



## Mayor David A. Condon

September 12, 2019

Spokane City Council  
808 W. Spokane Falls Blvd.  
Spokane, WA 99201

Dear City Council President Stuckart and Council Members,

I am writing to inform you that I am vetoing Ordinance C35789 relating to the practice of loaning City employees and property to other government agencies. While the purpose and intent of the Ordinance states that the City encourages intergovernmental cooperation, the reality is that the Ordinance effectively stifles all ability to loan our employees' expertise and equipment to the advancement of our City in a meaningful way and is prohibited under the City Charter Article IV, Section 22.

Our Joint Administration-Council Strategic Plan, which was developed in collaboration, is the guide we should be following. In order to be One Spokane, we decided where to focus our time and make our investments – urban experience, safe and healthy communities, innovative infrastructure, and sustainable resources. These goals were put in place because we recognized that when we work together, Spokane is safer, smarter, and healthier. Ordinance C35789 strays from our strategic plan, and in this case, actively works against our stated goal to work collaboratively with regional partners, specifically in areas of criminal justice reform, economic development in our PDAs, and recreationally in our river trail systems.

Regional collaboration with the strong partners we have is essential to continuing our vitality. Prohibiting the loaning of City employees and equipment to other entities unless a myriad of rules are followed sends the message to our partners that their local government at best is uncooperative, and at worst completely off limits. On the contrary, we should embrace collaboration, letting our talented employees easily work with regional agencies to drive innovation and growth. And once again, the Ordinance ignores City Charter Section 22, which explicitly states that “neither the council president, the city council, nor any member thereof shall give orders to any subordinate of the City under the jurisdiction of the mayor, either publicly or privately.”

While I appreciate the Council's effort to codify the practice of loaning employees to other agencies, the extensive barriers put in place are not reasonable. We need to work together to build Spokane as the City of Choice.

Sincerely,

A handwritten signature in blue ink that reads "David A. Condon". The signature is stylized and fluid.

David A. Condon  
Mayor

***The City of Choice***

808 W. Spokane Falls Blvd. • Spokane, Washington 99201-3335  
Phone: 509.625.6250 FAX: 509.625.6563



## ORDINANCE APPROVAL/VETO TRANSMITTAL FORM

DATE: September 3, 2019  
TO: Mayor David A. Condon  
FROM: Laura Price, City Clerk's Office  
RE: August 26, 2019 CITY COUNCIL MEETING ORDINANCE C35789

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The following Ordinance, passed unanimously by City Council, is attached for your approval/veto.

**ORD C35789:** Relating to regulating the practice of loaning city employees and property to other government agencies; enacting new chapters 03.13 and 12.12 of the Spokane Municipal Code.

City Charter Section 16 gives you the following options for approving/vetoing this ordinance:

- Sign the ordinance approved as passed by City Council and return to the City Clerk's Office.
- Veto the ordinance and return to the City Clerk's Office. A written and signed statement of the reasons for the veto must accompany the vetoed ordinance.
- Sign and partially veto the ordinance (only applicable to appropriations ordinances) and return it to the City Clerk's Office. A written and signed statement of the reasons for the partial veto must accompany the partially vetoed ordinance.

If this ordinance is not returned to the City Clerk's Office by 5:00 p.m., September 13, 2019, with a Mayoral approval or veto, the ordinance shall be deemed enacted without Mayoral signature.



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

August 26, 2019

City Clerk File No.:  
ORD C35789

COUNCIL ACTION MEMORANDUM

RE: FINAL READING ORDINANCE C35789 REGULATING THE PRACTICE OF LOANING CITY EMPLOYEES AND PROPERTY TO OTHER GOVERNMENT AGENCIES (deferred from August 12, 2019, Agenda)

During the Spokane City Council's regularly scheduled 3:30 p.m. Administrative Session held Monday, August 26, 2019, upon review of changes to the August 26 Current Agenda, the following action was taken:

**Motion** by Council Member Mumm, seconded by Council Member Fagan, **to substitute** Final Reading Ordinance C35789; **carried unanimously.**

At its 6:00 p.m. Legislative Session held August 26, the City Council considered Final Reading Ordinance C35789 (as substituted). Council Member Mumm provided an overview of the ordinance. Subsequent to an opportunity for public testimony, with no individuals requesting to speak, the following action was taken:

**Upon Unanimous Roll Call Vote**, the City Council **passed Final Reading Ordinance C35789 (as substituted)** regulating the practice of loaning city employees to other government agencies; enacting new chapters 03.13 and 12.12 of the Spokane Municipal Code.

