

## **CITY COUNCIL MEETINGS RULES – PUBLIC DECORUM**

**Strict adherence to the following rules of decorum by the public will be observed and adhered to during City Council meetings, including open forum, public comment period on legislative items, and Council deliberations:**

- 1. No Clapping!**
- 2. No Cheering!**
- 3. No Booing!**
- 4. No public outbursts!**
- 5. Three-minute time limit for comments made during open forum and public testimony on legislative items!**
- 6. No person shall be permitted to speak at open forum more often than once per month.**

**In addition, please silence your cell phones when entering the Council Chambers!**

Further, keep the following City Council Rules in mind:

### **Rule 2.2      Open Forum**

- 2.2.4 The open forum is a limited public forum and all matters discussed shall relate to affairs of the City. No person may use the open forum to speak on such matters and in such a manner as to violate the laws governing the conduct of municipal affairs. No person shall be permitted to speak on matters related to the current or advance agendas, potential or pending hearing items, or ballot propositions for a pending election. Individuals speaking during the open forum shall address their comments to the Council President and shall not make personal comment or verbal insults about any individual.
- 2.2.6 In an effort to encourage wider participation in open forum so that the Council can hear a wide array of citizen comment, no person shall be permitted to speak at open forum more often than once per month. However, this limitation has no effect on the public comment rules concerning items on the Council's current legislative agenda, special consideration items, hearing items, and other items before the City Council requiring Council action that are not adjudicatory or administrative in nature, as specified in Rules 5.3 and 5.4.

### **Rule 5.4      Public Testimony Regarding Legislative Agenda Items – Time Limits**

- 5.3.1 Members of the public may address the Council regarding items on the Council's legislative agenda, special consideration items, hearing items and other items before the City Council requiring Council action that are not adjudicatory or administrative in nature. This rule shall not limit the public's right to speak during the open forum.
- 5.3.2 No one may speak without first being recognized for that purpose by the Chair. Except for named parties to an adjudicative hearing, a person may be required to sign a sign-up sheet and provide his or her address as a condition of recognition. In order for a council member to be recognized by the Chair for the purpose of obtaining the floor, the council member shall either raise a hand or depress the call button on the dais until recognized by the Council President.
- 5.3.3 Each person speaking at the public microphone shall verbally identify him(her)self by name and, if appropriate, representative capacity.
- 5.3.4 Each speaker shall follow all written and verbal instructions so that verbal remarks are electronically recorded and documents submitted for the record are identified and marked by the Clerk.
- 5.3.5 In order that evidence and expressions of opinion be included in the record and that decorum befitting a deliberative process be maintained, no modes of expression not provided by these rules, including but not limited to demonstrations, banners, applause, profanity, vulgar language, or personal insults will be permitted.
- 5.3.6 A speaker asserting a statement of fact may be asked to document and identify the source of the factual datum being asserted.
- 5.3.7 When addressing the Council, members of the public shall direct all remarks to the Council President and shall confine remarks to the matters that are specifically before the Council at that time.
- 5.3.8 When any person, including members of the public, City staff and others are addressing the Council, council members shall observe the same decorum and process, as the rules require among the members inter se. That is, a council member shall not engage the person addressing the Council in colloquy, but shall speak only when granted the floor by the Council President. All persons and/or council members shall not interrupt one another. The duty of mutual respect set forth in Rule 1.2 and the rules governing debate set forth in *Robert's Rules of Order* shall extend to all speakers before the City Council. The council president pro-tem shall be charged with the task of assisting the council president to insure that all individuals desiring to speak, be they members of the public, staff or council members, shall be identified and provided the opportunity to speak.

# THE CITY OF SPOKANE



## ADVANCE COUNCIL AGENDA

MEETING OF MONDAY, JUNE 13, 2016

### **MISSION STATEMENT**

**TO DELIVER EFFICIENT AND EFFECTIVE SERVICES  
THAT FACILITATE ECONOMIC OPPORTUNITY  
AND ENHANCE QUALITY OF LIFE.**

**MAYOR DAVID A. CONDON**

**COUNCIL PRESIDENT BEN STUCKART**

**COUNCIL MEMBER BREEAN BEGGS**

**COUNCIL MEMBER LORI KINNEAR**

**COUNCIL MEMBER KAREN STRATTON**

**COUNCIL MEMBER MIKE FAGAN**

**COUNCIL MEMBER CANDACE MUMM**

**COUNCIL MEMBER AMBER WALDREF**

COUNCIL BRIEFING SESSION—3:30 P.M.  
COUNCIL CHAMBERS  
CITY HALL

TOWN HALL/LEGISLATIVE SESSION—6:00 P.M.  
WEST CENTRAL COMMUNITY CENTER  
1603 NORTH BELT STREET, SPOKANE, WA

## CITY COUNCIL BRIEFING SESSION

Council will adopt the Administrative Session Consent Agenda after they have had appropriate discussion. Items may be moved to the 6:00 p.m. Legislative Session for formal consideration by the Council at the request of any Council Member.

SPOKANE CITY COUNCIL BRIEFING SESSIONS (BEGINNING AT 3:30 P.M. EACH MONDAY) AND LEGISLATIVE SESSIONS (BEGINNING AT 6:00 P.M. EACH MONDAY) ARE BROADCAST LIVE ON CITY CABLE CHANNEL FIVE AND STREAMED LIVE ON THE CHANNEL FIVE WEBSITE. THE SESSIONS ARE REPLAYED ON CHANNEL FIVE ON THURSDAYS AT 6:00 P.M. AND FRIDAYS AT 10:00 A.M.

The Briefing Session is open to the public, but will be a workshop meeting. Discussion will be limited to Council Members and appropriate Staff and Counsel. There will be an opportunity for the expression of public views on any issue not relating to the Current or Advance Agendas during the Open Forum at the beginning and the conclusion of the Legislative Agenda.

### ADDRESSING THE COUNCIL

- No one may speak without first being recognized for that purpose by the Chair. Except for named parties to an adjudicative hearing, a person may be required to sign a sign-up sheet as a condition of recognition.
- Each person speaking at the public microphone shall print his or her name and address on the sheet provided at the entrance and verbally identify him/herself by name, address and, if appropriate, representative capacity.
- If you are submitting letters or documents to the Council Members, please provide a minimum of ten copies via the City Clerk. The City Clerk is responsible for officially filing and distributing your submittal.
- In order that evidence and expressions of opinion be included in the record and that decorum befitting a deliberative process be maintained, modes of expression such as demonstration, banners, applause and the like will not be permitted.
- A speaker asserting a statement of fact may be asked to document and identify the source of the factual datum being asserted.

**SPEAKING TIME LIMITS:** Unless deemed otherwise by the Chair, each person addressing the Council shall be limited to a three-minute speaking time.

**CITY COUNCIL AGENDA:** The City Council Advance and Current Agendas may be obtained prior to Council Meetings from the Office of the City Clerk during regular business hours (8 a.m. - 5 p.m.). The Agenda may also be accessed on the City website at [www.spokanecity.org](http://www.spokanecity.org). Agenda items are available for public review in the Office of the City Clerk during regular business hours.

**AMERICANS WITH DISABILITIES ACT (ADA) INFORMATION:** The City of Spokane is committed to providing equal access to its facilities, programs and services for persons with disabilities. The Spokane City Council Chamber in the lower level of Spokane City Hall, 808 W. Spokane Falls Blvd., is wheelchair accessible and also is equipped with an infrared assistive listening system for persons with hearing loss. Headsets may be checked out (upon presentation of picture I.D.) at the City Cable 5 Production Booth located on the First Floor of the Municipal Building, directly above the Chase Gallery or through the meeting organizer. Individuals requesting reasonable accommodations or further information may call, write, or email Christine Cavanaugh at (509) 625-6383, 808 W. Spokane Falls Blvd, Spokane, WA, 99201; or [ccavanaugh@spokanecity.org](mailto:ccavanaugh@spokanecity.org). Persons who are deaf or hard of hearing may contact Ms. Cavanaugh at (509) 625-7083 through the Washington Relay Service at 7-1-1. Please contact us forty-eight (48) hours before the meeting date.

If you have questions, please call the Agenda Hotline at 625-6350.

# BRIEFING SESSION

(3:30 p.m.)

(Council Chambers Lower Level of City Hall)

(No Public Testimony Taken)

Council Reports

Staff Reports

Committee Reports

Advance Agenda Review

Current Agenda Review

## ADMINISTRATIVE SESSION

Roll Call of Council

## CONSENT AGENDA

### REPORTS, CONTRACTS AND CLAIMS

### RECOMMENDATION

- |  |                                 |               |
|--|---------------------------------|---------------|
| 1. Contract Amendment with the Washington State Department of Commerce for the Consolidated Homeless Grant and authorization to enter into contract with the awarded projects. Increase of \$2,374,522. Total Grant amount \$3,684,704.<br><b>Sheila Morley</b>                            | Approve & Auth.<br>Contracts    | OPR 2016-0020 |
| 2. Accept Continuum of Care Program award from Housing and Urban Development and authorization to enter into contract with the awarded projects—\$735,764.<br><b>Sheila Morley</b>   | Approve & Auth.<br>Contracts    | OPR 2016-0457 |
| 3. Report of the Mayor of pending claims and payments of previously approved obligations, including those of Parks and Library, through _____, 2016, total \$_____, with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$_____. | Approve & Authorize<br>Payments | CPR 2016-0002 |
| 4. City Council Meeting Minutes: _____, 2016.  | Approve<br>All                  | CPR 2016-0013 |

## **EXECUTIVE SESSION**

(Closed Session of Council)

(Executive Session may be held or reconvened during the 6:00 p.m. Legislative Session)

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## **CITY COUNCIL SESSION**

(May be held or reconvened following the 3:30 p.m. Administrative Session)

(Council Briefing Center)

This session may be held for the purpose of City Council meeting with Mayoral nominees to Boards and/or Commissions. The session is open to the public.

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## **TOWN HALL SESSION**

(6:00 P.M.)

(Council Reconvenes at the West Central Community Center)

**WORDS OF INSPIRATION**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL OF COUNCIL**

**ANNOUNCEMENTS**

(Announcements regarding Changes to the City Council Agenda)

**NO BOARDS AND COMMISSIONS APPOINTMENTS**

**ADMINISTRATIVE REPORT**

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## **COUNCIL COMMITTEE REPORTS**

(Committee Reports for Finance, Neighborhoods, Public Safety, Public Works, and Planning/Community and Economic Development Committees and other Boards and Commissions)

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## **TOWN HALL FORUM**

This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance Agendas nor relating to political campaigns/items on upcoming election ballots. This Forum shall be for a period of time not to exceed thirty minutes. After all the matters on the Agenda have been acted on, unless it is 10:00 p.m. or later, the open forum shall continue for a period of time not to exceed thirty minutes. Each speaker will be limited to three minutes, unless otherwise deemed by the Chair. If you wish to speak at the forum, please sign up on the sign-up sheet located in the Chase Gallery.

Note: No person shall be permitted to speak at Open Forum more often than once per month (Council Rule 2.2.6).

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# LEGISLATIVE AGENDA

## NO EMERGENCY BUDGET ORDINANCES

## NO EMERGENCY ORDINANCES

## NO RESOLUTIONS

## FINAL READING ORDINANCES

(Require Four Affirmative, Recorded Roll Call Votes)

**ORD C35399** Relating to critical materials; amending SMC sections 17A.020.030, 17A.020.160, 17E.010.010, 17E.010.040, 17E.010.050, 17E.010.060, 17E.010.090, 17E.010.095, 17E.010.120, 17E.010.140, 17E.010.150, 17E.010.190, 17E.010.200, 17E.010.210, 17E.010.220, 17E.010.230, 17E.010.270, 17E.010.290, 17E.010.300, 17E.010.320, 17E.010.340, 17E.010.400, 17E.010.410, 17E.010.420, 17E.010.430, 17E.010.440, 17E.010.470, 17E.010.490, 17E.010.510, 17E.010.530, 17E.010.560, and 17G.010.150; and repealing SMC sections 17E.010.250, 17E.010.310, 17E.010.330, 17E.010.450, 17E.010.500, and 17E.010.520.

**David Kokot**

**ORD C35400** Amending Ordinance C34924 vacating Walnut Street from Bridge Avenue to College Avenue, North and South portions of Bridge Avenue from Maple Street to Cedar Street and the Alley between Walnut Street and Cedar Street from Bridge Avenue to College Avenue.

**Eldon Brown**

**ORD C35402** Relating to the organization of the Spokane Police Department; amending section 03.01A.370 and 03.01A.375 of the Spokane Municipal Code; repealing sections 03.01A.380, 03.01A.385, and 03.01A.390 of the Spokane Municipal Code.

**Council President Stuckart**

## FIRST READING ORDINANCES

(No Public Testimony Will Be Taken)

**ORD C35403** Granting a non-exclusive franchise to use the public right of way to provide noncable telecommunications service to the public to MobileLite LLC, subject to certain conditions and duties as further provided.

**Tim Szambelan**

**ORD C35404** Providing for the acquisition by eminent domain of certain lands necessary to be acquired for public purposes in connection with the Martin Luther King Jr. Way (Riverside Extension) Project, located in the City and County of Spokane, State of Washington.

**Dan Buller**

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## **NO SPECIAL CONSIDERATIONS**

## **NO HEARINGS**

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**Motion to Approve Advance Agenda for June 13, 2016**  
(per Council Rule 2.1.2)

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## **TOWN HALL FORUM (CONTINUED)**

This is an opportunity for citizens to discuss items of interest not relating to the Current or Advance Agendas nor relating to political campaigns/items on upcoming election ballots. This Forum shall be for a period of time not to exceed thirty minutes. After all the matters on the Agenda have been acted on, unless it is 10:00 p.m. or later, the open forum shall continue for a period of time not to exceed thirty minutes. Each speaker will be limited to three minutes, unless otherwise deemed by the Chair. If you wish to speak at the forum, please sign up on the sign-up sheet located in the Chase Gallery.

Note: No person shall be permitted to speak at Open Forum more often than once per month (Council Rule 2.2.6).

## **ADJOURNMENT**

The June 13, 2016, Regular Legislative Session of the City Council is adjourned to June 20, 2016.

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## **NOTES**

**Agenda Sheet for City Council Meeting of:**

06/13/2016

**Date Rec'd**

5/31/2016

**Clerk's File #**

OPR 2016-0020

**Renews #****Submitting Dept**

HOUSING &amp; HUMAN SERVICES

**Contact Name/Phone**

SHEILA MORLEY 625-6052

**Contact E-Mail**

SMORLEY@SPOKANECITY.ORG

**Agenda Item Type**

Contract Item

**Agenda Item Name**

1680- CONSOLIDATED HOMELESS GRANT CONTRACT AMENDMENT

**Cross Ref #****Project #****Bid #****Requisition #****Agenda Wording**

The CHHS department seeks acceptance of the CHG contract amendment of \$2,374,522 from the Washington State Department of Commerce and enter into contract with the awarded projects.

**Summary (Background)**

Applications for funding through the Homeless Housing Operations and Services competition, which included CHG funds, were submitted on September 25th, 2015. On November 16th, 2015 City Council approved the recommendations for funding. Goodwill was selected to administer the Housing and Essential Needs (HEN) program, Catholic Charities and SNAP were selected to administer Rapid Re-Housing. The projects, in addition to the 24/7 emergency shelter response model, will be funded through this amendmen

**Fiscal Impact****Budget Account**

Revenue \$ 3,684,704

# 1541

Expense \$ 3,684,704

# 1541

Select \$

#

Select \$

#

**Approvals****Council Notifications****Dept Head**

CROW, ROB

**Study Session**

6/6/16- CHE

**Division Director**

MALLAHAN, JONATHAN

**Other**

5/31/16- CHHS board

**Finance**

KECK, KATHLEEN

**Distribution List****Legal**

WHALEY, HUNT

**For the Mayor**

WHITNEY, TYLER

**Additional Approvals****Purchasing**



**BRIEFING PAPER**  
**City of Spokane PCED Committee**  
**Community, Housing and Human Services Department**  
**Consolidated Homeless Grant Contract**  
**May 16, 2016 (Updated 6/1/2016)**

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**Subject**

The Consolidated Homeless Grant (CHG) from the Washington State Department of Commerce provides funding through the Homeless Housing and Assistance Act [RCW 43.185c](#) to be administered and sub-contracted by the City of Spokane. The contract amendment provides \$2,374,522 in funding (in addition to the \$1,310,182 previously awarded) to assist people who are experiencing homelessness obtain and maintain housing stability. Under the CHG guidelines, grantees and sub-grantees must prioritize unsheltered homeless households for assistance and services.

**Background**

Applications for funding through the Homeless Housing Operations and Services (HHOS) competition, which included CHG funds, were submitted on September 25<sup>th</sup>, 2015. A committee of the CHHS Board reviewed & recommended funding for projects. The CHHS Board approved the funding recommendations on November 4<sup>th</sup>, 2015. At the November 16<sup>th</sup>, 2015 meeting, the City Council approved the recommendations for funding.

Through the competitive RFP process, Goodwill was selected as the local agency to administer the Housing and Essential Needs (HEN) program, Catholic Charities of Spokane was selected to administer the Rapid Re-Housing for Families program, and SNAP was selected to administer the Rapid Re-Housing program serving single individuals. These projects, in addition to the 24/7 emergency shelter response model, will be funded through this contract amendment. Funds through this amendment area available through 6/30/17.

The HEN program serves homeless and at-risk, disabled clients identified through the Department of Social and Health Services. HEN enables housing stabilization through rent and utility payments, personal health and hygiene items, cleaning supplies and bus passes. Rapid Re-Housing (RRH) programs serves literally homeless families identified through the City's Coordinated Assessment system. The 24/7 emergency shelter response model will serve the unsheltered homeless population.

**Impact**

Funds from the CHG program provide local agencies with the resources necessary to assist homeless households and provide the support needed to end their homelessness. Without these funds, the local homeless system would not be able to efficiently support households from homelessness into stable permanent housing.

**Action**

The Community, Housing and Human Services Department seek the acceptance of the contract between the City of Spokane and the Washington State Department of Commerce and authorization to sub-contract CHG funds to the identified agencies below.

**Funding**

Funding for this contract comes from funds allocated to the Washington State Department of Commerce through the Homeless Housing and Assistance Act funds.

	CHG Base Amendments for SFY 2016/17	CHG TANF Amendments for SFY 2016/17	NEW SFY 2017 HEN
City - Admin	\$ 6,287		
City Program Operations	\$ 23,651		
City of Spokane - Admin and Program Operations	\$ 29,938		
Catholic Charities- RRH for families	\$ 120,059	\$ 81,040	
SNAP - RR for HH without children	\$ 129,926		
Agencies TBD - 24/7 shelter	\$ 250,000		
Goodwill - HEN Program			\$ 1,763,559
Total Allocations	\$ 529,923	\$ 81,040	\$ 1,763,559

**Agenda Sheet for City Council Meeting of:**

06/13/2016

**Date Rec'd**

5/31/2016

**Clerk's File #**

OPR 2016-0457

**Renews #****Submitting Dept**

HOUSING &amp; HUMAN SERVICES

**Contact Name/Phone**

SHEILA MORLEY 625-6052

**Contact E-Mail**

SMORLEY@SPOKANECITY.ORG

**Agenda Item Type**

Contract Item

**Agenda Item Name**

1680-CONTINUUM OF CARE PROGRAM TIER 2 AWARDS

**Cross Ref #****Project #****Bid #****Requisition #****Agenda Wording**

The CHHS department seeks acceptance of the CoC Program award of \$735,764.00 from Housing and Urban Development and enter into contract with the awarded projects.

**Summary (Background)**

Our annual CoC Program funding provides the financial backbone to individual projects serving the homeless population in Spokane County. Tier 2 funding includes 2 renewal project and 1 new project. The new project will increase rapid re-housing assistance for homeless households with children, and the 2 renewal projects will provide permanent supportive housing for chronically homeless families and individuals.

