with the standards listed below:

**Table 15.550.070(A)**  
**Loading Space Requirements for Retail, Wholesale, Manufacturing, or Storage Activities,**  
**Excluding Self-Service Storage Facilities**

Gross floor area	Required number of loading spaces
10,000 to 40,000 square feet	1
40,001 to 96,000 square feet	2
96,001 to 160,000 square feet	3
160,001 to 196,000 square feet	4
For each additional 70,000 square feet	1 additional

B. Every building engaged in hotel, office building, restaurant, hospital, auditorium, convention hall, exhibition hall, sports arena/stadium or other similar use shall provide loading spaces in accordance with the standards listed below:

**Table 15.550.070(B)**  
**Loading Space Requirements for Hotel, Office Building, Restaurant, Hospital, Auditorium,**  
**Convention Hall, Exhibition Hall, Sports Arena/Stadium or Other Similar Uses**

Gross floor area	Required number of loading spaces
40,000 to 120,000 square feet	1
120,001 to 264,000 square feet	2

264,001 to 520,000 square feet	3
520,001 to 784,000 square feet	4
784,001 to 920,000 square feet	5
For each additional 200,000 square feet	1 additional

C. For storefronts and other similar buildings sited adjacent to a street without individual businesses over 10,000 square feet and no alley access, loading space may be provided by on-street designated loading zones upon approval of the public works and utilities director as a Type I decision based on access and safety considerations. A site plan, proposed conditions, and reason for on-street loading facilities shall be included in the application.

D. Each loading space required by this section shall be a minimum of ten feet wide, 30 feet long, and have an unobstructed vertical clearance of 14 feet six inches, and shall be surfaced, improved and maintained as required by this chapter. Loading spaces shall be located so that trucks shall not obstruct pedestrian or vehicle traffic movement or project into any public right-of-way. All loading space areas shall be separated from parking areas and shall be designated as truck loading spaces.

E. Any loading space located within 100 feet of areas zoned for residential use shall be screened and operated as necessary to reduce noise and visual impacts. Noise mitigation measures may include architectural or structural barriers, beams, walls, or restrictions on the hours of operation.

F. Multi-story self-service storage facilities shall provide two loading spaces, and single-story facilities one loading space, adjacent to each building entrance that provides common access to interior storage units. Each loading berth shall measure not less than 25 feet by 12 feet with an unobstructed vertical clearance of 14 feet six inches, and shall be surfaced, improved and maintained as required by this chapter. Any floor area additions or structural alterations to a building shall be required to provide loading space or spaces as set forth in this chapter.

(Ord. 4804 § 4, 2018; Ord. 4656 § 1 (Exh. O2), 2013)

**Section 117. Severability.** If any portion of this ordinance is declared invalid or unconstitutional by any court of competent jurisdiction, such holding shall not affect the validity of the remaining portion(s) of this ordinance.

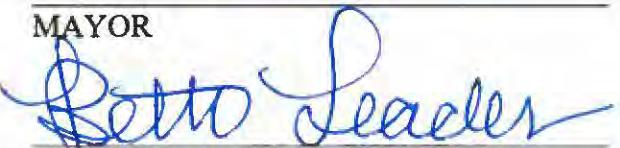
**Section 118. Corrections.** Upon the approval of the City Attorney, the City Clerk and the codifiers of this ordinance are authorized to make necessary corrections to this ordinance

including, but not limited to, the correction of scrivener's/clerical errors, references, ordinance numbering, section/subsection numbers and any references thereto.

**Section 119. Effective Date.** This ordinance shall take effect and be in force five (5) days after its passage, approval and publication.

The foregoing ordinance was passed and adopted at a regular meeting of the City Council on the 18th day of February, 2025.

  
MAYOR

  
CITY CLERK

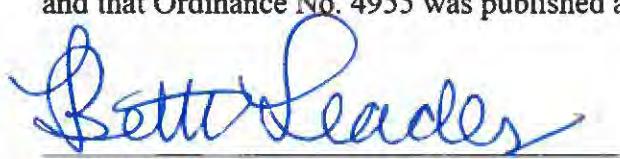
ATTEST:

Approved as to form:

  
CITY ATTORNEY

Publish: 2-22-25

I, Beth Leader, City Clerk of said City, do hereby certify that Ordinance No. ~~4954~~<sup>4955</sup> is a true and correct copy of said Ordinance of like number as the same was passed by said Council, and that Ordinance No. 4955 was published as required by law.

  
BETH LEADER