Terri L. Pfister, MMC  
Spokane City Clerk



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

August 12, 2019

City Clerk File No.:  
ORD C35789

COUNCIL ACTION MEMORANDUM

RE: FINAL READING ORDINANCE C35789 REGULATING THE PRACTICE OF LOANING CITY EMPLOYEES AND PROPERTY TO OTHER GOVERNMENT AGENCIES

During the Spokane City Council's regularly scheduled 3:30 p.m. Administrative Session held Monday, August 12, 2019, Council Member Mumm provided an update relating to Final Reading Ordinance C35789. Council Member Mumm noted that for professional accounting reasons, asset management reasons, and financial transparency reasons, she feels strongly that the City needs to go forward with this ordinance; however, she noted she is willing to ask for a deferral for two weeks (to August 26, 2019) to continue to have communication with Administration on the ordinance. The following action was taken:

**Motion** by Council Member Mumm, seconded by Council Member Fagan, **to defer** Final Reading Ordinance C35789 for two weeks (to August 26, 2019); **carried unanimously (Council Member Beggs absent).**

Terri L. Pfister, MMC  
Spokane City Clerk



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

July 1, 2019

City Clerk File No.:  
ORD C35789

COUNCIL ACTION MEMORANDUM

RE: ORDINANCE C35789 CREATING REGULATIONS FOR THE LOAN OF CITY OF SPOKANE EMPLOYEES AND CITY-OWNED PROPERTY TO OTHER GOVERNMENT AGENCIES

During its 3:30 p.m. Administrative Session held Monday, July 15, 2019, upon review of the July 15 Current Agenda and following commentary by Council Member Mumm, the Spokane City Council took the following action:

**Motion** by Council Member Mumm, seconded by Council Member Fagan, **to defer** Ordinance C35789—regulating the practice of loaning city employees and property to other government agencies, enacting new chapters 03.13 and 12.12 of the Spokane Municipal Code—to August 12, 2019; **carried unanimously.**

Terri L. Pfister, MMC  
Spokane City Clerk



OFFICE OF THE CITY CLERK  
808 W. SPOKANE FALLS BLVD.  
SPOKANE, WASHINGTON 99201-3342  
509.625.6350

July 1, 2019

City Clerk File No.:  
ORD C35789

COUNCIL ACTION MEMORANDUM

RE: ORDINANCE C35789 CREATING REGULATIONS FOR THE LOAN OF CITY OF SPOKANE EMPLOYEES AND CITY-OWNED PROPERTY TO OTHER GOVERNMENT AGENCIES

During its 3:30 p.m. Administrative Session held Monday, July 1, 2019, upon reviewing changes to the July 1 Current Agenda, the Spokane City Council took the following action:

**Motion** by Council Member Beggs, seconded by Council Member Fagan, **to defer** Final Reading Ordinance C35789 for two weeks (to July 15, 2019, Agenda); **carried unanimously (Council Member Mumm absent).**

Terri L. Pfister, MMC  
Spokane City Clerk



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

06/24/2019

<b>Date Rec'd</b>	6/12/2019
<b>Clerk's File #</b>	ORD C35789
<b>Renews #</b>	
<b>Cross Ref #</b>	
<b>Project #</b>	
<b>Bid #</b>	
<b>Requisition #</b>	

<b>Submitting Dept</b>	CITY COUNCIL
<b>Contact Name/Phone</b>	CANDACE MUMM 625-
<b>Contact E-Mail</b>	CMUMM@SPOKANECITY.ORG
<b>Agenda Item Type</b>	First Reading Ordinance
<b>Agenda Item Name</b>	0320 - ORDINANCE REGULATING LOANS OF CITY EMPLOYEES AND PROPERTY

**Agenda Wording**

An ordinance creating regulations for the loan of City of Spokane employees and City-owned property to other government agencies.

**Summary (Background)**

Currently, there are no guidelines or limits on the loan of City employees or property to other government agencies, and no codified oversight of those loans. This ordinance sets reasonable guidelines and limits on the loan of City employees and City property, in the exercise of the Council's fiduciary duties.