**Fiscal Impact****Budget Account**

Expense \$ 735,764

# 1541-95468-99999-33114

Expense \$ 735,764

# 1541-95468-65410-54201

Select \$

#

Select \$

#

**Approvals****Council Notifications****Dept Head**

CROW, ROB

**Study Session**

CHE 6/6/16

**Division Director**

MALLAHAN, JONATHAN

**Other**

CHHS Board 5/4/16

**Finance**

KECK, KATHLEEN

**Distribution List****Legal**

WHALEY, HUNT

**For the Mayor**

WHITNEY, TYLER

**Additional Approvals****Purchasing**

**BRIEFING PAPER**  
**Community, Housing and Human Services Department**  
**FY2015 CoC Program Tier 2 Award**  
**June 6, 2016**

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**Subject**

Each year the CHHS Department competes nationally through the Continuum of Care Program to support renewal funding for all HUD funded projects. HUD released their Notice of Funding Availability (NOFA) on September 17, 2015 and Tier 2 awards were announced on May 2, 2016. Tier 2 awards provide \$735,764.00 for 3 projects. A list of the 2015 CoC projects awarded is attached. With the addition of the Tier 2 funding the total funding award was increased from \$3,530,580 to \$3,822,547.

**Background**

As part of the CoC Program Competition requirements, our CoC is required to review, score, and rank each renewal project as part of the application process. This responsibility was taken by the CHHS Board and their ad-hoc designation Review and Evaluation Committee. CoC renewal project applications were submitted on May 13, 2015. New project applications were submitted on 10/15/16 and reviewed by the CHHS Review and Evaluation Committee. Renewal and new projects were ranked into two priority Tiers and submitted with the HUD application based on the Committee recommendations. With the addition of the Tier 2 funding the total funding award was increased from \$3,530,580 to \$3,822,547.

**Impact**

Our annual CoC Program funding provides the financial backbone to individual projects serving the homeless population in Spokane County. These projects provide rent assistance, leasing, operations and support services in permanent housing, transitional housing in addition to support services to homeless individuals and families. Tier 2 funding includes 2 renewal projects and 1 new project. The new project will increase rapid re-housing assistance for homeless households with children, and the 2 renewal projects will provide permanent supportive housing for chronically homeless families and individuals. New projects will increase the number of permanent supportive housing units for chronically homeless, rapid re-housing assistance for households without children.

**Action**

The department seeks acceptance of the CoC Program Award of \$735,764 from Housing and Urban Development and enter into contract with the awarded projects.

**Funding**

Funding for this project comes from the United States Housing and Urban Development.

## 2015 Continuum of Care Program Project Awards

	Requested Funding	Project Name	Project Type	Awarded Amount
<b>Tier 1</b>	<b>\$165,658</b>	WA-288 Catholic Charities Rapid Rehousing Project	PH-RRH	\$ 167,818
	<b>\$262,370</b>	WA-302 Catholic Charities RRH Project for families	PH-RRH	\$ 265,250
	<b>\$178,340</b>	WA-285 Catholic Charities/ Housing First Project	PSH	\$ 180,610
	<b>\$64,529</b>	WA-109 Catholic Charities/ SMS Transitional Housing	TH	\$ 64,529
	<b>\$151,648</b>	WA-119 SNAP Small Cities Rapid Re-Housing	PH-RRH	\$ 153,112
	<b>\$136,010</b>	WA-118 SNAP Rural Rent Assistance	TH	\$ 136,010
	<b>\$172,134</b>	WA-122 SNAP RRH for Families	PH-RRH	\$ 174,330
	<b>\$75,144</b>	WA-126 VOA Alex's House	TH	\$ 75,144
	<b>\$274,540</b>	WA-129 VOA Off Site PSH	PSH	\$ 279,151
	<b>\$122,815</b>	WA-218 VOA Samaritan III	PSH	\$ 125,122
	<b>\$198,113</b>	WA-130 VOA / Samaritan 05-06	PSH	\$ 201,082
	<b>\$51,548</b>	WA-128 VOA Hope House PSH	PSH	\$ 52,223
	<b>\$191,635</b>	WA-113 SNAP/VOA Comprehensive	TH	\$ 191,635
	<b>\$177,489</b>	City of Spokane HMIS Project	HMIS	\$ 177,489
	<b>\$148,000</b>	Coordinated Assessment- SHCA	SSO- CA	\$ 148,000
	<b>\$330,000</b>	CC HF Buder Haven/The Marilee CoC 2015	PSH	\$ 332,649
	<b>\$210,000</b>	Rapid Re-Housing for Households without Children	RRH/ single	\$ 213,720
	<b>\$21,861</b>	WA-125 Transitions Women's Hearth	SSO	\$ 21,861
	<b>\$22,555</b>	WA-127 VOA Crosswalk	SSO	\$ 22,555
	<b>\$104,493</b>	City of Spokane Planning	planning	\$ 104,493
Tier 1 Total				\$ 3,086,783
<b>Tier 2</b>	<b>\$312,457</b>	Rapid Re-Housing Households with Children 2015	RRH/Families	\$ 315,853.00
	<b>\$269,640</b>	WA-111 VOA- Permanent Supportive Housing	PSH	\$ 274,584.00
	<b>\$143,136</b>	WA-248- Catholic Charities /YWCA Family PSH	PSH	\$ 145,327.00
	<b>\$85,856</b>	WA-123- Transitions / Miryam's House	TH	Not funded
	<b>\$92,732</b>	WA-265 Transitions - Family PSH	PSH	Not funded
	<b>\$104,994</b>	WA-124- Transitions / Transitional Living Center	TH	Not funded
	<b>\$42,367</b>	WA1133 YWCA TH Project	TH	Not funded
Tier 2 Total				\$ 735,764.00
<b>Total Funding Tier 1 and Tier 2</b>				<b>\$ 3,822,547.00</b>



**Agenda Sheet for City Council Meeting of:**  
06/06/2016

<b>Date Rec'd</b>	5/18/2016
<b>Clerk's File #</b>	ORD C35399
<b>Renews #</b>	
<b>Cross Ref #</b>	
<b>Project #</b>	
<b>Bid #</b>	
<b>Requisition #</b>	

<b>Submitting Dept</b>	FIRE
<b>Contact Name/Phone</b>	DAVID KOKOT 625-7056
<b>Contact E-Mail</b>	DKOKOT@SPOKANECITY.ORG
<b>Agenda Item Type</b>	First Reading Ordinance
<b>Agenda Item Name</b>	1970 - CRITICAL MATERIALS CODE UPDATE

**Agenda Wording**

AN ORDINANCE relating to critical materials; See attached for affected sections

**Summary (Background)**

These sections of the Municipal Code address underground tanks, aboveground tanks, and general critical material storage and maintenance for protection of the aquifer. The Code reviewed on a regular basis and revised to accommodate current acceptable practices regarding the protection of the aquifer. The revisions provide for simplified language, removal of duplicate references, reduces the affected area, and simplifies critical material list submissions.

<b><u>Fiscal Impact</u></b>		<b><u>Budget Account</u></b>	
Neutral	\$	#	
Select	\$	#	
Select	\$	#	
Select	\$	#	
<b><u>Approvals</u></b>		<b><u>Council Notifications</u></b>	
<b><u>Dept Head</u></b>	WILLIAMS, BOBBY	<b><u>Study Session</u></b>	11/5/15
<b><u>Division Director</u></b>	WILLIAMS, BOBBY	<b><u>Other</u></b>	P&ED 5/16/16, PLAN COM
<b><u>Finance</u></b>	KECK, KATHLEEN	<b><u>Distribution List</u></b>	
<b><u>Legal</u></b>	RICHMAN, JAMES	dkegley@spokanecity.org	
<b><u>For the Mayor</u></b>	WHITNEY, TYLER	lkey@spokanecity.org	
<b><u>Additional Approvals</u></b>		bwilliams@spokanecity.org	
<b><u>Purchasing</u></b>		dbisenius@spokanecity.org	
		dgreenlund@spokanecity.org	
		jrichman@spokanecity.org	
		mmiller@spokanecity.org	

## ORDINANCE NO. C35399

AN ORDINANCE relating to critical materials; amending SMC sections 17A.020.030, 17A.020.160, 17E.010.010, 17E.010.040, 17E.010.050, 17E.010.060, 17E.010.090, 17E.010.095, 17E.010.120, 17E.010.140, 17E.010.150, 17E.010.190, 17E.010.200, 17E.010.210, 17E.010.220, 17E.010.230, 17E.010.270, 17E.010.290, 17E.010.300, 17E.010.320, 17E.010.340, 17E.010.400, 17E.010.410, 17E.010.420, 17E.010.430, 17E.010.440, 17E.010.470, 17E.010.490, 17E.010.510, 17E.010.530, 17E.010.560, and 17G.010.150; and repealing SMC sections 17E.010.250, 17E.010.310, 17E.010.330, 17E.010.450, 17E.010.500, and 17E.010.520.

The City of Spokane does ordain:

Section 1. That SMC section 17A.020.030 is amended to read as follows:

### **Section 17A.020.030 “C” Definitions**

- A.           Candidate Species.  
A species of fish or wildlife, which is being reviewed, for possible classification as threatened or endangered.
- B.           Carport.  
A carport is a garage not entirely enclosed on all sides by sight-obscuring walls and/or doors.
- C.           Cellular Telecommunications Facility.  
They consist of the equipment and structures involved in receiving telecommunication or radio signals from mobile radio communications sources and transmitting those signals to a central switching computer that connects the mobile unit with the land-based telephone lines.
- D.           Central Business District.  
The general phrase “central business district” refers to the area designated on the comprehensive plan as the “downtown” and includes all of the area encompassed by all of the downtown zoning categories combined.
- E.           Certificate of Appropriateness.  
Written authorization issued by the commission or its designee permitting an alteration or significant change to the controlled features of a landmark or landmark site after its nomination has been approved by the commission.
- F.           Certificate of Capacity.  
A document issued by the planning services department indicating the quantity of capacity for each concurrency facility that has been reserved

for a specific development project on a specific property. The document may have conditions and an expiration date associated with it.

G. Certified Erosion and Sediment Control Lead (CESCL).  
An individual who is knowledgeable in the principles and practices of erosion and sediment control. The CESCL shall have the skills to assess the:

1. site conditions and construction activities that could impact the quality of stormwater, and
2. effectiveness of erosion and sediment control measures used to control the quality of stormwater discharges.

The CESCL shall have current certification through an approved erosion and sediment control training program that meets the minimum training standards established by the Washington State department of ecology.

H. Change of Use.  
For purposes of modification of a preliminary plat, “change of use” shall mean a change in the proposed use of lots (e.g., residential to commercial).

I. Channel Migration Zone (CMZ).  
A corridor of variable width that includes the current river plus adjacent area through which the channel has migrated or is likely to migrate within a given timeframe, usually one hundred years.

J. Channelization.  
The straightening, relocation, deepening, or lining of stream channels, including construction of continuous revetments or levees for the purpose of preventing gradual, natural meander progression.

K. City.  
The City of Spokane, Washington.

L. Clear Street Width.  
The width of a street from curb to curb minus the width of on-street parking lanes.

M. Clear Pedestrian Zone  
Area reserved for pedestrian traffic; typically included herein as a portion of overall sidewalk width to be kept clear of obstructions to foot traffic.

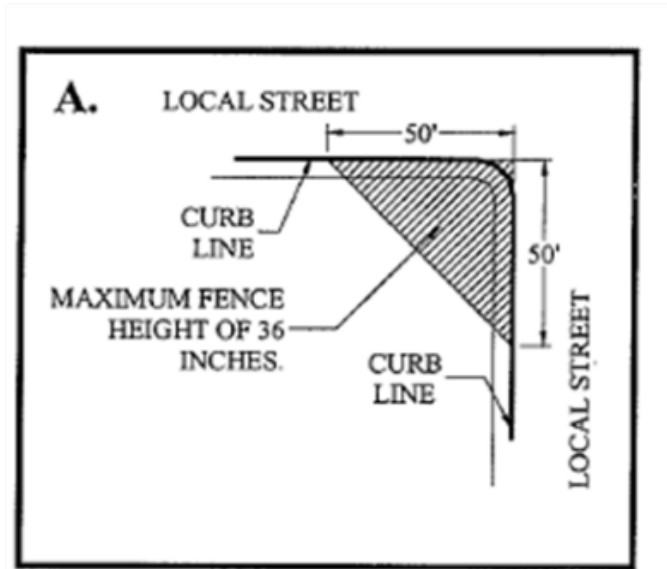


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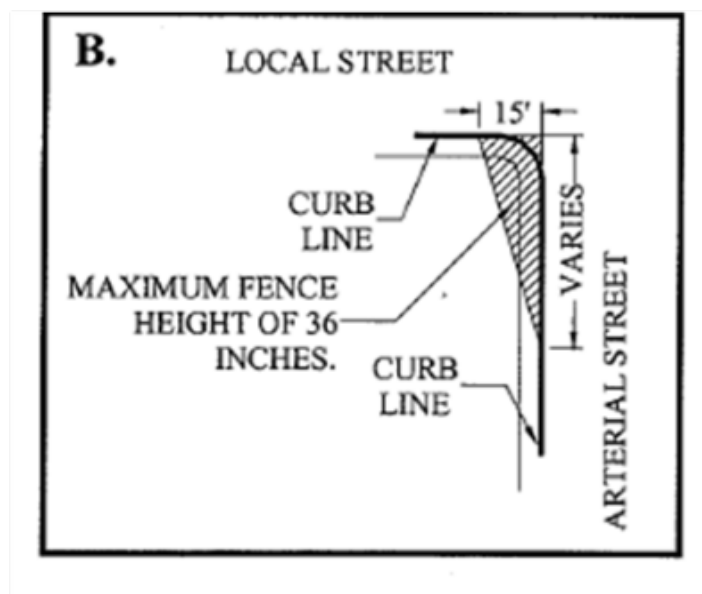
### Clear View Triangle

A clear view maintained within a triangular space at the corner of a lot so that it does not obstruct the view of travelers upon the streets.

1. A right isosceles triangle having sides of fifty feet measured along the curb line of each intersecting residential street; or

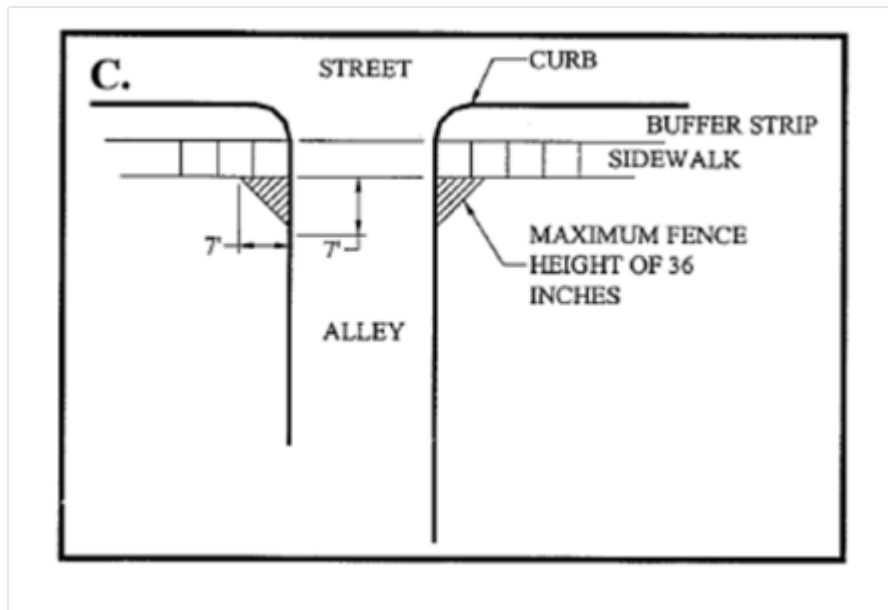


2. A right triangle having a fifteen-foot side measured along the curb line of the residential street and a seventy-five foot side along the curb line of the intersecting arterial street, except that when the arterial street has a speed limit of thirty-five miles per hour, the triangle has a side along such arterial of one hundred twenty-two feet; or



A right isosceles triangle having sides of seven feet measured along the right-of-way line of an alley and:

- a. the inside line of the sidewalk; or
- b. if there is no sidewalk, a line seven feet inside the curb line.



- O. Clear Zone.  
An unobstructed, relatively flat area provided beyond the edge of the traveled way for the recovery of errant vehicles.
- P. Clearing.  
The removal of vegetation or plant cover by manual, chemical, or mechanical means. Clearing includes, but is not limited to, actions such as cutting, felling, thinning, flooding, killing, poisoning, girdling, uprooting, or burning.
- Q. Cliffs.
  - 1. A type of habitat in the Washington department of fish and wildlife (WDFW) priority habitat and species system that is considered a priority due to its limited availability, unique species usage, and significance as breeding habitat. Cliffs are greater than twenty-five feet high and below five thousand feet elevation.
  - 2. A "cliff" is a steep slope of earth materials, or near vertical rock exposure. Cliffs are categorized as erosion landforms due to the

processes of erosion and weathering that produce them. Structural cliffs may form as the result of fault displacement or the resistance of a cap rock to uniform downcutting. Erosional cliffs form along shorelines or valley walls where the most extensive erosion takes place at the base of the slope.

- R.        Closed Record Appeal Hearing.  
A hearing, conducted by a single hearing body or officer authorized to conduct such hearings, that relies on the existing record created during a quasi-judicial hearing on the application. No new testimony or submission of new evidence and information is allowed.
- S.        Collector Arterial.  
A relatively low speed street serving an individual neighborhood.
1. Collector arterials are typically two-lane roads with on-street parking.
  2. Their function is to collect and distribute traffic from local access streets to principal and minor arterials.
- T.        Co-location.  
Is the locating of wireless communications equipment from more than one provider on one structure at one site.
- U.        Colony.  
A hive and its equipment and appurtenances, including one queen, bees, comb, honey, pollen, and brood.
- V.        Commercial Driveway.  
Any driveway access to a public street other than one serving a single-family or duplex residence on a single lot.
- W.        Commercial Vehicle.  
Any vehicle the principal use of which is the transportation of commodities, merchandise, produce, freight, animals, or passengers for hire.
- X.        Commission – Historic Landmarks.  
The City/County historic landmarks commission.
- Y.        Community Banner.  
A temporary banner made of sturdy cloth or vinyl that is not commercial advertising that has the purpose of the promotion of a civic event, public service announcement, holiday decorations, or similar community and cultural interests and is placed on a structure located in the public right-of-way, subject to procedures authorized by city administrator.

Z. Community Meeting.  
An informal meeting, workshop, or other public meeting to obtain comments from the public or other agencies on a proposed project permit prior to the submission of an application.

1. A community meeting is between an applicant and owners, residents of property in the immediate vicinity of the site of a proposed project, the public, and any registered neighborhood organization or community council responsible for the geographic area containing the site of the proposal, conducted prior to the submission of an application to the City of Spokane.
2. A community meeting does not constitute an open record hearing.
3. The proceedings at a community meeting may be recorded and a report or recommendation shall be included in the permit application file.

AA. Compensatory Mitigation.  
Replacing project-induced wetland losses or impacts, and includes, but is not limited to, the following:

1. Restoration.  
The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former or degraded wetland. For the purpose of tracking net gains in wetland acres, restoration is divided into re-establishment and rehabilitation.
2. Re-establishment.  
The manipulation of the physical, chemical, or biological characteristics of a site with the goal of returning natural or historic functions to a former wetland. Re-establishment results in a gain in wetland acres (and functions). Activities could include removing fill material, plugging ditches, or breaking drain tiles.
3. Rehabilitation.  
The manipulation of the physical, chemical, or biological characteristics of a site with the goal of repairing natural or historic functions of a degraded wetland. Rehabilitation results in a gain in wetland function but does not result in a gain in wetland acres. Activities could involve breaching a dike to reconnect wetlands to a floodplain or return tidal influence to a wetland.
4. Creation (Establishment).  
The manipulations of the physical, chemical, or biological

characteristics present to develop a wetland on an upland or deepwater site where a wetland did not previously exist. Establishment results in a gain in wetland acres. Activities typically involve excavation of upland soils to elevations that will produce a wetland hydroperiod, create hydric soils, and support the growth of hydrophytic plant species.

5. Enhancement.

The manipulation of the physical, chemical, or biological characteristics of a wetland site to heighten, intensify, or improve specific function(s) or to change the growth stage or composition of the vegetation present. Enhancement is undertaken for specified purposes such as water quality improvement, flood water retention, or wildlife habitat. Enhancement results in a change in some wetland functions and can lead to a decline in other wetland functions, but does not result in a gain in wetland acres. Activities typically consist of planting vegetation, controlling non-native or invasive species, modifying site elevations or the proportion of open water to influence hydroperiods, or some combination of these activities.

6. Protection/Maintenance (Preservation).

Removing a threat to, or preventing the decline of, wetland conditions by an action in or near a wetland. This includes the purchase of land or easements, repairing water control structures or fences or structural protection such as repairing a barrier island. This term also includes activities commonly associated with the term preservation. Preservation does not result in a gain of wetland acres, may result in a gain in functions, and will be used only in exceptional circumstances.

AB. Comprehensive Plan.

The City of Spokane comprehensive plan, a document adopted pursuant to chapter 36.70A RCW providing land use designations, goals and policies regarding land use, housing, capital facilities, housing, transportation, and utilities.

AC. Conceptual Landscape Plan.

A scale drawing showing the same information as a general site plan plus the location, type, size, and width of landscape areas as required by the provisions of chapter 17C.200 SMC.

1. The type of landscaping, L1, L2, or L3, is required to be labeled.
2. It is not a requirement to designate the scientific name of plant materials on the conceptual landscape plan.

- AD.           Concurrency Certificate.  
A certificate or letter from a department or agency that is responsible for a determination of the adequacy of facilities to serve a proposed development, pursuant to chapter 17D.010 SMC, Concurrency Certification.
- AE.           Concurrency Facilities.  
Facilities for which concurrency is required in accordance with the provisions of this chapter. They are:
1. transportation,
  2. public water,
  3. fire protection,
  4. police protection,
  5. parks and recreation,
  6. libraries,
  7. solid waste disposal and recycling,
  8. schools, and
  9. public wastewater (sewer and stormwater).
- AF.           Concurrency Test.  
The comparison of an applicant's impact on concurrency facilities to the available capacity for public water, public wastewater (sewer and stormwater), solid waste disposal and recycling, and planned capacity for transportation, fire protection, police protection, schools, parks and recreation, and libraries as required in SMC 17D.010.020.
- AG.           Conditional Use Permit.  
A "conditional use permit" and a "special permit" are the same type of permit application for purposes of administration of this title.
- AH.           Condominium.  
Real property, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real property is not a condominium unless the undivided interests in the common elements are vested in unit owners, and unless a declaration and a survey map and plans have been recorded pursuant to chapter 64.34 RCW.

- AI. Confidential Shelter.  
Shelters for victims of domestic violence, as defined and regulated in chapter 70.123 RCW and WAC 248-554. Such facilities are characterized by a need for confidentiality.
- AJ. Congregate Residence.  
A dwelling unit in which rooms or lodging, with or without meals, are provided for nine or more non-transient persons not constituting a single household, excluding single-family residences for which special or reasonable accommodation has been granted.
- AK. Conservancy Environments.  
Those areas designated as the most environmentally sensitive and requiring the most protection in the current shoreline master program or as hereafter amended.
- AL. Container.  
Any vessel of sixty gallons or less in capacity used for transporting or storing critical materials.
- AM. Context Areas  
Established by the Regulating Plan, Context Area designations describe and direct differing functions and features for areas within FBC limits, implementing community goals for the built environment.
- AN. Conveyance.  
In the context of chapter 17D.090 SMC or chapter 17D.060 SMC, this term means a mechanism for transporting water from one point to another, including pipes, ditches, and channels.
- AO. Conveyance System.  
In the context of chapter 17D.090 SMC or chapter 17D.060 SMC, this term means the drainage facilities and features, both natural and constructed, which collect, contain and provide for the flow of surface and stormwater from the highest points on the land down to receiving water. The natural elements of the conveyance system include swales and small drainage courses, streams, rivers, lakes, and wetlands. The constructed elements of the conveyance system include gutters, ditches, pipes, channels, and most flow control and water quality treatment facilities.
- AP. Copy.  
Letters, characters, illustrations, logos, graphics, symbols, writing, or any combination thereof designed to communicate information of any kind, or to advertise, announce or identify a person, entity, business, business product, or to advertise the sale, rental, or lease of premises

- AQ. Cottage Housing.
1. A grouping of individual structures where each structure contains one dwelling unit.
  2. The land underneath the structures is not divided into separate lots.
  3. A cottage housing development may contain no less than six and no more than twelve individual structures in addition to detached accessory buildings for storing vehicles. It may also include a community building, garden shed, or other facility for use of the residents.
- AR. Council.  
The city council of the City of Spokane.
- AS. County.  
Usually capitalized, means the entity of local government or, usually not capitalized, means the geographic area of the county, not including the territory of incorporated cities and towns.
- AT. Covenants, Conditions, and Restrictions (CC&Rs).  
A document setting forth the covenants, conditions, and restrictions applicable to a development, recorded with the Spokane County auditor and, typically, enforced by a property owner's association or other legal entity.
- AU. Creep.  
Slow, downslope movement of the layer of loose rock and soil resting on bedrock due to gravity.
- AV. Critical Amount.  
The quantity component of the definition of critical material.
- AW. Critical Aquifer Recharge Areas (CARA).  
Critical aquifer recharge areas (CARA) include locally identified aquifer sensitive areas (ASA) and wellhead protection areas.
- ~~((AW))~~AX. Critical Areas.  
Any areas of frequent flooding, geologic hazard, fish and wildlife habitat, aquifer sensitive areas, or wetlands as defined under chapter 17E.010 SMC, chapter 17E.020 SMC, chapter 17E.030 SMC, chapter 17E.040 SMC, and chapter 17E.070.SMC.



~~((AX))~~AY. Critical Facility.  
A facility for which even a slight chance of flooding might be too great.  
Critical facilities include, but are not limited to:

1. schools;
2. nursing homes;
3. hospitals;
4. police;
5. fire;
6. emergency response installations; and
7. installations which produce, use, or store hazardous materials or hazardous waste.

~~((AY))~~AZ. Critical Material.

1. A compound or substance, or class thereof, designated by the division director of public works and utilities which, by intentional or accidental release into the aquifer or ASA, could result in the impairment of one or more of the beneficial uses of aquifer water and/or impair aquifer water quality indicator levels. Beneficial uses include, but are not limited to:  
domestic and industrial water supply,
  - a. domestic and industrial water supply,
  - b. agricultural irrigation,
  - c. stock water, and
  - d. fish propagation.

Used herein, the designation is distinguished from state or other designation.

2. A list of critical materials is contained in the Critical Materials Handbook, including any City modifications thereto.

~~((AZ))~~BA. Critical Material Activity.  
A land use or other activity designated by the manager of engineering services as involving or likely to involve critical materials.

A list of critical materials activities is contained in the Critical Materials Handbook.

~~((BA))~~BB.

Critical Materials Handbook.

The latest edition of a publication as approved and amended by the division director of public works and utilities from time to time to accomplish the purposes of this chapter.

1. The handbook is based on the original prepared by the Spokane water quality management program ("208") coordination office, with the assistance of its technical advisory committee. It is on file with the director of engineering services and available for public inspection and purchase.
2. The handbook, as approved and modified by the division director of public works and utilities, contains:
  - a. a critical materials list,
  - b. a critical materials activities list, and
  - c. other technical specifications and information.
3. The handbook is incorporated herein by reference. Its provisions are deemed regulations authorized hereunder and a mandatory part of this chapter.

~~((BB))~~BC.

Critical Review.

The process of evaluating a land use permit request or other activity to determine whether critical materials or critical materials activities are involved and, if so, to determine what appropriate measures should be required for protection of the aquifer and/or implementation of the Spokane aquifer water quality management plan.

~~((BG))~~BD.

Critical Review Action.

1. An action by a municipal official or body upon an application as follows:
  - a. Application for a building permit where plans and specifications are required, except for Group R and M occupancies (SMC 17G.010.140 and SMC 17G.010.150).
  - b. Application for a shoreline substantial development permit (SMC 17G.060.070(B)(1)).
  - c. Application for a certificate of occupancy (SMC 17G.010.170).

- d. Application for a variance or a certificate of compliance (SMC 17G.060.070(A) or SMC 17G.060.070(B)(1)).
  - e. Application for rezoning (SMC 17G.060.070(A)).
  - f. Application for conditional permit (SMC 17G.060.070(A)).
  - g. Application for a business license (SMC 8.01.120).
  - h. Application for a permit under the Fire Code (SMC 17F.080.060).
  - i. Application for a permit or approval requiring environmental review in an environmentally sensitive area (SMC 17E.050.260).
  - j. Application for connection to the City sewer or water system.
  - k. Application for construction or continuing use of an onsite sewage disposal system (SMC 13.03.0149 and SMC 13.03.0304).
  - l. Application for sewer service with non-conforming or non-standard sewage (SMC 13.03.0145, SMC 13.03.0314, and SMC 13.03.0324).
  - m. Application involving a project identified in SMC 17E.010.120.
  - n. Issuance or renewal of franchise; franchisee use of cathodic protection also requires approval or a franchise affecting the City water supply or water system.
  - o. Application for an underground storage tank permit (SMC 17E.010.210); and
  - p. Application for permit to install or retrofit aboveground storage tank(s) (SMC 17E.010.060(A) and SMC 17E.010.400(D)).
2. Where a particular municipal action is requested involving a land use installation or other activity, and where said action is not specified as a critical review action, the City official or body responsible for approval may, considering the objectives of this chapter, designate such as a critical review action and condition its approval upon compliance with the result thereof.

~~((BD))~~BE. Critical Review Applicant.  
A person or entity seeking a critical review action.

~~((BE))~~BF. Critical Review Officer – Authority.

1. The building official or other official designated by the director of public works and utilities.
2. For matters relating to the fire code, the critical review officer is the fire official.
3. The critical review officer carries out and enforces the provisions of this chapter and may issue administrative and interpretive rulings.
4. The critical review officer imposes requirements based upon this chapter, regulations, and the critical materials handbook.
5. The officer may adopt or add to any requirement or grant specific exemptions, where deemed reasonably necessary, considering the purpose of this chapter

~~((BF))~~BG. Critical Review Statement.

A checklist, disclosure form, or part of an application for a critical review action, disclosing the result of critical review. Where not otherwise provided as part of the application process, the critical review officer may provide forms and a time and place to file the statement.

~~((BG))~~BH. Cumulative Impacts.

The combined, incremental effects of human activity on ecological or critical area functions and values. Cumulative impacts result when the effects of an action are added to or interact with other effects in a particular place and within a particular time. It is the combination of these effects, and any resulting environmental degradation, that should be the focus of cumulative impact analysis and changes to policies and permitting decisions.

~~((BH))~~BI. Curb Ramp.

A ramp constructed in the sidewalk to allow wheelchair access from the sidewalk to the street.

~~((BI))~~BJ. Cutbank.

The concave bank of a moving body of water that is maintained as a steep or even overhanging cliff by the actions of water at its base.

Section 2. That SMC section 17A.020.160 is amended to read as follows:

### **Section 17A.020.160 “P” Definitions**

- A. Painted Wall Highlights.  
Painted areas that highlight a building's architectural or structural features and that do not convey a message or image.
- B. Painted Wall Sign.  
A sign applied to a building wall with paint or a thin layer of vinyl, paper, or similar material adhered directly to the building surface and that has no sign structure.
- C. Parcel.  
See "Lot" (SMC 17A.020.120).
- D. Parkway.  
1. A street serving as a principal, minor, or collector arterial, typically with recreational or scenic opportunities.  
2. Parkways will often have landscaped medians.
- E. Party of Record.  
Any person who has appeared at a hearing of the hearing examiner by presenting testimony or making written comment.
- F. Paved Area.  
1. An uncovered, hard-surfaced area or an area covered with a perforated hard surface (such as "Grasscrete") that is able to withstand vehicular traffic or other heavy-impact uses.  
2. Graveled areas are not paved areas.
- G. Pedestrian Buffer Strips (PBS).  
A hard-surfaced or planted area(s) between travel or parking lanes and sidewalks, also called planting strips. PBS improves safety by separating vehicles and pedestrians and provide space for drainage, street trees and snow storage.
- H. Pedestrian Path  
A continuous, unobstructed, reasonably direct route between an on-site parking lot and a Primary Building Entry designed and suitable for pedestrian use. Minimum requirements for Pedestrian Paths are listed in Section 17C.123.040 of the FBC.
- I. Pedestrian-Scaled Fixtures (lighting)  
Pole-mounted light fixtures placed and designed to illuminate foot-traffic areas including exterior lots, pathways or sidewalks. For purposes of the

HFBC, Pedestrian-Scaled Fixtures are defined by height as measured from ground to bottom of shade or bulb.

- J. Pedestrian-Scaled Signs  
Permanent, first-floor, exterior signs designed and placed to address pedestrian traffic; may be mounted flush with or projecting from a column, building wall, awning or transom.
- K. Pedestrian Street.
  - 1. A street designated on the official zoning map as a pedestrian street where development standards are required to promote a pedestrian friendly street. Pedestrian streets offer a pleasant and safe walking environment.  
Design features include minimal interruptions of the sidewalk by driveways, publicly usable site furnishing such as benches, tables, and bike racks, and visually interesting buildings close to the sidewalk.
- L. Performance Guarantee.  
A “financial guarantee” providing for and securing to the City the actual construction and installation of the required improvements.
- M. Performance/Warranty Retainer.  
A “financial guarantee” both providing for and securing to the City the actual construction and installation of such improvements, and securing to the City the successful operation of the improvements for two years after the City’s final inspection and acceptance of the improvements.
- N. Permanent Erosion and Sediment Control Measures.  
A combination of plants, mulch, sod, matting, erosion control blankets, and permanent structures that will provide long-term soil stabilization.
- O. Permanent Sign.  
Any sign not classified as a temporary sign.
- P. Permanent Stabilization.  
See Permanent Erosion and Sediment Control Measures.
- Q. Permeable Sediment.  
Sediment permitting the flow of water.
- R. Person.  
Any natural person, whether acting individually or in a representative capacity, partnership, joint venture, corporation, or other legal entity.

- S. Pier.  
Any platform structure, fill, or anchored device in or floating upon water bodies to provide moorage for watercraft engaged in commerce, including, but not limited to, wharves, mono-buoys, quays, ferry terminals, and fish weighing station.
- T. Pitched Roof Sign.  
A sign attached to a roof with a pitch of one-to-four or greater and placed parallel to the building wall.
- U. Planned Capacity.  
For all capital facilities, except transportation, capacity for a concurrency facility that does not exist, but for which the necessary facility construction, expansion, or modification project is contained in the current adopted City of Spokane comprehensive plan, capital improvement program and scheduled to be completed within six years. (RCW 36.70A.020).
- V. Planned Capacity for Transportation Facilities.  
Capacity for transportation facilities, including roads and transit, that does not exist, but where transportation improvements or strategies to accommodate the impacts of development are made concurrent with the development.
1. These strategies may include:
    - a. increased public transportation service,
    - b. ride sharing programs,
    - c. demand management, and
    - d. other transportation systems management strategies.
  2. For transportation facilities, “concurrent with the development” shall mean that improvements or strategies are in place at the time of development, or that a financial commitment is in place to complete the improvements or strategies within six years (RCW 36.70A.070(6)(b)).
- W. Planned Unit Development (PUD).
1. A planned unit development is a project permit for an overlay zone, approved by the hearing examiner, which does not fully comply with all of the development standards of the base zone in which it is located, but is approved based on superior or innovative design.

2. The City may permit a variety of types, design, and arrangement of structures and enable the coordination of project characteristics with features of a particular site in a manner consistent with the public health, safety, and welfare.

X. Plans.  
Planning documents, which are developed by the various departments of the City, pertaining to the orderly development of public facilities.

Y. Planting Zone  
Area for street trees, ground cover or other plantings; typically included herein as a portion of overall sidewalk width reserved for locating permanent trees and tree grates.

Z. Plat – Final.  
A map or representation of a subdivision, showing thereon the division of a tract or parcel of land into lots, blocks, streets, alleys, or other divisions and dedications and containing all elements and requirements set forth in this chapter and chapter 58.17 RCW.

AA. Plat – Preliminary.  

1. A neat and approximate drawing of a proposed subdivision showing the general layout of streets, alleys, lots, blocks, and other elements of a subdivision required by this chapter and chapter 58.17 RCW.
2. The preliminary plat shall be the basis for the approval or disapproval of the general layout of a subdivision.

AB. Plaza.  

1. Areas generally open to the public on a controlled basis and used for passive recreational activities and relaxation.
2. Plazas are paved areas typically provided with amenities, such as seating, drinking, and ornamental fountains, art, trees, and landscaping, for use by pedestrians.

AC. Plinth  
The base or platform upon which a building wall or column appears to rest, helping establish pedestrian-scaled elements and aesthetically tying the building to the ground.

AD. Pollutant.  
Any substance which is prohibited or limited by applicable laws or regulations, which is released or discharged in conjunction with



development. Any substance that causes or contributes to violation of air, land, or water quality standards, released or discharged.

- AE. Pollution.  
Contamination, or other alteration of the physical, chemical, or biological properties of air, land, water or wetlands, or such discharge of any liquid, gaseous, solid, radioactive, or other substance into air, land, water, or wetlands as will or is likely to cause a nuisance or render such air, land, water, or wetlands harmful, detrimental, or injurious to the public health, safety, or welfare, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wildlife, fish, native vegetation, or other aquatic life.
- AF. Potential Geologically Hazardous Areas.  
Areas designated on maps maintained in the City's planning services department. They are classified "potential" because they have not been confirmed by field investigation nor do they necessarily include the full extent of all geologically hazardous areas within the City. The maps are intended to alert property owners, purchasers, developers, etc., to the possible existence of significant geological hazards, which may warrant further geotechnical study.
- AG. Practicable Alternative.  
An alternative that is available and capable of being carried out after taking into consideration cost, existing technology, and logistics in light of overall project purposes and having less impact to critical areas. It may involve using an alternative site in the general region that is available to the applicant and may feasibly be used to accomplish the project.
- AH. Predevelopment Meetings.  
Meetings between City or agency staff and an applicant or their representatives prior to formal submission of a detailed application. They are intended to provide an overview of the regulatory requirements, application process, and procedural submission requirements.
- AI. Principal Buildings  
Where multiple buildings occupy a single lot, those buildings that are associated with the prevailing use of that site.
- AJ. Primary Building Entry  
Access or entrance of first rank, importance or value, visually associated with the prevailing ground-floor use of a building.
- AK. Primary Building Walls.  
Any exterior building wall that faces a street and contains a public entrance to the occupant's premises or tenant space. If an individual

tenant space does not have a street facing wall, or does not have a street facing wall containing a public entrance, then the primary building wall for that individual tenant space is any wall containing a public entrance that faces a parking area on the site. (See Figure 1, SMC 17C.240.130, Primary Building Walls)

- AL. Primary Container.  
The container that is in direct contact with the material of concern during the course of normal transport, use, or storage.
- AM. Primary Drainage Basin.  
The basin of the stream or tributary within which a project is proposed, not including basins of major tributaries. For the purpose of this regulation the primary drainage basin of:
1. Latah Creek is not a part of the primary drainage basin of the Spokane River,
  2. Marshall Creek is not a part of the primary drainage basin of Latah Creek.
- AN. Primary Structure.
1. A structure or combination of structures of chief importance or function on a site. In general, the primary use of the site is carried out in a primary structure.
  2. The difference between a primary and accessory structure is determined by comparing the size, placement, similarity of design, use of common building materials, and the orientation of the structures on a site.
- AO. Primary Use.
1. An activity or combination of activities of chief importance on the site. One of the main purposes for which the land or structures are intended, designed or ordinarily used.
  2. A site may have more than one primary use.
- AP. Principal Arterials.  
A four- to six-lane street serving as a primary facility for access between the central business district, major employment districts, and major shopping centers.

- AQ. **Priority Habitats.**  
Habitat areas determined by WDFW to have unique or significant value to many species and that meet one or more of the following criteria:
1. High wildlife density.
  2. High species diversity.
  3. Important wildlife breeding habitat.
  4. Important wildlife seasonal ranges.
  3. Important movement corridors.
  4. Limited availability.
  5. High vulnerability to habitat alteration.
- AR. **Priority Species.**  
A wildlife species requiring protective measures for their perpetuation due to their population status, their sensitivity to habitat alteration, and/or their recreational importance.
- AS. **Private Street.**  
Roadway which is not controlled or maintained by a public authority, and which serve two or more properties.
- AT. **Project Permit or Project Permit Application.**  
Any land use or environmental permit or license required for a project action, including, but not limited to, building permits, short plats, subdivisions, binding site plans, planned unit developments, conditional uses, shoreline substantial development permits, site plan review, permits, or approvals required by the critical area ordinance, and 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 identified under RCW 36.70B.140.
- AU. **Projecting Sign.**  
A sign attached to and projecting out from a building face or wall, generally at right angles to the building. Projecting signs include signs that are totally in the right-of-way, partially in the right-of-way, or fully on private property.
- AV. **Protected Species.**  
A general classification of animals by WDFW that includes all those

species not classified as listed, game, fur-bearing, or non-protected. This also includes all birds not classified as game or non-protected.

- AW. Proximity.  
That two or more properties are either adjacent or separated by a street or alley.
- AX. Public Access.  
The public's right to get to and use the City's public waters, the water/land interface and associated shoreline area. It includes physical access that is either lateral (areas paralleling the shore) or perpendicular (an easement or public corridor to the shore), and/or visual access facilitated by means such as scenic streets and overlooks, viewing towers, and other public sites or facilities.
- AY. Public Facilities.  
Any City-owned, operated, or contracted public facility or service in whole, or in part, whether existing or planned, including, but not limited to:
1. parks,
  2. recreation facilities,
  3. playgrounds,
  4. streets,
  5. transportation facilities,
  6. open spaces,
  7. fire facilities,
  8. storm water drainage ponds, and
  9. all such appurtenances and improvements.
- AZ. Public Property.  
Any City-owned real property, air space, or other interest in real estate, including streets, alleys, or other public rights-of-way, owned by or controlled by this municipality or any other governmental unit.
- BA. Public Way.
1. A dedicated "public way" is a tract of land:

- a. conveyed or reserved by deed,
- b. dedicated by plat, or
- c. acquired by decree of court,

which has been accepted and dedicated by action of the city council to the public right-of-way and for secondary use as an easement for public utilities.

- 2. An "alley" is a public way, usually not exceeding sixteen feet in width, designed or intended to provide secondary access to abutting properties.

Section 3. That SMC section 17E.010.010 is amended to read as follows:

### **Section 17E.010.010 Title, Purpose and Applicability**

- A. This chapter shall be known and may be cited as the "Aquifer Recharge Area Protection Code."
- B. ~~((This chapter is based on and implements the City of Spokane comprehensive plan and shoreline master program, as amended from time to time.))~~The purpose of this chapter is to protect the public health, safety and welfare by providing protection for environmentally sensitive areas and their functions and values, and by preserving and protecting critical aquifer recharge areas through the regulation of development and other activities in critical aquifer recharge areas, and not to create or otherwise establish or designate any particular person, or class, or group of persons who will or should be especially protected or assisted by the terms or provisions of this chapter. It is expressly the purpose of this ordinance to protect the health, safety and welfare of the general public through protection of local groundwater resources and the public drinking water supply. It is further a general purpose to halt and reverse continued degradation of the Spokane aquifer, to improve the quality of the aquifer, to restrict or prohibit adverse land uses and other practices tending to degrade or negatively affect the purity and quality of the aquifer. It is also directed towards the purposes expressed in SMC 17A.010.020, with special emphasis upon the protection of the Spokane aquifer through implementation of the Spokane Aquifer Water Quality Management Plan.
- C. The requirements of this chapter apply to all activities and development occurring in critical aquifer recharge areas, as defined in this chapter. Critical aquifer recharge areas (CARA) include locally identified aquifer sensitive areas (ASA) and wellhead protection areas. All areas within the City meeting the definition of a critical aquifer recharge area, regardless of

any formal identification, are hereby designated critical areas as regards the Spokane Aquifer and are subject to the provisions of this chapter. It is expressly the purpose of this ordinance ~~((to protect the health, safety and welfare of the general public through protection of local groundwater resources and the public drinking water supply. It is further a general purpose to halt and reverse continued degradation of the Spokane aquifer, to improve the quality of the aquifer, to restrict or prohibit adverse land uses and other practices tending to degrade or negatively affect the purity and quality of the aquifer, and))~~ to establish a regulatory program consistent with these purposes set forth above in section B, and the goals and policies of the City of Spokane comprehensive plan and shoreline master program or as amended.

D. This chapter provides for:

1. identification of substances designated “critical materials”, which, in specified amounts, could create a hazard to the Spokane aquifer, and activities associated with them, designated “critical materials activities”;
2. development of standards for the handling, use, storage and transportation of such substances and precautions attendant to such activities; and
3. establishment of appropriate disclosure, monitoring and control procedures;  
all as detailed in the Critical Materials Handbook, the Critical Materials List, and the Critical Materials Activities List.

E. It is not a purpose of this chapter to extend specific regulatory protection to any individual person or class of persons, and no duty shall be deemed created or implied to any individual, group or class by virtue of this chapter or any regulation, requirement, order, action or inaction of the City, its employees or agents.

F. Relationship to Other Regulations.

1. This chapter applies as an overlay to other laws, regulations and requirements, including, and in addition, but not limited to, zoning, land use standards, building standards and codes, stormwater management requirements, solid waste management requirements, wastewater management requirements, the shoreline management plan, critical area protection requirements, wellhead protection plans, and other regulations, presently in effect and as now adopted or hereafter amended from time to time.
2. Any area constituting a critical aquifer recharge area under this chapter that individual critical area adjoined by another type of critical area shall have the buffer and meet the requirements that provide the most

protection to the critical areas involved. When the provisions of this chapter vary from or are inconsistent with any other any provisions of the ordinance or any existing regulation, easement, covenant or deed restriction, conflicts with this chapter, the provision that at which provides the most protection to the critical area shall apply.

- 3 This chapter shall apply concurrently with review conducted under the State Environmental Policy Act (SEPA), as locally adopted, SMC 17E.050.020. Any conditions required pursuant to this chapter shall be included in the SEPA review and threshold determination.
- 4 ~~((The administrative procedures followed during the critical area review process shall conform to the standards and requirements of City development regulations. This shall include, but not be limited to, timing, appeals and fees associated with applications covered by this chapter.))~~ The City of Spokane is the authority having jurisdiction for critical material storage within the boundaries of the City. Depending on the circumstances and substances other local, State, and Federal regulations may also apply.

Section 4. That SMC section 17E.010.040 is amended to read as follows:

#### **Section 17E.010.040 Scope and Application**

- A. This chapter applies to ~~((all))~~ properties ~~((in the City))~~ and ~~((to all))~~ activities and uses thereon as identified in SMC ~~((17E.050.200))~~ 17E.010.010.C.
- B. This chapter imposes requirements upon critical review applicants, owners, occupants and managing agents, or affected premises, and upon other persons responsible for the presence or use of critical materials or pursuit of critical materials activities at a specific site or premises.
- C. Except where specifically otherwise stated here or ordered by the critical review officer, this chapter does not apply to installations or land uses existing before March of 1987. ~~((It is the intent to develop a regulatory program for required modification, replacement and/or monitoring of such existing installations and/or uses in March of 1987.))~~

Section 5. That SMC section 17E.010.050 is amended to read as follows:

#### **Section 17E.010.050 Critical Review – Requirements**

- A. Critical review and compliance with requirements established thereby are

required for all critical review actions. Where applicable and practical, the requirements for compliance can be waived by the critical review officer.

- B. The critical review officer may require such protective measures as are deemed necessary to prevent and/or contain spills, including draw-out pumping, automatic shutdown devices, monitoring and metering equipment and periodic testing or other inspections.
- C. Costs of compliance are the responsibility of the party or entity seeking the installation or remodeling.

Section 6. That SMC section 17E.010.060 is amended to read as follows:

#### **Section 17E.010.060 New Storage Systems – Tanks – Associated Piping**

~~((From and after March 10, 1986, n))~~ No new or replacement storage system, tank and/or associated piping for a petrochemical product or other critical material is permitted without a secondary containment system approved by the critical review officer. This provision does not apply to ordinary maintenance or repair activity.

Section 7. That SMC section 17E.010.090 is amended to read as follows:

#### **Section 17E.010.090 Enforcement Action ((Nuisance)) – Procedures**

- A. Upon reasonable cause, the critical review officer may give, by mail or other reasonable means, twenty days' written notice to the legal owner, occupant or person responsible for the management or in control of the affected premises, installation or activity thereon of intent to declare the same as a public nuisance hereunder, specifying the basis therefore, any proposed preventative or protective measures which might eliminate the proposed nuisance declaration, and requesting said party or parties to show cause on or before a date certain why a declaration of public nuisance should not be made, and advising of an opportunity to request a hearing on said question, together with a form to request the hearing.
- B. If a hearing is requested, the critical review officer gives notice to the requesting parties, and such other persons the officer deems appropriate, of a specified time, date and place.
- C. Upon hearing, or if none is requested after the expiration of the notice period, the critical review officer may proceed to issue a final order determining whether a public nuisance exists. The order may specify any preventative or protective measures which, if taken, would alleviate the nuisance and time for compliance. The order shall specify an opportunity to appeal the same to a hearings officer and procedures for appeal.



- D. The provisions of this section are not intended to prescribe an exclusive procedure and all procedures and powers in statute and at common law to abate a ~~((public))~~ nuisance are specifically reserved. Time periods and any other provisions herein may ~~((by))~~ be changed by the critical review officer in the interest of the public health and safety, considering the exigent circumstances and public convenience, health and safety.

Section 8. That SMC section 17E.010.095 is amended to read as follows:

### **Section 17E.010.095 Standards for Uses**

- A. When above-ground storage of critical materials is included in the design of any facility within the City boundaries or for the City, that facility shall be designed so that:
1. a secondary containment mechanism that will prevent any leak or spill from leaving the site/building or infiltrating into the ground below the site shall be included in the design.
    - a. Secondary containment shall be provided in areas of the facility where the critical materials are stored, used and along corridors where chemicals are moved within the facility.
    - b. The containment for the facility whether indoor or outdoor shall be capable of the largest of the following:
      - i. One hundred ten percent of the critical material volume.
      - ii. Given a number of small containers of critical materials: Three times the volume of the single largest container or ten percent of the total volume (whichever is greater) ~~((of critical materials where there are a number of small containers))~~.
      - iii. Given a building with fire sprinklers and critical materials: Twenty minutes of fire sprinklers plus the single largest container of critical material liquid or water soluble ~~((critical))~~ material~~((s when the building is provided with fire sprinklers))~~. Where allowed by wastewater management, drainage to building floor drains can be considered with the containment capacity.
      - iv. Outdoor facilities shall make provision as above for containing the required volume of critical material and precipitation that occurs during a storm event equivalent to that required for storm drainage design.
    - ~~((e)). ((Outdoor facilities shall make provision for containing the required volume of spill and precipitation that occurs during a~~

~~—storm event equivalent to that required for storm drainage design.))~~

2. secondary containment facilities should facilitate the proper clean up and disposal of spills or leaks.
  - a. No secondary containment facility shall be connected to any sanitary or storm sewer system, including drywells and swales, without approval from City Engineering services in coordination with wastewater management, and could include approved ((pre)) treatment and removal facilities appropriate to the substances maintained on site installed between the containment facility and the discharge.
  - b. A spill cleanup plan shall be developed to define proper procedures for maintaining and cleaning containment facilities and to identify proper disposal practices for any critical materials removed from the containment facilities.
3. permanent disposal of any waste containing critical materials shall not be allowed within the City of Spokane, except:
  - a. waste disposed of at a site approved as compliant with WAC 173-351 or similar applicable regulatory requirements by the Washington State department of ecology and permitted by the Spokane regional health district; and
  - b. any waste disposed as part of, and consistent with, a federal- or state-approved cleanup plan, where ~~((it also appears that))~~ the division director of public works and utilities has been given meaningful and actual individual ~~((written))~~ notice of the cleanup, proposed remedial action and an opportunity to comment and participate in such action.

Section 9. That SMC section 17E.010.120 is amended to read as follows:

**Section 17E.010.120 Other Activity Subject to Critical Review – Compliance with Chapter**

- A. Excavations, drillings, mining or other land use activities which expose or enhance exposure of the aquifer to access by surface runoff or spills are subject to such aquifer protection, drainage and dispersion measures as provided by but not limited to chapter 17C.320 SMC. Such regulations shall be reasonably related to the purposes, intents and objectives of this chapter, whether or not related to a specific critical material or critical material activity, so long as the general requirement and objective of aquifer protection is met.

- B. Any project or development affecting surface water drainage where such project involves creation or expansion of pollutant generating impervious surface must comply with the City's stormwater standards and manual as ~~((revised))~~ required.

Section 10. That SMC section 17E.010.140 is amended to read as follows:

#### **Section 17E.010.140 Appeals**

- A. Any written final order or decision issued pursuant to this chapter may be appealed to the hearing ~~((officer))~~ examiner by filing a copy of the order and notice of appeal with the hearing ~~((officer))~~ examiner within twenty days of date of mailing or delivery of the order or decision. Failure to reduce a final order or decision to writing does not affect its validity, but the appeal time is tolled until such is in writing and deposited for mailing or delivered.
- B. A final order or decision is:
1. a dispositive determination of the critical review officer with respect to any permit, license or application; or
  2. an order of the critical review officer which deals with affected land or premises.
- C. The effect of any order or decision, and the obligation to comply, is not stayed pending an appeal unless so ordered by the critical review officer or the hearing ~~((officer))~~ examiner, upon such conditions as the order may impose.
- D. These appeals procedures are not intended to replace otherwise applicable procedures for any specific order or action, but govern in the absence of another available method or where deemed appropriate and necessary by the critical review officer.

Section 11. That SMC section 17E.010.150 is amended to read as follows:

#### **Section 17E.010.150 Regulations**

- A. The division director of public works and utilities is authorized to adopt and promulgate regulations to enforce the provisions of this chapter in cooperation with the critical review officer(s). ~~((Unless declared immediately effective because of emergent circumstances, regulations are effective thirty days after promulgation.~~
- ~~((B)). ((Except as otherwise provided, promulgation occurs by publication in the~~

~~Official Gazette of the City of Spokane or in the critical materials handbook. Amendments or changes are accomplished in the same way.))~~

Section 12. That SMC section 17E.010.190 is amended to read as follows:

#### **Section 17E.010.190 Purpose and Application**

- A. This article addresses specific municipal regulatory requirements applicable to underground storage tanks, the underground portion of in-ground tanks and associated piping and installations. It is supplemental to SMC 17F.080 ~~((the))~~ (Fire Code) and any other requirements of this chapter or applicable local, state or federal requirements.
- B. These provisions are intended to apply to all underground storage tanks and the underground portion of in-ground storage tanks. ~~((The exclusion of existing structures in SMC 17E.010.040(C) is specifically inapplicable.))~~
- C. This article supplements the fire code of the City of Spokane SMC 17F.080.

Section 13. That SMC section 17E.010.200 is amended to read as follows:

#### **Section 17E.010.200 Definitions**

See chapter 17A.020 SMC for definitions relating to this article. Where chapter 17A.020 SMC does not provide a definition, the currently adopted International Fire Code published by the International Code Council will be used.

Section 14. That SMC section 17E.010.210 is amended to read as follows:

#### **Section 17E.010.210 Permit Required**

- A. No person may own or maintain an underground storage tank (UST) unless the tank is registered with the Spokane Fire Department and approved pursuant to a permit issued under the authority of this article and it otherwise complies with this chapter.
- ~~((B.))~~ ~~((The permit shall be displayed at the site of the tank in a location as approved by the fire department.))~~

Section 15. That SMC section 17E.010.220 is amended to read as follows:

#### **Section 17E.010.220 Permit Issuance – Duration**

- A. The fire official issues all permits required ~~((by the fire code))~~ under this article.
- B. Operational permits shall be effective for one year after the date of

issuance. The fire official may adjust the date of issuance and length of a permit to accommodate inspection schedules and administrative convenience.

Section 16. That SMC section 17E.010.230 is amended to read as follows:

### **Section 17E.010.230 Permit Conditions – Fees – Testing**

- A. To obtain an operational UST permit the owner/operator must:
1. pay to the fire official the fees specified in SMC 8.02.034(A);
  2. demonstrate that the UST passes an annual tightness test by using a precision leak test, automatic tank gauge (ATG) test, or other method as approved by the fire official to the fire official's satisfaction. To be considered, leak test results must be less than six months old.  
~~((a)).((A leak test must be capable of statistically reliable measurement, down to one-tenth of a gallon per hour, including temperature compensation, in accordance with the latest recommendations of the National Fire Protection Association)).~~  
~~((b)).((To be considered, leak test results must be less than six months old.))~~
- B. ~~((In addition to permit and approval fees, t))~~ The fire official has authority to set additional ~~((inspection))~~ fees related to enforcement of this article ~~((and fees for other services, return trips, and additional administrative, personnel, or equipment charges, and to recover expenses related to permit issuance and other enforcement of this article))~~.
- C. Permit transfer requests are determined in writing by the fire official and may be approved if the transferee ~~((shows a))~~ is willing~~((ness))~~ and ~~((ability))~~ able to comply with the conditions imposed and accepts the responsibilities of the permit holder.
- D. ~~((For administrative convenience and the public convenience, t))~~ The fire official may establish a list of qualified persons to serve as leak test inspectors ~~((, approved to certify to the City the results of any leak test or other technical testing required under this chapter))~~.

Section 17. That SMC section 17E.010.270 is amended to read as follows:

### **Section 17E.010.270 Reporting Failures, Leaks and Leak Risks**

- A. The discovery of a leak or circumstances indicating possibility of a leak of a UST shall immediately be reported to the fire official and the department of ecology. The lead agency for handling the cleanup will be the

department of ecology.

- B. The requirements of WAC 173.360.360 shall apply.
- C. This obligation is not limited to permittees, and shall include product vendors and repair or testing personnel.

Section 18. That SMC section 17E.010.290 is amended to read as follows:

**Section 17E.010.290 Single-wall USTs ~~((Maximum Useful Life))~~**

- A. ~~((All existing single-walled UST installations (tanks and associated piping) without secondary containment are conclusively presumed to have a maximum useful life of forty years unless the tank was properly upgraded in accordance with the federal/state and local requirements.))~~ New single-walled USTs for critical materials are not allowed to be installed.  
  
~~((1. Single-walled USTs are not allowed to be installed.))~~
- B. Permitted ~~((Any))~~ single-walled USTs are to be removed or filled with inert solid material in accordance with State law at the established end of their useful life. No repair or upgrade of single walled USTs is permitted. ~~((that has not been properly upgraded, or has reached its maximum useful life, shall be withdrawn from operation and either physically removed or converted to satisfy abandoned status, according to the fire official's requirements.))~~ Repair or replacement of cathodic rectifier or anodes will be considered a repair.
- C. Non-permitted single walled USTs for critical materials are required to be removed or filled with inert solid material in accordance with State law.  
  
~~((1. the age of the tank at the date of upgrade plus the length of the installer's warranty on the liner and/or cathodic protection, or  
2. forty years.))~~
- ~~((D)). ((A tank may be lined or upgraded once only. The following shall result in the tank being withdrawn from operation and either physically removed or converted to satisfy abandoned status, according to the fire official's requirements:))~~
  - ~~1. ((Failure of the lining at any time.~~
  - ~~2. Expiration of the extended useful life of the tank.~~
  - ~~3. Failure at any time of prior approved upgrades whether federal, state or local.))~~

Section 19. That SMC section 17E.010.300 is amended to read as follows:

### **Section 17E.010.300 Categories of Use**

- A. Active Use UST.  
An UST in actual use for receipt, storage, or delivery of substances, as a UST, within any ninety-day period.
- B. Out of Service for Ninety Days UST.  
An UST not in active use within any ninety-day period. USTs in this category must be safeguarded as required under ((SMC 17E.010.310)) IFC 5704.2.13.1.2.
- C. Out of Service for One Year UST.  
An UST not in active use within any one-year period or longer. USTs in this category must satisfy the requirements under ((SMC 17E.010.330)) IFC 5704.2.13.1.3.
- D. Abandoned in Place UST.  
An UST permanently prepared for non-use and left in place. USTs in this category must satisfy requirements under ((SMC 17E.010.330)) IFC 5704.2.13.1.4.
- E. Monitored Out of Service UST.  
An UST not in active use, but the leak monitoring (and cathodic protection where applicable) system is still in operation and maintained. The tank will be required to have a permit renewed each year.
- F. For purposes of this article, aggregates of tanks hydraulically connected including the piping are considered as one tank.

Section 20. That SMC section 17E.010.320 is amended to read as follows:

### **Section 17E.010.320 Change in Use Category – Approval – Exemptions**

- A. USTs accrue a use category upon fulfillment of the conditions set forth in SMC 17E.010.300.
- B. A permit is required for USTs where such USTs are approved as “out of service for one year.”
- C. USTs “abandoned in place” ((under SMC 17E.010.330)) do not require additional permits beyond the decommissioning work, so long as conditions of approval remain satisfied.
- D. Additionally, where approval is required ((under SMC 17E.010.330)), a

permittee may apply to the fire official for a change in use category.

Section 21. That SMC section 17E.010.340 is amended to read as follows:

**Section 17E.010.340 Authority of Fire Official**

- A. The fire official of the City of Spokane, as provided in SMC 3.01.031 and SMC 17F.080.040, interprets and enforces this article. Any approval, action, permit or other item accomplished under the authority of this article is subject to modification, or imposition of additional conditions or exemption from conditions, all in the fire official's reasonable discretion, guided by the purpose of this article and chapter.
- B. Fees and expenses of compliance shall be the obligation of the parties required to comply, but in specific circumstances the fire official may designate another responsible party or may apportion expenses and responsibilities among parties determined to be at fault.
- C. Any final written order issued by the fire official under the authority of this article may be appealed under the provisions of SMC 17E.010.140, or as specified by the fire official, who shall have the authority of the critical review officer for purposes of this article.
- D. This article shall not limit any municipal right or remedy pursuant to contract, statute or common law.

Section 22. That SMC section 17E.010.400 is amended to read as follows:

**Section 17E.010.400 Purpose and Application**

- A. This article addresses specific municipal regulatory requirements applicable to aboveground storage tanks and associated piping and installations used for the storage of critical materials. It is supplemental to SMC 17F.080 ((the)) Spokane Fire Code and any other requirements of this chapter or applicable local, state or federal requirements.
- B. These provisions apply to aboveground storage tanks with more than sixty gallons of capacity.
- C. This article supplements the fire code of the City of Spokane ~~((fire code))~~.

Section 23. That SMC section 17E.010.410 is amended to read as follows:

**Section 17E.010.410 Aboveground Storage Tank Defined**

- A. Fire See chapter 17A.020 SMC for definitions relating to this article. Where



chapter 17A.020 SMC does not provide a definition, the currently adopted International Fire Code published by the International Code Council will be used.

- B. For this article, a bulk tank shall be considered to have a capacity of one hundred thousand gallons or more.

Section 24. That SMC section 17E.010.420 is amended to read as follows:

**Section 17E.010.420 Permit Required**

- A. No person may own or maintain an aboveground storage tank (AST) containing critical materials unless the tank is registered with the Spokane Fire Department and approved pursuant to a permit issued under the authority of this article and it otherwise complies with this chapter.
- ~~((B)). ((The permit shall be displayed at the site of the tank in a location as approved by the fire department.))~~

Section 25. That SMC section 17E.010.430 is amended to read as follows:

**Section 17E.010.430 Permit Issuance – Duration**

- A. The fire official issues all permits required ~~((by the fire code))~~ under this article.
- B. Operational permits shall be effective for one year after the date of issuance. The fire official may adjust the date of issuance and length of a permit to accommodate inspection schedules and administrative convenience.

Section 26. That SMC section 17E.010.440 is amended to read as follows:

**17E.010.440 Permit Conditions – Fees –Testing**

- A. ~~((In addition to permit and approval fees, t))~~ The fire official has authority to set additional ((inspection)) fees related to enforcement of this article ~~((and fees for other services, return trips, and additional administrative, personnel or equipment charges, and to recover expenses related to permit issuance and other enforcement of this article)).~~
- B. Permit transfer requests are determined in writing by the fire official and may be approved if the transferee ~~((demonstrates))~~ is ~~((a))~~ willing ~~((ness))~~ and ~~((ability))~~ able to comply with the conditions imposed and accepts the responsibilities of the permit holder.

Section 27. That SMC section 17E.010.470 is amended to read as follows:

### **Section 17E.010.470 Reporting Failures, Leaks, and Leak Risks**

- A. The discovery of a leak, circumstances indicating possibility of a leak, spills, or overfills that may be harmful to the public or the environment shall immediately be reported to the fire official and the Washington state department of ecology. For leaks and failures, the lead agency will be the Washington state department of ecology.
- B. The requirements of WAC 173.303.145 shall apply.
- C. This obligation is not limited to permittees, and shall include product vendors and repair or testing personnel.

Section 28. That SMC section 17E.010.490 is amended to read as follows:

### **Section 17E.010.490 Categories of Use**

- A. "Active Use" AST.  
An AST in actual use for receipt, storage, or delivery of substances, as an AST, within any ninety-day period.
- B. "Out of service for Ninety Days" AST.
  - 1. An AST not in active use within any ninety-day period. ASTs in this category must be safeguarded as required under IFC 5704.2.13.2.2.
  - ~~((2)).((ASTs in this category must be safeguarded as required under SMC 17E.010.500.))~~
- C. "Out of service for one year" AST.
  - 1. An AST not in active use within any one-year period or longer. ASTs in this category must satisfy the requirements under IFC 5704.2.13.2.3.
  - ~~((2)).((ASTs in this category must satisfy the requirements under SMC 17E.010.520.))~~
- D. For purposes of this article, aggregates of tanks hydraulically connected including the piping are considered as one tank.

Section 29. That SMC section 17E.010.530 is amended to read as follows:

### **Section 17E.010.530 Authority of Fire Official**

- A. The fire official of the City of Spokane, as provided in SMC 3.01.031 and SMC 17F.080.040, interprets and enforces this article. Any approval, action, permit or other item accomplished under the authority of this article

is subject to modification, or imposition of additional conditions or exemption from conditions, in the fire official's reasonable discretion, guided by the purpose of this article and chapter.

- B. Fees and expenses of compliance shall be the obligation of the parties required to comply, but in specific circumstances the fire official may designate another responsible party or may apportion expenses and responsibilities among parties determined to be at fault.
- C. Any final written order issued by the fire official under the authority of this article may be appealed under the provisions of SMC 17E.010.140, or as specified by the fire official, who shall have the authority of the critical review officer for purposes of this article.
- D. This article shall not limit any municipal right or remedy pursuant to contract, statute or common law.

Section 30. That SMC section 17E.010.560 is amended to read as follows:

**Section 17E.010.560 Aboveground Bulk Storage of Critical Materials**

- A. In addition to the containment prescribed in SMC 17E.010.095 and the requirements of WAC 173.180A, new facilities with aboveground tanks having an individual net storage capacity of one hundred thousand gallons or more of critical materials shall include special provisions to insure that the facilities will meet API Standard 2610 for design, construction, operation, maintenance and inspection of terminal and tank facilities and that such facilities shall include provisions for containment for the following:
  - 1. Pipes, pumps and valves associated with carrying critical materials to or from the storage facility. Insofar as possible these facilities will be located aboveground.
  - 2. Areas where critical materials are transferred from conveyances, such as trucks, rail cars and pipelines, to the bulk storage facilities.
  - 3. New aboveground tanks for the storage of critical materials with an individual net storage capacity of one hundred thousand gallons or more shall meet the secondary containment requirements outlined in SMC 17E.010.095 and, where applicable, WAC 173.180((A-080))320. In addition, the following requirements shall apply:
    - a. Any new tank installed to store critical materials shall be equipped with a multiple containment system and leak detection.
    - b. Any new single-bottom tank constructed of steel or similar material

shall have secondary containment, leak detection and cathodic protection installed as an integral part of the tank structure.

- i. "Secondary containment" means a double bottom with interstitial monitoring or an equivalent system of tank liners and leak detection.
- c. Any new tank system installed in compliance with this section shall be within new diked areas totally lined by a multiple containment system composed of material resistant to the chemical stored in the facility having hydraulic conductivity less than  $1 \times 10^{-6}$  centimeters per second at the anticipated hydrostatic loads. Interstitial monitoring shall be provided between the containment layers when appropriate. (Note for interpretation: This means that the secondarily contained tank described in subsection (A)(3)(b) of this section lies within a secondary containment berm creating a multiple containment system.)
- d. Uncovered diked areas shall be constructed to contain one hundred ten percent of the volume of the largest tank within the containment area. Stormwater management for runoff generated within the diked areas shall conform to the department of ecology's state general permit and City of Spokane guidelines for stormwater management prior to disposal.
- e. When used for emergency containment of tank contents, dikes shall be designed and constructed to comply with the requirements of NFPA 30.
- f. For any new tank, a tank leak detection system shall be installed and monitored for leakage by visual, mechanical or electronic leak detection methods.
  - i. Monitoring reports shall be kept on file for a period of five years and shall be available for review at the request of the ((director)) critical review officer or designee.
  - ii. Inspection reports prepared for compliance with ((Chapter)) WAC173.180D ((WAC)) shall be considered adequate for compliance with this section.

B. Any individual aboveground tank with a net storage capacity of one hundred thousand gallons or more in bulk storage facilities in existence at the time of adoption of the ordinance codified in this section shall be required to meet the following requirements:

1. Be inspected and repaired as required by API Standard 653; and

2. Meet the compliance schedule as required by the existing United States department of transportation, United States environmental protection agency and Washington department of ecology regulations.
  - a. Tanks inspected and upgraded in compliance prior to the adoption of this regulation shall be re-inspected and upgraded in accordance with this section within ten years of the initial inspection; and
3. Be upgraded, when the tank is emptied for inspection and repair in accordance with the applicable compliance schedule (SMC 17E.010.560 B (1) and (2)), to include a coated, cathodically protected single bottom and undertank leak detection, a double bottom and with interstitial monitoring or an equivalent system of tank bottom lining, leak detection and interstitial monitoring; and
4. When the tank is upgraded, the bermed area around the tank shall also be upgraded.
  - a. The bermed area outside the footprint of the tank shall be equipped with a multiple containment system composed of two or more layers of material with a hydraulic conductivity less than  $1 \times 10^{-6}$  centimeters per second at the anticipated hydrostatic loads.
  - b. The multiple containment layers of the bermed areas shall be sealed to the tank to prevent any spilled or leaked material from migrating under the tank; and
5. Uncovered diked areas shall be constructed to contain one hundred ten percent of the volume of the largest tank within the containment area. Stormwater management for runoff generated within the diked areas shall conform to the department of ecology's state general permit and City of Spokane guidelines for stormwater management prior to disposal; and
6. When upgraded, pumps, pipes and other facilities associated with tanks shall be placed aboveground within bermed containment areas as described in subsection (B)(4) of this section or be replaced with double- walled units with interstitial monitoring at the time the tank containment is upgraded.
  - a. Aboveground facilities shall be protected from impact with vehicles and machinery by protective walls or bollards.
  - b. Pumps, pipes and other facilities not within secondary containment areas shall be pressure tested at least once a year.
  - c. Records of pressure testing shall be kept on file for at least five

years (~~(;or)~~).

7. The facility shall be upgraded to multiple containment standards described above if such tank is relocated.

C. Retrofitting an aboveground tank with an individual net storage capacity of one hundred thousand gallons or more with multiple containments shall require a permit from the fire department.

D. Annual inspection of aboveground tanks with an individual net storage capacity of one hundred thousand gallons or more shall be conducted to verify that:

1. required secondary containment facilities are maintained,
2. clean-up materials and equipment needed to implement clean-up plans are available, and proper notification of leaks and spills occurs. Inspection reports shall be kept on file for a period of five years and shall be made available for review at the request of the fire department. Inspection reports prepared for compliance with (~~(chapter)~~) WAC 173.180(~~(D))~~.035(~~(WAC))~~ shall be considered adequate for compliance with this section.

Section 31. That SMC section 17G.010.150 is amended to read as follows:

**Section 17G.010.150 Special Application Requirements for Commercial Building Permits**

A. General.

An owner, or the owner's architect, engineer or other agent, should consult with the departments of building services, engineering services and planning services prior to submitting an application for a commercial building permit for the purpose of identifying any peculiar considerations and discussing any special requirements. The owner, or the owner's architect, engineer or other agent must submit ten prints of the site plan, and three each of the architectural plan, structural plan, and mechanical plan stamped by an architect or engineer licensed in the State of Washington, to the department of building services. The department of building services transmits copies of the print to other departments and agencies as appropriate. The following information is required for a complete application for a commercial building permit. The information needs to be provided on the site plan or front sheet of plans in the numbered order given. The building official may waive or modify specific submittal requirements determined to be unnecessary for review of an application.

1. Name of project and date of application.

2. Official street address. If an official street address has not been assigned, it must be obtained from the engineering services department.
3. Name, address and phone number of the architect.
4. Name, address and phone number of the owner and agent.
5. Name, address and phone number of the tenant.
6. Name, address and phone number of the engineer(s).
7. Name, address and phone number of the consultant(s).
8. Name, address and phone number of the contractor(s).
9. Name, address and phone number of the contact person.
10. Project type, new, remodel, addition or alteration.
11. Existing use of lot and/or building.
12. Proposed use(s).
13. Number of dwelling units.
14. Occupancy group and division.
15. Construction type required.
16. Building allowable height and area.
17. Building height (both in feet and number of stories).
18. Basement floor area and occupant load.
19. Ground floor area and occupant load.
20. Floor area of each story above ground floor and occupant load (list each story individually).
21. Total floor area, including basements and occupied roofs.
22. Valuation.

- 23. SEPA checklist, if required.
- 24. Critical materials, if involved.
- 25. HMMP plan submitted, if required.
- 26. Floodplain designation, elevation of first habitable floor and certification of flood proofing measures, if applicable.

B. The following zoning information is to be included on plan cover sheet or site plan:

- 1. List dates of hearings during which any of the following were granted:
  - a. Zone change to construct a specific plan including “L” agreements.
  - b. Conditional use permit.
  - c. Variance (list) or certificate of compliance.
  - d. Plans-in-lieu of compliance.
  - e. Planned unit development or manufactured home park; or
  - f. Binding site plan.
- 2. Special Regulations.  
Note any of the following permits, approvals or restrictions:
  - a. Design zones.
  - b. Shoreline/Riverfront district.
  - c. Height district.
  - d. Historic district or building on the local, state or national register.
  - e. Any hazard areas (airport, critical area).
  - f. Any previous environmental declarations on project; or
  - g. Design review.
- 3. Use zone of lot(s).



4. Use zones of adjacent lots to the north, south, east and west of the site.
5. Lot area (square feet).
6. Percent of lot covered by building(s).
7. Area of lot covered by hard surfacing of any kind.
8. Parking and loading stalls, number required and number provided, number of barrier-free parking spaces required and provided according to WAC 51-40-005, number of van stalls required and provided.
9. Setbacks and yards: List of required and provided yards for each building shown on plan, and special setbacks required by an approved final plat, binding site plan or zoning agreement.
10. Easements, vacations, agreements related to property.

C. The following information is required on the architectural site plan, even though it may duplicate other site plans.

1. Vicinity map to show area location. Key plan for partial site work.
2. Complete finished grading of entire site and outlines of all structures. Provide topographic lines on sloping sites and affected adjacent sites giving new and existing grades.
3. Lay out all information to standard architectural or engineering scales. Establish north point.
4. Show utility service lines with all mains and branches from streets to each unit or device served. Show sizes and materials on each sewer, water and gas line on plan, and each meter, shut-off, disconnect, connection box or vault, panel, check valve, cleanout and related device to utility services. Locate all required fire hydrants, building pumper connections and standpipe connections at building on street side. Show electric utility and phone line overhead or underground.
5. Relate grade elevations and floor lines to nearest City benchmark. Reference to an established point of elevation may be used on existing buildings.
6. Show on site plan all outline dimensions of building and distance to property lines. Show on site plan location and dimensions and show angles in degrees for the following:

- a. Property lines and adjacent zoning of property (N, S, E, W). Show any changes in zoning along property lines.
  - b. Streets, alleys, curb breaks, adjacent property curb breaks (must be minimum of five feet from property lines), street lights, signs, meters or planting on sidewalk or parking strips, on-site curbing.
  - c. Driveways, paving, curbing, sidewalks and street corner curb ramp (WAC 236-60-060), each City standard catch basin, depressed lawns. Show fire department apparatus access to within one hundred fifty feet of any structure. 1:48 maximum side slope on sidewalks.
  - d. Parking layouts: Parking stalls and number each stall, or number blocks of stalls and give total. Locate off-street loading.
  - e. Front, side and rear yards, and special setbacks for zoning and minimum clearances to property line required for wall openings or construction type.
  - f. Recreation areas, planting strips, lawns.
  - g. Ornamental masonry and lightproof walls, landscaping buffers, and screening of outdoor storage of materials, wastes, equipment or trash receptacles.
  - h. Location of outdoor lighting on building and in yards.
  - i. Identification of outdoor advertising signs. Note size and exact location.
  - j. Indicate rainwater disposal from building and from all property areas, to City-standard catch basins on the property. Give catch basin depths (in feet) and necessary site grading, contours and slopes to insure disposal of water to on-site drains. Paved parking areas require drainage swales. See the department of engineering services for the procedure before completing drainage plan.
  - k. Maximum one hundred fifty foot distance to nearest fire hydrant from building perimeter (all points).
  - l. Additional information necessary for presentation, interpretation, or review of the project may be submitted or required in special cases.
7. The format of the plans shall be as follows:

- a. Plan drawings, elevations, sections and details of architectural, structural, mechanical and electrical plans shall be drawn to standard architectural scales (one-sixteenth inch, one-eighth inch, one-fourth inch, one-half inch, one inch, one and one-half inch, three-inch; please do not use three-eighth-inch or three-quarter-inch scales for code compliance), and standard engineer scales (one inch equals ten feet, twenty feet, thirty feet, forty feet, fifty feet). Plans should be oriented with north at the top of the sheet. Plans must have printing and lettering clear, distinct and suitable for microfilm.
  - b. All plans, elevations, sections and details shall be fully dimensioned so that conformance to codes can be confirmed. Overall dimensions of buildings shall be shown on site plans and floor plans.
  - c. On each sheet, provide the name and official address of project, the Washington State seals of architect and engineers, the date each sheet and each revision was made including flagging of each revision.
  - d. On revisions, date each sheet, provide control number, flag revisions on drawings and in specifications.
  - e. Provide a list of the codes which apply to the project.
8. Detail Plans.
- The following information shall be shown on architectural/engineering drawings or in specifications:
- a. Landscaping plan, including a detailed plan with elevations and slope arrows, lawns, on-site storm sewer (OSSW) and City-standard catch basins, sprinkler system piping, heads, flows and coverages with approved backflow prevention for OSSW swales and zoning landscape areas.
  - b. Foundation plans, including excavation and fill details.
  - c. Floor plans for each level.
  - d. Roof and weather protection details.
  - e. Exterior elevations and opening protection.
  - f. Interior elevations and finishes.

- g. Typical and detailed sections.
- h. Door assemblies.
- i. Windows and glass.
- j. Exits.
- k. Standpipes and sprinklers.
- l. Fire ratings.
- m. Special details.
- n. Barrier free design.
- o. Thermal regulations.
- p. Elevators, dumbwaiters, escalators and moving walks.
- q. Structural details including:
  - i. calculations;
  - ii. clarifying notes;
  - iii. list special inspections and names of special inspectors for: concrete, ductile moment/resisting concrete frame, reinforcing steel and pre-stressing steel, welding, high strength bolting, structural masonry, reinforced gypsum concrete, insulating concrete fill, spray applied fireproofing, piling, drilled piers, caissons, special grading, excavation, filling, NER reports and special cases;
  - iv. layout of framing system including horizontal and vertical members;
  - v. lateral load resisting elements;
  - vi. continuity of system;
  - vii. detail and schedule special connections and conditions;
  - viii. schedule, specify, list or detail on drawings: structural design criteria, concrete, masonry, wood, structural metals.

- r. Mechanical details including layout, size and identification of components on plans and riser diagrams for:
  - i. general;
  - ii. plumbing;
  - iii. heating;
  - iv. cooling;
  - v. refrigeration;
  - vi. ventilation;
  - vii. controls;
  - viii. special equipment;
  - ix. roof overflow drains;
  - x. OSSW area drainage;
  - xi. water;
  - xii. gas;
  - xiii. waste system;
  - xiv. vents;
  - xv. chimneys;
  - xvi. ducts;
  - xvii. boiler and pressure vessel;
  - xviii. special piping;
  - xix. fire lines, special suppression systems, extinguishers.
- s. Electrical details including location, size and identification of components of distribution on plans and riser diagrams for:
  - i. light;

- ii. heat;
- iii. power;
- iv. radio;
- v. television;
- vi. signal;
- vii. alarm systems;
- viii. grounding;
- ix. exit signs;
- x. smoke detectors.

Section 32. That SMC sections 17E.010.250, 17E.010.310, 17E.010.330, 17E.010.450, 17E.010.500 and 17E.010.520 are repealed.

PASSED by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Council President

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor, David A. Condon

\_\_\_\_\_  
Date

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

**BRIEFING PAPER**  
**City of Spokane**  
**P&ED**  
5/16/2016

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**Subject**

Revisions to Spokane Municipal Code 17E.010, Critical Aquifer Area – Aquifer Protection

**Background**

This section of the Municipal Code addresses underground tanks, aboveground tanks, and general critical material storage and maintenance. It is reviewed on a regular basis and revised to accommodate current acceptable practices regarding the protection of the aquifer.

Since the last renovation of the Spokane Municipal Code (SMC) 17E.010 Chapter, several sections are proposed for revision to incorporate the following:

1. Critical Review Officer is allowed to waive submittal of a critical materials list (CML) where the occupancy is not considered a significant critical activity.
2. Outdated and duplicative language has been removed.
3. The affected areas in the City have been better defined.
4. Existing language has been clarified.

**Impact**

This will reduce the impact of the submission of CMLs on smaller projects. The correction of the impact boundary also follows more scientific findings so that not all areas in the City are affected. The language changes also follow more current business practices.

**Action**

The Spokane City Council conducted a briefing on this on November 5, 2015. The proposals have been submitted for review and comment to the Plan Commission and State Department of Commerce. To date, there has been limited public comment from the public website that contains the proposal documents. The ordinance is now ready for public hearing during a normal legislative session of City Council.

**Attached:**

- Proposed text changes to SMC 17E.010

- Plan Commission Findings and Conclusions



## City of Spokane

### Critical Materials Update – 2016

In section 17A four changes are proposed in the definitions section, 17A.020.030 AV, AW, and AX. A new definition for critical aquifer recharge areas is proposed to be added to 17A.020.030. Two changes are for updating the title of the division director of utilities. There is a change to reflect the critical materials list is a separate document from the critical materials manual. One definition was reworded to have a broader definition of who is responsible for identifying critical material activities. This change was made because the title of the responsible party changes. There are two proposed changes in 17A.020.160 AD and AE for the definitions of pollutant and pollution.

In section 17E, Environmental Standards, there are approximately 80 changes in 17E.010, Critical Aquifer Recharge Areas – Aquifer Protection.

The International Fire Code (IFC) is the basis for most of the regulations. To streamline the code language, sections that are referenced directly from the IFC were deleted. These are sections 250, 310, 330, 450, 500, and 520.

Deletions are also made in several other sections to remove duplicate language and improve readability. These include parts of sections 010, 040, 060, 090, 150, and 190, 210, 230, 290, 320, 420 and 440.

Language in Article IV, Aboveground Storage Tanks was revised to match the language in the corresponding sections of Article III, Underground Storage Tanks.

Job position title changes are made to reflect the current practice in sections 95, 140 and 150.

In several sections language was added or reworded to clarify requirements and references. These include sections 90, 95, 190, 200, 210, 270, 290, 300, 340, 400, 470, 490, 530 and 560.

A sentence is added to section 050 allowing the critical review officer to waive these requirements where practical. This allows flexibility and streamlines permitting for applicable proposals.

In section 95 wording is added to acknowledge that Wastewater Management now allows building floor drains to be connected to the sewer collection system. Language is added to define the process for connecting to the sewer collection system.

In section 17G of the Spokane Municipal Code (SMC) a change is proposed to 17G.101.150 A26, Special Application Requirements for Commercial Building Permits. The section is reworded to clearly state the requirement and to recognize that some projects do not require a critical materials list.

**Agenda Sheet for City Council Meeting of:**

06/06/2016

**Date Rec'd**

5/20/2016

**Clerk's File #**

ORD C35400

**Renews #****Submitting Dept**

DEVELOPER SERVICES CENTER

**Contact Name/Phone**

ELDON BROWN 625-6305

**Contact E-Mail**

EBROWN@SPOKANECITY.ORG

**Agenda Item Type**

First Reading Ordinance

**Agenda Item Name**

4700 - ORDINANCE AMENDING C34924

**Cross Ref #****Project #****Bid #****Requisition #****Agenda Wording**

An ordinance vacating Walnut Street from Bridge Avenue to College Avenue, north and south portions of Bridge Avenue from Maple Street to Cedar Street and the alley between Walnut Street and Cedar Street from Bridge Avenue to College Avenue.

**Summary (Background)**

City Council passed the Vacation Ordinance on October 8, 2012. At that time easements were retained for CenturyLink, Avista and the City of Spokane across the entire vacated area. It has been determined that these easements are no longer needed for the entire vacation area.

**Fiscal Impact**

Neutral \$

Select \$

Select \$

Select \$

**Budget Account**

#

#

#

#

**Approvals****Dept Head**

BECKER, KRIS

**Division Director**

MALLAHAN, JONATHAN

**Finance**

KECK, KATHLEEN

**Legal**

RICHTMAN, JAMES

**For the Mayor**

WHITNEY, TYLER

**Council Notifications****Study Session****Other**

PED 5/16/16

**Distribution List**

Engineering Admin (eraea@spokanecity.org)

ebrown@spokanecity.org

ejohnson@spokanecity.org

sbishop@spokanecity.org

kkeck@spokanecity.org

mhughes@spokanecity.org

jahensley@spokanecity.org

**Additional Approvals****Purchasing**

City of Spokane  
Department of Engineering Services  
808 West Spokane Falls Blvd.  
Spokane, WA 99201-3343  
(509) 625-6700

## **ORDINANCE NO. C35400**

An ordinance amending ordinance C34924 vacating Walnut Street from Bridge Avenue to College Avenue, North and South portions of Bridge Avenue from Maple Street to Cedar Street and the Alley between Walnut Street and Cedar Street from Bridge Avenue to College Avenue.

WHEREAS, a petition for the vacation of Walnut Street from Bridge Avenue to College Avenue, North and South portions of Bridge Avenue from Maple Street to Cedar Street and the Alley between Walnut Street and Cedar Street from Bridge Avenue to College Avenue has been filed with the City Clerk representing of the abutting property owners, and a hearing has been held on this petition before the City Council as provided by RCW 35.79; and

WHEREAS, the City Council has found that the public use, benefit and welfare will best be served by the vacation of said public way; -- NOW, THEREFORE,

The City of Spokane does ordain:

Section 1. That Walnut Street from Bridge Avenue to College Avenue, North and South portions of Bridge Avenue from Maple Street to Cedar Street (more fully described in Exhibit A and the Alley between Walnut Street and Cedar Street from Bridge Avenue to College Avenue is hereby vacated. Parcel number not assigned. SE ¼ of S13 T25 R42

Section 2. An easement is reserved and retained over and through the ~~((entire vacated area))~~ west 15 feet of the north 105 feet of Walnut Street between College Avenue and Bridge Avenue; together with the south 20.25 feet of Bridge Avenue between Cedar Street and Maple Street for the utility services of Avista Utilities, CenturyLink, and the City of Spokane to protect existing and future utilities.

Passed the City Council \_\_\_\_\_

\_\_\_\_\_  
Council President

Attest: \_\_\_\_\_  
City Clerk

Approved as to Form:

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

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

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

## EXHIBIT A

### Vacation of a Portion of Bridge Avenue Legal Description

Portions of Bridge Avenue as shown in the Final Plat of Chandlers 2nd Addition to Spokane Falls, recorded in Book A of Plats, Page 31, located in the Southeast Quarter of Section 13, Township 25N., Range 42E., W.M. in the City of Spokane, Spokane County, Washington and more particularly described as follows:

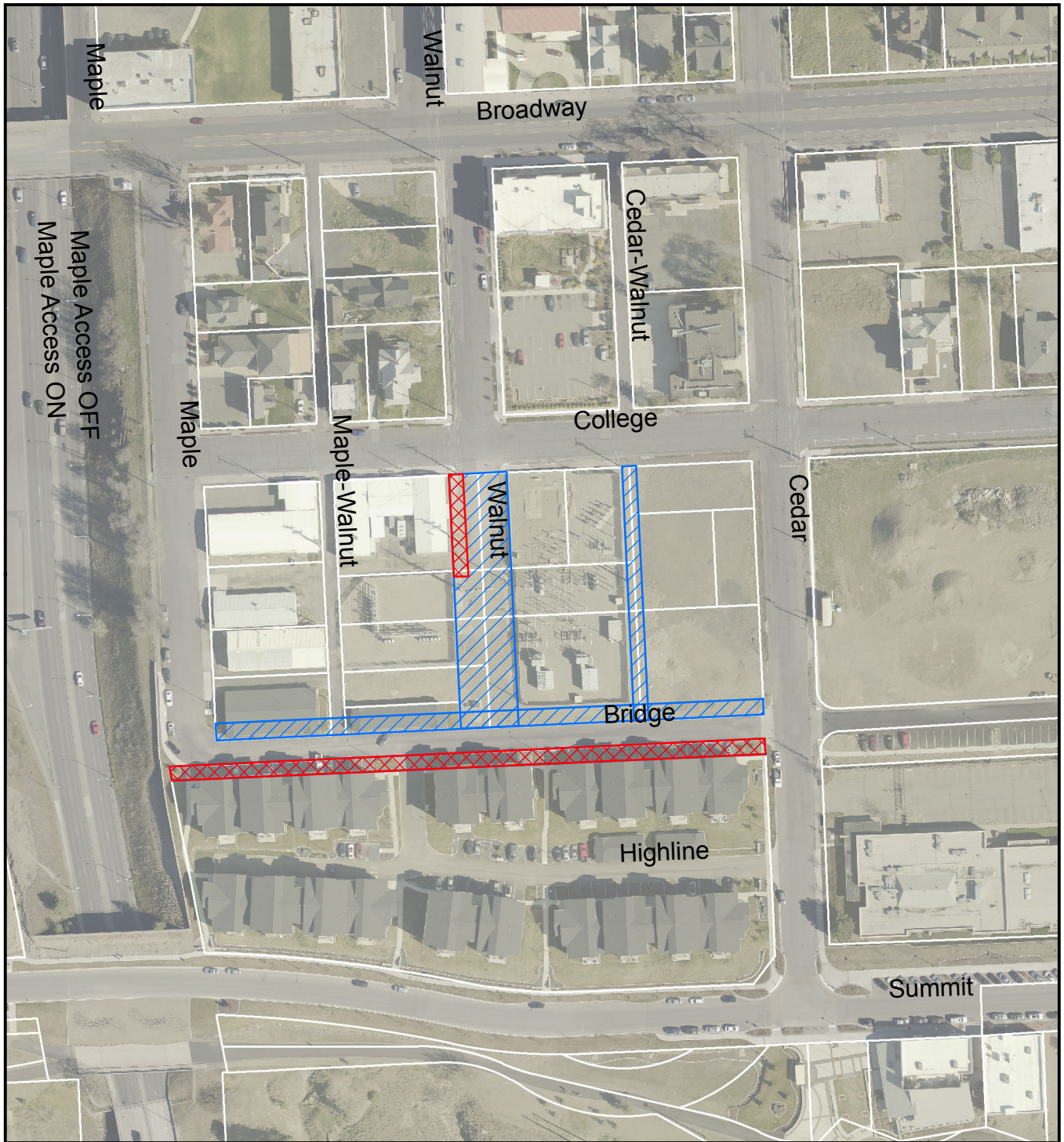
BEGINNING at the Southeast corner of Lot 5, Block 8 of said Final Plat of Chandlers 2nd Addition to Spokane Falls, said point also being on the North Right of Way line Bridge Avenue; thence S89°17'30"W along the North Right of Way line Bridge Avenue a distance of 434.11 feet to the Southwest corner of Lot 5, Block 7 of said Final Plat of Chandlers 2nd Addition to Spokane Falls; thence S 00°42'30"E along the Southerly prolongation of the Westerly line of said Lot 5 a distance of 14.75 feet; thence N89°17'30"E and parallel with the Northerly Right of Way line of Bridge Avenue a distance of 424.12 feet to the beginning of a tangent curve concave to the Northwest and having a radius of 10.00 feet; thence Northerly along said curve through a central angle of 90°02'12" an arc distance of 15.71 feet; thence N00°44'42"W a distance of 4.74 feet to the POINT OF BEGINNING.

TOGETHER with a portion of said Bridge Avenue more particularly described as follows:



BEGINNING at the Southeast corner of Lot 6, Block 7 of said Final Plat of Chandlers 2nd Addition to Spokane Falls said point also being on the Northerly Right of Way line of Bridge Avenue; thence S89°17'30"W along said Northerly Right of Way Line a distance of 120.00 feet to the Southwest corner of said Lot 6; thence S00°44'27"E along the Southerly prolongation of the Westerly line of said Lot 6 a distance of 4.76 feet to the beginning of a tangent curve concave to the Northeast and having a radius of 10.00 feet; thence Southeasterly along said curve through a central angle of 89°58'03" an arc distance of 15.70 feet; thence N89°17'30"E and parallel with the Northerly Right of Way line of Bridge Avenue a distance of 110.00 feet; thence N00°42'30"W a distance of 14.75 feet to the POINT OF BEGINNING.

ALSO TOGETHER with a portion of said Bridge Avenue more particularly described as follows: BEGINNING at the Northeast corner of Lot 1, Block 9 of said Final Plat of Chandlers 2nd Addition to Spokane Falls said point also being on the Southerly Right of Way line of Bridge Avenue; thence S89°17'30"W along said Southerly Right of Way Line a distance of 569.12 feet to the Northwest corner of Lot 10, Block 10 of said Final Plat of Chandlers 2nd Addition to Spokane Falls; thence continuing S89°17'30"W a distance of 45.56 feet; thence N08°32'26"W a distance of 20.44 feet; thence N89°17'30"E and parallel with the Southerly Right of Way line of Bridge Avenue a distance of 607.46 feet to the beginning of a tangent curve concave to the Southwest and having a radius of 10.00 feet; thence Southeasterly along said curve through a central angle of 89°57'48" an arc distance of 15.70 feet; thence S00°44'42"E a distance of 10.26 feet to the POINT OF BEGINNING.

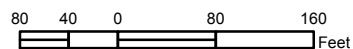
Containing 20,582 square feet more or less



## Legend

-  Area to retain easements
-  Area for easements to be released

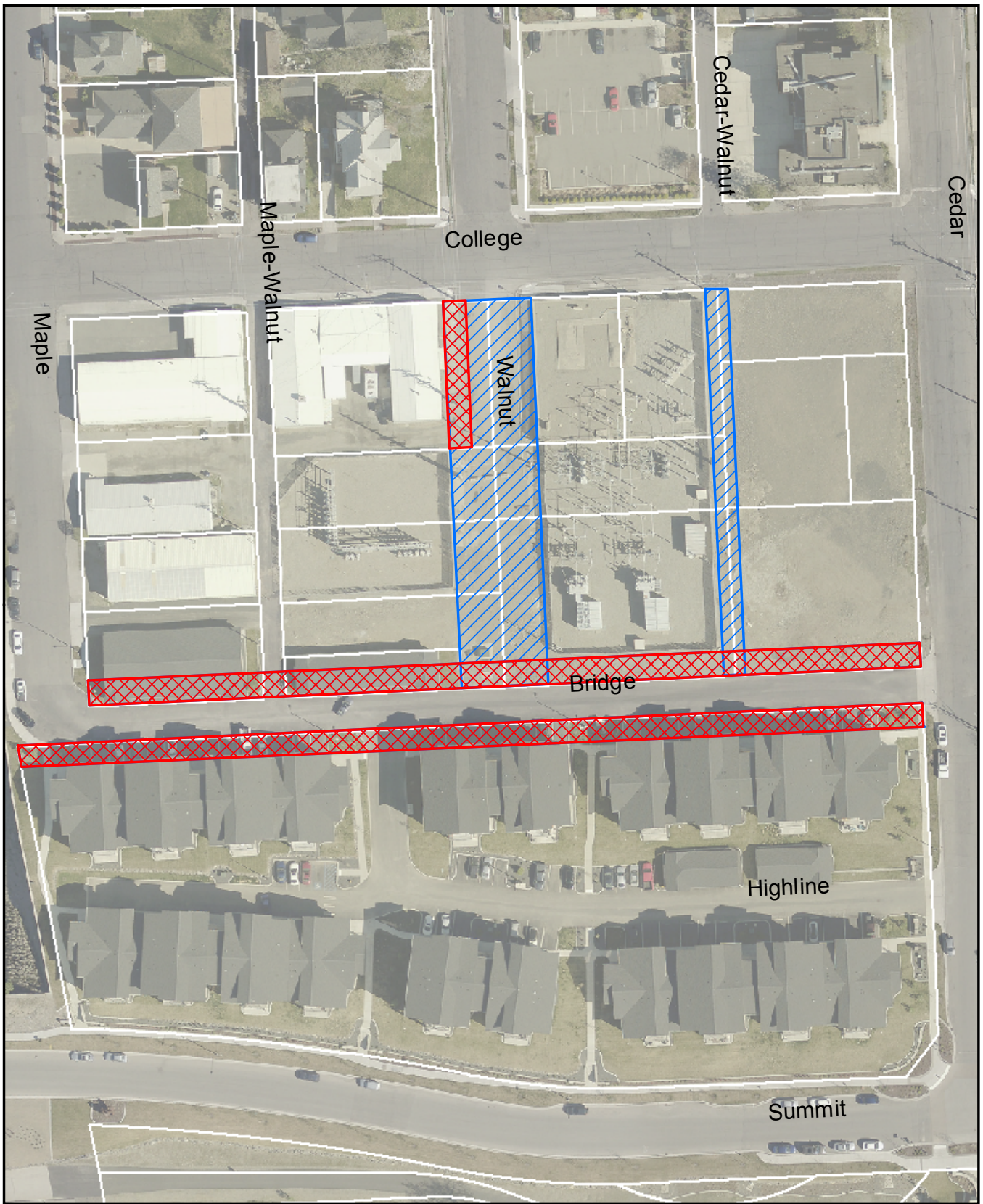
Disclaimer: This is not a legal document: The information shown on this map is compiled from various sources and is subject to revision. This map should not be used to determine the location of facilities in relationship to property lines, sections lines, streets, etc. Not suitable for design purposes.



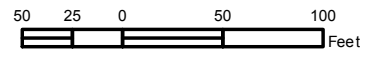
**COSGIS**  
City of Spokane GIS







Disclaimer: This is not a legal document. The information shown on this map is compiled from various sources and is subject to revision. This map should not be used to determine the location of facilities in relationship to property lines, section lines, streets, etc.  
Not suitable for design purposes.



 **COSGIS**  
City of Spokane GIS



## DISTRIBUTION LIST

VACATION OF Walnut Street from Bridge Avenue to College Avenue,  
north and south portions of Bridge Avenue from Maple Street to Cedar  
Street and the alley between Walnut Street and Cedar Street from  
Bridge Avenue to College Avenue

### **POLICE DEPARTMENT**

ATTN: SGT CHUCK REISENAUER

### **FIRE DEPARTMENT**

ATTN: MEGAN PHILLIPS  
MIKE MILLER

### **CURRENT PLANNING**

ATTN: TAMI PALMQUIST  
DAVE COMPTON

### **WATER DEPARTMENT**

ATTN: DAN KEGLEY  
JAMES SAKAMOTO  
ROGER BURCHELL  
CHRIS PETERSCHMIDT  
HARRY MCLEAN

### **STREETS**

ATTN: MARK SERBOUSEK  
DAUN DOUGLAS

### **TRANSPORTATION OPERATIONS**

ATTN: BOB TURNER

### **PLANNING & DEVELOPMENT**

ATTN: ERIK JOHNSON  
ELDON BROWN  
JOHN SAYWERS

### **CONSTRUCTION MANAGEMENT**

ATTN: KEN BROWN

### **INTEGRATED CAPITAL MANAGEMENT**

ATTN: KATHERINE MILLER

### **WASTEWATER MANAGEMENT**

ATTN: BILL PEACOCK

### **PARKS & RECREATION DEPARTMENT**

ATTN: LEROY EADIE

### **NEIGHBORHOOD SERVICES**

ATTN: JACKIE CARO  
JONATHAN MALLAHAN  
ROD MINARIK  
HEATHER TRAUTMAN

### **BICYCLE ADVISORY BOARD**

ATTN: LOUIS MEULER

### **SOLID WASTE MANAGEMENT**

ATTN: SCOTT WINDSOR

### **CITY CLERK'S OFFICE**

ATTN: JACQUELINE FAUGHT

### **PUBLIC WORKS**

ATTN: SCOTT SIMMONS  
MARCIA DAVIS

### **AVISTA UTILITIES**

ATTN: DAVE CHAMBERS  
RANDY MYHRE

### **COMCAST DESIGN & CONSTRUCTION**

ATTN: BRYAN RICHARDSON

### **CENTURY LINK**

ATTN: KAREN STODDARD





**Agenda Sheet for City Council Meeting of:**  
06/06/2016

<b>Date Rec'd</b>	5/18/2016
<b>Clerk's File #</b>	ORD C35402
<b>Renews #</b>	

<b>Submitting Dept</b>	CITY COUNCIL	<b>Cross Ref #</b>	
<b>Contact Name/Phone</b>	BEN STUCKART 6258	<b>Project #</b>	
<b>Contact E-Mail</b>	BSTUCKART@SPOKANECITY.ORG	<b>Bid #</b>	
<b>Agenda Item Type</b>	First Reading Ordinance	<b>Requisition #</b>	
<b>Agenda Item Name</b>	AN ORDINANCE CONCERNING POLICE DEPARTMENT ORGANIZATION		

**Agenda Wording**

An ordinance relating to the organization of the Spokane Police Department; amending section 03.01A.370 and 03.01A.375 of the Spokane Municipal Code; repealing sections 03.01A.380, 03.01A.385, and 03.01A.390 of the Spokane Municipal Code.

**Summary (Background)**

This proposed ordinance would reduce the number of departments within the Police Division to three. This is intended to ensure compliance with state law concerning the maximum number of police employees who may be exempt from civil service. At present, the Police Division is structured to allow thirteen possible job positions which are exempt from civil service - five more than allowed by state law. This ordinance would correct that issue.

<b><u>Fiscal Impact</u></b>	<b><u>Budget Account</u></b>
Neutral \$	#
Select \$	#
Select \$	#
Select \$	#

<b><u>Approvals</u></b>	<b><u>Council Notifications</u></b>
<b><u>Dept Head</u></b>	<b><u>Study Session</u></b>
<b><u>Division Director</u></b>	<b><u>Other</u></b>
<b><u>Finance</u></b>	PSC 5/16/2016
<b><u>Legal</u></b>	
<b><u>For the Mayor</u></b>	

<b><u>Additional Approvals</u></b>	
<b><u>Purchasing</u></b>	

## ORDINANCE NO. C35402

An ordinance relating to the organization of the Spokane Police Department; amending section 03.01A.370 and 03.01A.375 of the Spokane Municipal Code; repealing sections 03.01A.380, 03.01A.385, and 03.01A.390 of the Spokane Municipal Code.

**WHEREAS**, Washington state law, RCW 41.12.050(2)(b), provides that, in addition to the Police Chief, a city police department having 251-500 personnel may have up to eight employees who are unclassified and exempt from civil service; and

**WHEREAS**, at present, the Spokane Police Department has six departments, each potentially containing two job positions exempt from civil service, for a total of 13 possible exempt positions in the Police Department, in contradiction of state law; and

**WHEREAS**, the City Council wishes to streamline the Spokane Police Department and ensure that the number of exempt police job positions is in accordance with state law.

**NOW THEREFORE**, the City of Spokane does ordain:

Section 1. That section 03.01A.370 of the Spokane Municipal Code is amended to read as follows:

### **Section 03.01A.370 Police**

The police division through various departments is the primary law enforcement agency of the City with investigative, arrest and incidental powers over violations of federal, state and municipal laws, both criminal and traffic. In addition to patrol, surveillance, investigation and crime prevention education, division personnel perform administrative, communications, community relations, planning, records maintenance and training functions. The day-to-day field operations of the police division, including patrol, police service areas (precincts), investigations, and administration, are under the supervision of the assistant chief.

Section 2. That section 03.01A.375 of the Spokane Municipal Code is amended to read as follows:

### **Section 03.01A.375 Police Business Services**

The police business services department is responsible for the administrative budget/finance/accounting, payroll/personnel, and grants/purchasing functions of the police division.

Section 3. That section 03.01A.380 of the Spokane Municipal Code is repealed in its entirety.

Section 4. That section 03.01A.385 of the Spokane Municipal Code is repealed in its entirety.

Section 5. That section 03.01A.390 of the Spokane Municipal Code is repealed in its entirety.

PASSED by the City Council on \_\_\_\_\_.

\_\_\_\_\_  
Council President

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date

**BRIEFING PAPER**  
**Spokane City Council – Public Safety Committee**  
**Police Division Reconciliation**  
**May 16, 2016**

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**Subject**

Under Washington state law, the police departments of first-class cities having populations less than 300,000 may have no more than 8 job positions which are unclassified and exempt from civil service, in addition to the police chief himself/herself. See RCW 41.12.050(2)(b).

Currently, the Spokane Police Department has six departments, each potentially having two exempt positions, for a department-wide total of 13 job positions which are exempt from civil service. See SMC 03.01A.370, 03.01A.375, 03.01A.380, 03.01A.385, 03.01A.390, 03.01A.395, and 03.01A.400.

**Action**

This ordinance would streamline the Spokane Police Department, by repealing some sections of the Spokane Municipal Code to reduce the number of subsidiary departments to three: Police Business Services, Police Public Information, and Police Strategic Initiatives.

**Agenda Sheet for City Council Meeting of:**

06/13/2016

**Date Rec'd**

5/25/2016

**Clerk's File #**

ORD C35403

**Renews #****Submitting Dept**

TAX &amp; LICENSING/AUDIT

**Cross Ref #****Contact Name/Phone**

TIM SZAMBELAN 625-6218

**Project #****Contact E-Mail**

TSZAMBELAN@SPOKANECITY.ORG

**Bid #****Agenda Item Type**

First Reading Ordinance

**Requisition #****Agenda Item Name**

NON-CABLE TELECOMMUNICATIONS FRANCHISE TO MOBILELITE, LLC

**Agenda Wording**

An ordinance granting a non-exclusive franchise to use the public right of way to provide noncable telecommunications services to the public to MobileLite, LLC, subject to certain conditions and duties as further provided.

**Summary (Background)**

MobileLite, LLC will be permitted to operate a noncable telecommunications service in the public right of way. MobileLite, LLC is a Nevada limited liability company, whose office address is 2220 University Drive, Newport Beach, California. MobileLite, LLC will develop and construct a hybrid transport network that provides high-speed, high-capacity, bandwidth in order to facilitate the next generation of devices and data-driven services and to meet the ever-growing demand for connectivity. This network combines fiber, repeaters, and microwave technologies to ensure that the network is cost-efficient, low-impact to communities, and can be effectively upgraded and augmented in the future. The term is fifteen (15) years.

**Fiscal Impact****Budget Account**

Neutral \$

#

Select \$

#

Select \$

#

Select \$

#

**Approvals****Council Notifications****Dept Head**

DUNIVANT, TIMOTHY

**Study Session****Division Director**

CHILDS, BRANDON

**Other****Finance**

KECK, KATHLEEN

**Distribution List****Legal**

DALTON, PAT

tszambelan@spokanecity.org

**For the Mayor**

WHITNEY, TYLER

rriedinger@spokanecity.org

**Additional Approvals**

tpfister@spokanecity.org

**Purchasing**

## **MOBILELITE, LLC (NONCABLE) FRANCHISE**

Ordinance No. C35403

An ordinance granting a non-exclusive franchise to use the public right of way to provide noncable telecommunications service to the public to MobileLite LLC, subject to certain conditions and duties as further provided.

### **THE CITY OF SPOKANE DOES ORDAIN:**

- Section 1. Definitions
- Section 2. Parties, grant
- Section 3. Limits on permission
- Section 4. Effective Date, Term
- Section 5. General provisions
- Section 6. Plans; Locate, Relocate
- Section 7. Grantee to restore affected areas
- Section 8. Information, good engineering, inspections
- Section 9. Limited access, no obstruction, accommodation
- Section 10. Undergrounding
- Section 11. Facilities for City Use
- Section 12. Liability; No duty
- Section 13. Insurance
- Section 14. Taxes, fees
- Section 15. Franchise administration
- Section 16. Additional

#### **Section 1. Definitions**

“City” means the City of Spokane and its legal successors.

“Administering officer” is the designee of the Mayor who administers this Franchise.

“Cable television service” means the one-way transmission to subscribers of video programming and other programming service and subscriber interaction, if any, that is required for the selection or use of the video programming or other programming service.

“Facilities” means the equipment, fixtures and appurtenances necessary to furnish and deliver Telecommunications services as provided in the Franchise. It includes poles, wires and conduits, but not above ground pedestals or other special installations in the Public Right of way absent

written permission of the Administering officer, which permission shall not be unreasonably withheld, conditioned or delayed.

“Gross Revenues” means any and all revenue, of any kind, nature, or form, without deduction for expenses in the City of SPOKANE and is further defined in Section 14. All such revenue remains subject to applicable FCC rules and regulations which exclude revenues from internet access services while prohibited by law.

“Municipal infrastructure” means the road bed and road area, street and sidewalk paving, curbing, associated drainage Facilities, bike paths and other construction or improvements pertaining to public travel. It further includes municipal water and sewer lines or other municipal utility Facilities, as well as municipal traffic signal, street lighting and communications Facilities in the Right of way or other areas or easements open for municipal use. It further includes skywalks, street trees, plants, shrubs, lawn and other ornamental or beautification installations owned by the City in the Right of way or other ways open for public travel or municipal use, and accepted for municipal management or control as such. The definition is intended to encompass any municipal physical plant, fixtures, appurtenances or other Facilities located in or near the Right of way or areas or easements opened and accepted for municipal use.

“Public Right of way” or “Right of way” means land acquired by or dedicated to the City for public roads and streets, but does not include

- state highways;

- land dedicated for roads, streets, and highways not opened and not improved for motor vehicle use by the public;

- structures, including poles and conduits, located within the Right of way;

- federally granted trust lands or forest board trust lands;

- lands owned or managed by the state parks and recreation commission; or

- federally granted railroad rights of way acquired under 43 U.S.C. 912 and related provisions of federal law that are not open for motor vehicle use.

“Telecommunications service” means the transmission of information by wire, radio, optical cable, electromagnetic, or other similar means for hire, sale, or resale to the general public. For the purpose of this definition,

“information” means knowledge or intelligence represented by any form of writing, signs, signals, pictures, sounds, or any other symbols. For purposes of this definition, “Telecommunications service” excludes the over-the-air transmission of broadcast television or broadcast radio signals and “cable service” as defined in 42 USC 522 (5) or other distribution of multichannel video programming.

## Section 2. Parties, grant

A. This is a Franchise agreement between the City of Spokane as Grantor, hereafter also “City”, and MobileLite LLC, as Grantee, hereafter also “Grantee”. Grantee is a Nevada limited liability company, whose home office is 2220 University Drive, Newport Beach, California 92660. Any notice sent hereunder shall be sent to the above address to Attention: Legal Department. Any contact necessary for effectuating this Franchise or any logistics hereunder shall be made to Attention: Legal Department; telephone (877) 999-7070; email [legal@mobilitie.com](mailto:legal@mobilitie.com).

B. In return for promises made and subject to the stipulations and conditions stated, the City grants to Grantee general permission to enter, use, and occupy the Public Right of way, to locate Facilities to provide Telecommunications service to the public in the City of Spokane and/or to transport Telecommunications services through the City and for no other purpose. This grant expressly does not include permission to use the Public Right of way for cable service or cable television service. The grant is by way of general permission to occupy the Right of way, and not in place of specific location permits. In accepting this Franchise, Grantee stipulates and agrees to the City’s authority to issue and require the Franchise and stipulates and agrees to the other terms and conditions hereof.

## Section 3. Limits on permission

A. Should the City determine Grantee is using the Franchise beyond its purpose or functioning as a cable operator or performing other business functions beyond the scope of permission extended in the Public Right of way, the City reserves the right to cancel this Franchise and require Grantee to follow any applicable requirements to obtain a cable franchise or other franchise from the City. [Cross reference section 16 B for cure and default provision.]

B. Permission granted is in the nature of a quitclaim of any interest or authority the City has to make the grant, without warranty of authority by the City to the Grantee. It does not extend beyond the Right of way, to areas such as buildings or private areas not reserved for general utility access. Grantee is solely responsible to make its own arrangements for any access needed to such places. Permission granted is nonexclusive. Grantee stipulates that the City may grant similar permission to others. The City additionally reserves the right to engage in



any lawful municipal function, whether or not including any line of business engaged in by Grantee.

C. The grant of permission from the City does not extend to municipal buildings or other municipally owned or leased structures or premises held in a proprietary or ownership capacity. For such locations, Grantee should make specific written lease arrangements directly with the municipal department controlling such building or other structure or area, all arrangements to be approved in accord with applicable requirements.

#### Section 4. Effective Date, Term

This Franchise is effective as of the effective date of the Ordinance; PROVIDED, that it shall not be effective unless and until the written acceptance of this ordinance by the Grantee, signed by its proper officers, shall be filed with the City Clerk within thirty (30) days of enactment. It expires at midnight fifteen (15) years thereafter. This does not affect the City's right to revoke the Franchise for cause, abandonment, or because of breach of any material promise, condition or stipulation stated herein.

#### Section 5. General provisions

A. Grantee will become and remain in good standing a corporation registered to do business in the State of Washington, and pay all taxes or fees applicable thereto. Grantee will maintain a toll free public telephone number 24 hours a day, seven days a week for customer access, personally staffed at least during normal business hours.

B. Grantee will provide safe and reliable service to its customers at rates that are fair and reasonable, in accordance with all applicable laws and regulations, including regulatory ordinances, resolutions of the City Council and orders of the Administering officer relating to use of the Right of way or otherwise to areas within municipal jurisdictional powers as may now or hereafter arise. Grantee agrees to be accessible to its customers and responsive to customer needs.

C. Grantee will coordinate its activities with other utilities and users of permitted areas to avoid unnecessary cutting, damage or disturbance to the Public Right of way and other permitted areas, and to conduct its planning, design, installation, construction and repair operations to maximize the life and usefulness of the paving and municipal infrastructure. [See also, section 7; Pavement Cut policy.] Grantee agrees that its uses in Franchised areas are fully subordinate to Municipal infrastructure needs and uses, the general public travel and access uses and the public convenience, except as may be otherwise required by law. Grantee promises to minimize or avoid any hazard, danger or inconvenience to Municipal infrastructure needs and uses, public

travel, and the public convenience.

D. Grantee will maintain membership with the Inland Empire Utility Coordinating Council (IEUCC) or other similar or successor organization designated to coordinate underground fixture locations and installations. Grantee is familiar with Ch. 19.122 RCW, Washington State's "Underground Utilities" statute. Grantee will familiarize itself with local procedures, custom and practice relating to the one-call locator service program, and will see to it that its contractors or others working in the Right of way on Grantee's behalf are similarly well informed.

#### Section 6. Plans; Locate, Relocate

A. Grantee's plans for construction or installation shall be submitted to the Administering officer as requested under such advance notification as the Administering officer may reasonably require, with a copy of such plans to the City's MIS Director and any other information requested by the City. Grantee promises that all its installations shall be placed in the standard location for telephone conduit or overhead lines, as determined by local regulation, custom and practice, or as designated by the Administering officer. Above ground pedestals or other above ground structures besides telephone poles and related guy wire supports are subject to separate review and approval by the Administering officer, in addition to other Franchise requirements.

B. The City reserves the right to change, regrade, relocate, or vacate the Public Right of way and/or skywalk over the Right of way at no expense or liability to the City. The City agrees to give Grantee preliminary notice of any such request ("initial notice date"). Grantee must submit design plans within sixty (60) days of an initial notice date, with relocation to be accomplished within ninety (90) days of the initial notice date or thirty days of the City's final approval of Grantee's design plan, whichever is later. In addition, the City agrees to work with Grantee to give additional advance notice as may be reasonable under the circumstances or to extend additional time, considering the nature and size of the project and other factors. Upon expiration of the time limits specified, Grantee will relocate, remove, or reroute its Facilities, as ordered by the Administering officer, at its sole expense and liability, including handling any third party claims, such as service interruption. This provision prevails over others in the event of conflict or ambiguity. In case of emergency, the notice period may be shortened, giving reasonable consideration also for Grantee's needs.

C. Under the provisions of RCW 35.99.060, the Administering officer may require Grantee to relocate its Facilities within the Right of way, when reasonably necessary for construction, alteration, repair, or improvement of the Right of way for purposes of public welfare, health, or safety. The same terms and timelines as exists in Section 6B shall apply for the relocation contemplated in this Section

6C.

D. Grantee shall complete the relocation by the date specified by the Administering officer, unless extended by said official after a showing by Grantee that the relocation cannot be completed by the date specified using best efforts and meeting safety and service requirements. As provided in RCW 35.99.60, Grantee may not seek reimbursement for its relocation expenses from the City except for City requested relocations:

1. Where Grantee has paid for the relocation cost of the same Facilities in the Right of way at the request of the City within the past five years, Grantee's share of the cost of relocation will be paid by the City when the City is requesting the relocation;

2. Where aerial to underground relocation of authorized Facilities in the Right of way is required by the City, where Grantee has any ownership share of the aerial supporting structures, the additional incremental cost of underground compared to aerial relocation, or as provided for in the approved tariff if less, will be paid by the City requiring relocation; and

3. Where the City requests relocation in the Right of way solely for aesthetic purposes, unless otherwise agreed to by the parties.

4. The parties agree that "relocation" refers to a permanent movement of Facilities required of Grantee by the City, and not a temporary or incidental movement of Facilities, such as a raising of lines to accommodate house moving and the like, or other revisions Grantee would accomplish without regard to municipal request.

E. As provided by RCW 35.99.060, where a project is primarily for private benefit, the private party or parties shall reimburse the cost of relocation in the same proportion to their contribution to the costs of the project. Grantee understands however that the City has no obligation to collect such reimbursement and enforcement of any such rights shall be solely by Grantee. Upon stipulation of all parties, the Administering officer may arbitrate any dispute referenced in this subsection E or refer the matter to the Hearings Examiner, provided, costs of the same as may be assessed by the City shall be borne by the participants. Grantee is not otherwise precluded from recovering costs associated with relocation, consistent with applicable state or federal law, where it does not directly or indirectly create additional liability or expense to the City.

F. The Administering officer may require the relocation of Facilities at Grantee's expense at any location in the event of an unforeseen emergency that

creates an immediate threat to the public safety, health, or welfare. Where the City determines to abandon or vacate any right or way or other permitted area, it is the Grantee's responsibility to resolve any question of Grantee's continued occupancy or use of such areas directly with the owner of such areas.

#### Section 7. Grantee to restore affected areas

Subject to section 6 as it may apply, whenever Grantee damages or disturbs any location in or near the Right of way or other permitted area, Grantee will promptly restore the same to original condition at its expense, as required by the Administering officer. Grantee will restore and patch all surfaces cut in accord with the City's generally applicable Pavement Cut Policy, on file with the Administering officer to maintain and preserve the useful life thereof. Any damage or disturbance to Facilities, fixtures or equipment of the City or others shall be promptly repaired. Pavement restorations shall be maintained in good condition and repair by Grantee until such time as the area is resurfaced or reconstructed. If Grantee fails or delays for more than thirty (30) days in performing any obligation here or elsewhere in the Franchise, the City may proceed to correct the problem and bill Grantee for the expense, upon such reasonable notice as determined by the Administering officer under the circumstances.

#### Section 8. Information, good engineering, inspections

A. Grantee will supply information requested by the Administering officer such as installation inventory, locations of existing or planned Facilities, maps, plans, operational data, and as-built drawings of Grantee's installations or other information. The information shall be in format compatible with City operations. Grantee is responsible for defending any public record requests as it may desire.

B. Grantee property and Facilities shall be constructed, operated and maintained according to good engineering practice. In connection with the civil works of Grantee's system, such as trenching, paving, compaction and locations, Grantee promises to comply with the American Public Works Association Standard Specifications, the edition being that in current use by the City, together with the City's Supplemental Specifications thereto, all as now or hereafter amended. Grantee promises its system shall comply with the applicable federal, state and local laws, and the National Electric Safety Code and Washington Electrical Construction Code, where applicable. Grantee will familiarize itself with the City of Spokane's Specifications and other Right of way installation and location requirements, on file with the Administering officer and make reasonable efforts to be familiar with updates or changes thereto.

#### Section 9. Limited access, no obstruction, accommodation

A. The City reserves the right to limit or exclude Grantee's access to a

specific route, Public Right of way or other location when, in the reasonable judgment of the Administering officer, there is inadequate space, a pavement cutting moratorium, subject to the requirements of applicable law, unnecessary damage to public property, public expense, inconvenience, interference with City utilities, or for any other reasonable cause determined by the Administering officer, provided, it shall do so consistent with the federal Telecommunications Act of 1996 and RCW 35.99.050 as applicable.

B. Grantee must raise any concerns under the aforementioned laws or other applicable laws which it believes limit the City's authority or Grantee's obligations to the City pertaining to this Franchise at the time such issue is first known or should have been reasonably known by Grantee.

C. Grantee will not interfere with Municipal infrastructure uses of the Right of way or other permitted areas. Grantee shall maintain a minimum underground horizontal separation of five (5) feet from City water facilities and ten (10) feet from above-ground City water facilities unless modified in writing; PROVIDED, that for development in new areas, the City, together with Grantee and other utility purveyors or authorized users of the Right of way, will develop and follow the Administering officer's reasonable determination of a consensus for guidelines and procedures for determining specific utility locations, subject additionally to this Franchise. Subject to Section 6, the City may require Grantee to make reasonable accommodation for public or third party needs in the construction of Grantee facilities in the Right of way as, in the judgment of the Administering officer, are necessary to preserve the condition of, or reduce the interference with, such Right of way, and a reasonable apportionment of any expenses of any such accommodation; PROVIDED, that this Franchise creates no third party beneficial interests. Notwithstanding the foregoing, it remains the responsibility of the Grantee to anticipate and avoid conflicts with other Right of way occupants or users, other utilities, franchisees, or permittees. The City assumes no responsibility for such conflicts.

#### Section 10. Undergrounding

The City reserves the right to develop a general policy on undergrounding and to require Grantee's participation therein, in coordination with the City's underground program for other utility service providers, as a condition of Grantee's new installation or major maintenance or restoration construction activities of overhead facilities under this Franchise. The purpose of this section is to recognize and preserve the City's control over uses of the Public Right of way, consistent with the municipal policy favoring undergrounding of overhead lines for aesthetic reasons.

#### Section 11. Facilities for City Use

A. Except as covered by mutual agreement, whenever Grantee constructs, relocates or places ducts or conduits in the Public right of way, Grantee will provide the City where technically feasible, judged by objective engineering standards, with additional duct or conduit and related structures necessary to access the conduit at its actual incremental out-of-pocket costs to cover all internal costs. The parties agree to execute any documents needed to satisfy RCW 35.99.070 as it may apply. The City may review supporting third party billings to support incremental cost claims. Unless otherwise agreed, the City further agrees not to resell, lease, sublease, or grant an IRU or other right to use in any Grantee facilities provided under this paragraph, or use such facilities to provide communications services for hire, sale or resale, to the public or any third party which is not a governmental entity. All facilities supplied shall be maintained to technical specifications.

B. The City is permitted to attach to aerial poles for aerial fiber cabling and required mounting hardware in situations where the existing pole agreements between Mobilitie LLC, and the other party would not be violated by the City's attachment use of the aerial pole.

C. Grantee agrees to notify the City MIS Director at least sixty (60) days prior to opening a trench or placing overhead lines at any location to allow the parties to implement paragraph B herein as those provisions may apply. As to all matters encompassed in this Section, the parties further agree to do anything required by law to maintain the effectiveness of such arrangements and to negotiate in good faith any matters not otherwise fully resolved. Each party acknowledges receipt of good and adequate consideration for all matters encompassed in this Section.

## Section 12. Liability; No duty

A. Grantee waives all claims, direct or indirect, for loss or liability, whether for property damage, bodily injury or otherwise, against the City arising out of Grantee's enjoyment of Franchise or permit privileges. This waiver does not apply to negligent or intentional acts of the City outside a governmental or regulatory capacity, such as granting this franchise or permits. Grantee will indemnify and hold harmless the City, its boards, officers, agents and employees ("City") from any and all claims, accidents, losses, or liabilities arising from or by reason of any intentional or negligent act, occurrence or omission of the Grantee, whether singularly or jointly with others, its representatives, permittees, employees or contractors, in the construction, operation, use, or maintenance of any of the Grantee's property or Facilities, and/or enjoyment of any privileges granted by this Franchise, or because of Grantee's performance or failure to perform any Franchise obligations, except to the extent caused by the gross negligence or willful misconduct of the City, its employees, agents or contractors or other third parties.

B. Grantee accepts that access to any Franchised area is furnished "as is". The City has made no assessment or guarantee as to its suitability for Grantee needs or compatibility of Grantee uses with other needs. Grantee waives immunity under Title 51 RCW in any cases involving the City of Spokane and affirms that the City and Grantee have specifically negotiated this provision, as required by RCW 4.24.115, to the extent it may apply. This waiver has been mutually negotiated.

C. It is not the intent of this ordinance to acknowledge, create, or expand any duty or liability of the City for any purpose. Any City duty nonetheless deemed created shall be a duty to the general public and not to any specific party, group, or entity.

### Section 13. Insurance

A. During the term of this Franchise, the Administering officer, with the advice of the City Risk Manager may review the relative risk of Grantee's installation and operations and direct changes to insurance and liability protections as he/she may require. Unless so modified, Grantee shall furnish satisfactory evidence of commercial general liability insurance and maintain the same in good standing, with limits of at least one million dollars (\$1,000,000) per occurrence and two million dollars (\$2,000,000) aggregate, with the City of Spokane named as an additional insured.

B. Any Grantee insurance policy or approved self-insurance arrangements addressing requirements of this Franchise shall be primary to any City insurance coverage or, in the event the City is self-insured, any Grantee policy shall afford first dollar protection coverage for risks included in Grantee's operations. On or before June 1st of each year and at the time of granting this Franchise, as a condition of Franchise validity, Grantee shall file with the City Clerk, with copy to the City Risk Manager, proof of continued insurance coverage, at least in the amounts required in this Section, through a Certificate of Insurance, including the additional insured endorsement indicating City coverage required herein and a provision that said coverage may not be cancelled or reduced without at least thirty (30) days notice to the City, filed as above provided.

### Section 14. Taxes, fees

A. No Franchise fee is assessed for telephone business operations in accord with the prohibition of state law (RCW 35.21.860). If the prohibition of telephone business franchise fees is removed or modified to allow a Franchise fee, the parties agree to negotiate this provision as a material term on which agreement is required for continuation of this franchise, PROVIDED, the City must give one hundred eighty (180) days notice to invoke this provision and any Franchise fee under it shall be prospective in nature.

B. If Grantee operates a Cable television service, the cable franchise fee is 5% of gross receipts from said business from the time of commencement of such operations, but this shall not excuse full compliance with other applicable requirements.

C. Nothing in this Franchise shall otherwise limit the City's power to tax or recover any lawful expenses in connection with this Franchise. Grantee agrees to pay all taxes as due and any lawful expenses within forty-five (45) days of billing pursuant to this Franchise. Failure to pay within forty-five (45) days after demand by the City and exhaustion of any applicable remedies is a material breach of this Franchise.

D. The City reserves the right to audit any books or records required to enforce any lawful tax, fee or expense to be paid by Grantee. All audits will take place on Grantee's premises or offices furnished by Grantee, which shall be a location within the City of Spokane or by mutually accepted other arrangements. Grantee agrees, that no later than sixty (60) after receiving written request from the City Treasurer to provide copies of all documents filed with any federal, state, or local regulatory agency, to be mailed to the City Treasurer on the same day as filed, postage prepaid, affecting any of Grantee's Facilities or business operations in the City of Spokane. Any information provided by Grantee to City shall be subject to public disclosure under the public records act, RCW 42.56.

#### Section 15. Franchise administration

Questions of application or interpretation of this Franchise are determined by the Administering officer or a court of competent jurisdiction. Said officer may issue enforcement orders, upon due notice as deemed proper, promulgate rules and procedures as deemed necessary and grant exceptions, which shall be revocable. Nothing in the Franchise limits the City's police or regulatory power in general or over its Right of way or other franchised areas. For the performance of all Franchise obligations, time is of the essence. All City acts under this Franchise are discretionary, guided by considerations of the public health, safety, esthetics and convenience.

#### Section 16. Additional

A. Any assignment of use or occupancy privileges requires consent of the City in the manner originally granted. This does not apply to minor stock transfers, or assignments to affiliates, including an assignment or transfer to an entity controlling, controlled by or under common control with Grantee, or if an entity acquires or succeeds to ownership of all or substantially all of Grantee's assets. No capital stock may ever be issued based on any permission to use or occupy the right-of-way or other permitted areas or the value thereof. In any condemnation proceeding brought by the City, no grantee of any permission, permit or franchise under this chapter or otherwise shall ever be entitled to



receive any return thereon, or its value.

B. This Franchise may be revoked by the City Council by resolution because of any material breach, after giving at least thirty (30) days notice to Grantee and opportunity to cure. No forbearance by the City of any term or condition of this Franchise shall ever comprise a waiver or estoppel of the City's right to enforce said term or condition. Grantee may surrender its Franchise to the City upon sixty (60) days written notice to the Administering officer, subject to acceptance by the City, by a resolution of the City Council.

C. Upon termination, surrender or expiration of the Franchise, Grantee may be required to remove all its Facilities as ordered by the Administering officer or otherwise render the same safe as the Officer reasonably determines.

D. Grantee understands that this Franchise applies to itself as well as all third party users, assigns, successors or any other entity enjoying de facto Franchise privileges derived from permission extended to Grantee herein and Grantee shall assure that any contracts with such users, assigns, successors or entities shall so provide. Additionally, Grantee accepts full responsibility with said users, assigns, successors, or entities, jointly and severally, to the City for full performance of all Franchise obligations.

E. This Franchise is governed by the laws of the State of Washington, and venue for any litigation arising out of or in connection with privileges extended herein is stipulated to be in Spokane County.

Passed by the City Council on \_\_\_\_\_, 2016.

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
Assistant City Attorney

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ACCEPTANCE OF CITY OF SPOKANE FRANCHISE

Ordinance No. \_\_\_\_\_, effective \_\_\_\_\_, 2016.

I, \_\_\_\_\_, am the \_\_\_\_\_ of MobileLite LLC, and am an authorized representative to accept the above referenced City Franchise ordinance on behalf of MobileLite, LLC.

I certify that this Franchise and all terms and conditions thereof are accepted without qualification or reservation.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_

Witness: \_\_\_\_\_

**Agenda Sheet for City Council Meeting of:**

06/13/2016

**Date Rec'd**

5/31/2016

**Clerk's File #**

ORD C35404

**Renews #****Submitting Dept**

ENGINEERING SERVICES

**Contact Name/Phone**

DAN BULLER 625-6391

**Contact E-Mail**

DBULLER@SPOKANECITY.ORG

**Agenda Item Type**

First Reading Ordinance

**Agenda Item Name**

0370 - EMINENT DOMAIN ORDINANCE

**Cross Ref #****Project #**

2005264

**Bid #****Requisition #****Agenda Wording**

An Ordinance providing for the acquisition by Eminent Domain of certain lands necessary to be acquired for public purposes in connection with the Martin Luther King Jr. Way (Riverside Extension) Project, located in the City and County of Spokane,

**Summary (Background)**

This ordinance pertains to acquisition by eminent domain of the last piece of property required to complete the Riverside/Martin Luther King Jr. project.

**Fiscal Impact**

Neutral \$

Select \$

Select \$

Select \$

**Budget Account**

#

#

#

#

**Approvals****Dept Head**

TWOHIG, KYLE

**Division Director**

GIMPEL, KEN

**Finance**

KECK, KATHLEEN

**Legal**

RICHMAN, JAMES

**For the Mayor**

WHITNEY, TYLER

**Council Notifications****Study Session****Other**

Executive Session

**Distribution List**

Engineering Admin

kkeck@spokanecity.org

mhughes@spokanecity.org

htrautman@spokanecity.org

dbuller@spokanecity.org

**Additional Approvals****Purchasing**



**Continuation of Wording, Summary, Budget, and Distribution**

**Agenda Wording**

State of Washington.

**Summary (Background)**

Fiscal Impact		Budget Account	
Select	\$		#
Select	\$		#
Distribution List			

## **ORDINANCE NO. C35404**

AN ORDINANCE PROVIDING FOR THE ACQUISITION BY EMINENT DOMAIN OF CERTAIN LANDS NECESSARY TO BE ACQUIRED FOR PUBLIC PURPOSES IN CONNECTION WITH THE MARTIN LUTHER KING JR. WAY (RIVERSIDE EXTENSION) PROJECT, LOCATED IN THE CITY AND COUNTY OF SPOKANE, STATE OF WASHINGTON.

### **RECITALS**

1. The City of Spokane, Washington (the "City") is a first class charter city duly organized and existing under and by virtue of the constitution and laws of the State of Washington, and Charter of the City.

2. The laws of the State of Washington, RCW 35.22.280(7) provide that the City may establish, open, alter, widen, extend, and otherwise improve streets, alley, avenues, sidewalks, and other public property in order to promote the best interest of the City.

3. The Constitution of the State of Washington, Article I Section 16 and the laws of the State of Washington RCW 35.22.280(6) allow the City to purchase or appropriate private property for public use upon making just compensation to the owners pursuant to RCW Chapter 8.12.

4. The City Department of Department of Engineering Services has determined that it is in the City's best interest to construct the Martin Luther King Jr. Way (Riverside Extension) Project, as set forth in Public Works file number 2005264 & 2015078 (the "Project").

5. The Project appears in the City of Spokane 2016-2021 Six Year Comprehensive Street Program (first listed in 2005-2010 program), and this phase is summarized as the design and construction of an extension of future Riverside Drive, including 5-foot bike lanes and separated sidewalks, beginning at Sherman Street and running easterly to Trent Avenue at Perry Street.

6. The Project is consistent with the University District Master Plan, which calls for a more pedestrian friendly environment, by providing for a new alignment of Riverside Drive which will divert most vehicular traffic around the campus instead of through it. This roadway alignment was shown in the City's Comprehensive Plan in 2000 which indicated the City's intent to construct this new arterial roadway.

7. The Project is being constructed in phases, with approximately one third of the Project having been completed in 2012, and another third scheduled for construction starting in the summer of 2016. The final phase is scheduled for construction in 2017 and will be the last phase of the project. Once completed in 2017 the total estimated cost for

the entire project is approximately \$15.5 million of which \$13.6 million will be spent by the end of 2016.

8. The property interests identified in Exhibits A and B are necessary to complete the final phase of the Project.

9. Failure to timely acquire the property interests identified in Exhibits A and B will jeopardize funding for the final phase of the Project.

10. City staff and/or representatives have negotiated in good faith for the acquisition of the property interests identified in Exhibits A and B, but the parties have been unable to agree upon the purchase price, and the owner of the property interests has expressed a desire for the City to acquire the property interests via the City's eminent domain authority.

11. Pursuant to RCW 8.25.290, the City has caused notice to be mailed to each and every property owner of record, as indicated on the tax rolls of Spokane County and according to such addresses shown on such rolls, at least fifteen (15) days prior to the City Council taking final action on this ordinance, and has also arranged for publication of notice of this ordinance in the Spokesman Review for two (2) consecutive weeks prior to final action by the City Council.

NOW, THEREFORE, The City of Spokane does ordain:

Section 1. Determination of Public Use and Necessity. Public use and necessity requires the City of Spokane to acquire the land and property, and interests therein, as described in Exhibits "A" and "B", together with such other temporary construction easements as may be deemed necessary by City staff, for public purposes in order to complete the Martin Luther King Jr. Way (Riverside Extension) Project, including utilities and related improvements, all as set forth in Public Works file number 2005264 & 2015078. If the properties are not acquired and the Riverside Extension Project is not completed, traffic flow from central Spokane through the University District will be seriously impaired and the City will not be in compliance with its adopted transportation plans.

Section 2. Authorization to Commence Condemnation Action. The City Attorney is hereby authorized and directed to commence an action or actions in the Superior Court of Spokane County, State of Washington, in the name of the City of Spokane, to acquire and take by eminent domain the lands and property interests necessary to be acquired for the purposes set forth herein, upon payment of just compensation having been made to the owner or paid into court for the benefit of the owner in the manner prescribed by law. The lands and property interests to be acquired are located in the City of Spokane, County of Spokane, all in the State of Washington, and more specifically described in Exhibits "A" and "B", attached hereto and by this reference made a part hereof. The City Attorney and/or her designees are further authorized to determine and make or pay just compensation and to take such other steps deemed necessary to complete acquisition of the properties and to adjust the extent of the properties taken or acquired to facilitate implementation of this ordinance as are deemed necessary by City staff to complete the

project, including such additional temporary construction easements as are deemed necessary, provided such amendments shall be consistent with the Riverside Extension Project.

Section 3. Authorization for Payment of Just Compensation and Expenses. Pursuant to RCW 8.12.040, just compensation for the land and property interests described in Exhibits "A" and "B", and litigation costs related thereto, is hereby authorized and shall be payable from the City of Spokane fund account number 3200-94997-95200-56102, and funds which are allocated toward the Martin Luther King Jr. Way (Riverside Extension) Project by the Department of Engineering Services, pursuant to file number 2005264 & 2015078.

Section 4. Severability. Should any section, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions or sections of this ordinance or its application to persons or circumstances.

Section 5. Effective Date. This ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force thirty (30) days after the date of enactment.

PASSED BY THE CITY COUNCIL ON \_\_\_\_\_, 2016.

\_\_\_\_\_  
Council President

Attest:

Approved as to form:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Assistant City Attorney

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Effective Date

Attachments: Exhibits "A" and "B"



Exhibit A

LEGAL DESCRIPTION OF TAKE AREA

**LEGAL DESCRIPTION OF THE RIGHT-OF-WAY TAKE AREA**  
**FROM ASSESSOR'S PARCEL #35174.0599**

(Prepared by Adams & Clark, Inc.)

THOSE PORTIONS OF TRACT "C" AND VACATED BRADLEY AVENUE, DENNIS & BRADLEY'S ADDITION, AS PER PLAT RECORDED IN VOLUME "A" OF PLATS, PAGES 160 AND 161, CITY OF SPOKANE, SPOKANE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHWEST CORNER OF LOT 6, BLOCK 24, OF SAID PLAT; THENCE ALONG THE SOUTH LINE OF SAID LOT 6, NORTH 87°47'33" EAST 50.71 FEET TO A POINT ON A 515.50 FOOT RADIUS NONTANGENT CURVE, THE CENTER OF CIRCLE OF WHICH BEARS NORTH 74°07'44" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°28'33", 121.24 FEET TO A POINT ON THE WEST LINE OF SAID TRACT "C"; THENCE ALONG SAID WEST LINE, NORTH 02°10'35" WEST 109.79 FEET TO THE POINT OF BEGINNING;

CONTAINING 3,071 SQUARE FEET, MORE OR LESS.

Exhibit B

LEGAL DESCRIPTION OF TEMPORARY CONSTRUCTION EASEMENT

**LEGAL DESCRIPTION OF THE PERMIT AREA**  
**OF ASSESSOR'S PARCEL #35174.0599**

(Prepared by Adams & Clark, Inc.)

A STRIP OF LAND, TEN FEET (10') WIDE ACROSS THOSE PORTIONS OF TRACT "C" AND VACATED BRADLEY AVENUE, DENNIS & BRADLEY'S ADDITION, AS PER PLAT RECORDED IN VOLUME "A" OF PLATS, PAGES 160 AND 161, CITY OF SPOKANE, SPOKANE COUNTY, WASHINGTON, DESCRIBED AS FOLLOWS;

BEGINNING AT THE SOUTHWEST CORNER OF LOT 6, BLOCK 24, OF SAID PLAT; THENCE ALONG THE SOUTH LINE OF SAID LOT 6, NORTH 87°47'33" EAST 50.71 FEET TO THE **TRUE POINT OF BEGINNING**, A POINT ON A 515.50 FOOT RADIUS CURVE, THE CENTER OF CIRCLE OF WHICH BEARS NORTH 74°07'44" WEST; THENCE SOUTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 13°28'33", 121.24 FEET TO A POINT ON THE WEST LINE OF SAID TRACT "C"; THENCE ALONG SAID WEST LINE, SOUTH 02°10'35"EAST 18.67 FEET TO A POINT ON A 525.50 FOOT RADIUS NONTANGENT CURVE, THE CENTER OF CIRCLE BEARS NORTH 58°55'05"WEST; THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 15°33'59", 142.77 FEET TO A POINT ON SAID SOUTH LINE OF LOT 6; THENCE ALONG SAID SOUTH LINE, SOUTH 87°47'33" WEST 10.51 FEET TO THE **TRUE POINT OF BEGINNING**;

CONTAINING 1,321 SQUARE FEET, MORE OR LESS.