<b>Fiscal Impact</b>	Grant related? NO	<b>Budget Account</b>
	Public Works? NO	
Neutral	\$	#
Select	\$	#
Select	\$	#
Select	\$	#

<b>Approvals</b>		<b>Council Notifications</b>	
<b>Dept Head</b>	MCDANIEL, ADAM	<b>Study Session</b>	
<b>Division Director</b>		<b>Other</b>	Finance Committee, 6/17/2019
<b>Finance</b>	BUSTOS, KIM	<b>Distribution List</b>	
<b>Legal</b>	PICCOLO, MIKE		
<b>For the Mayor</b>	ORMSBY, MICHAEL		

**Additional Approvals**

<b>Purchasing</b>	
FIRST READING OF THE ABOVE ORDINANCE HELD ON 6/24/2019	
AND FURTHER ACTION WAS DEFERRED	

\_\_\_\_\_  
 CITY CLERK

## **ORDINANCE NO. C-35789**

An ordinance regulating the practice of loaning city employees and property to other entities; enacting new chapters 03.13 and 12.12 of the Spokane Municipal Code.

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

**Section 1.** That there is enacted a new chapter 03.13 of the Spokane Municipal Code to read as follows:

### **Chapter 03.13      Loaned Employees**

#### **Section 03.13.010 Purpose and Intent**

- A. This chapter is intended to provide guidance for any loan of employees of the City of Spokane to other agencies, for any purpose.
  
- B. The City of Spokane encourages intergovernmental cooperation, information sharing, and collaborative projects. Except as otherwise provided in this chapter, nothing in this chapter limits City employees' ability to communicate with their peers from other public agencies, participate in meetings with other public agencies on projects or programs of interest to the City, work on projects or programs jointly-sponsored with other public agencies, participate in law enforcement task forces that involve other public agencies, or perform work in the exercise of professional courtesy or incidental service to other public agencies.

#### **Section 03.13.020 Definitions**

- A. "Borrowing entity" means any entity, whether a public agency, nonprofit corporation, or for-profit corporation, that receives the direct benefit of services of an employee loaned to it by the City of Spokane.
  
- B. "Loaned employee" means a regular City of Spokane employee who is assigned to perform specific work for the direct benefit of an entity other than the City of Spokane for twenty-five percent (25%) or more of their regular weekly working hours.
  
- C. "Public agency" means the state of Washington, a county, municipal corporation, public development authority, special taxing authority, or federally-recognized Indian tribe.

#### **Section 03.13.030 Authority for Loan of City Employees**

- A. The City of Spokane has the authority to loan City employees to another entity as part of its responsibilities to provide governmental services either in its own right or as part of a joint undertaking.



- B. As part of the City Council's duty and authority to adopt the annual budget for the City of Spokane, the City Council approves the use of City funds for personnel salaries and benefits under Section 26 of the City Charter and RCW 35.32A.050. The annual City budget authorizes City expenditures for employees to provide services to the City of Spokane, and not to other entities, except as provided in this chapter.

**Section 03.13.040 Written Agreement Required for Loan of Employee; Mandatory Terms**

- A. With the exception of law enforcement task forces, any loan of a City employee must be accompanied and governed by a written agreement, which must be approved by the City Council prior to the start of any work to be performed by a loaned City employee.
- B. Agreements providing for the loan of City employees shall specify, at a minimum, the following terms of the employee loan:
  - 1. The duration of the loan, which shall not exceed one 180-day period, unless otherwise extended;
  - 2. The activities the loaned employee will conduct for the direct benefit of the borrowing entity and the approximate number of hours each week which those activities shall require;
  - 3. the name of the person who will supervise work the loaned employee will undertake for the direct benefit of the borrowing entity;
  - 4. that the borrowing entity shall, each month during the duration of the employee loan, pay to the City an hourly fee based on the number of hours actually worked by the loaned employee for the direct benefit of the borrowing entity, reflecting the total cost of the loaned employee's regular compensation;
  - 5. That the borrowing entity shall keep and maintain a daily time report showing the hours worked by the loaned employee for the direct benefit of the borrowing entity
  - 6. That neither the City of Spokane, nor the loaned employee, shall have any obligation to pay for or provide any training, travel, use of a city vehicle, or any equipment the loaned employee requires in order to carry out the duties required for the direct benefit of the borrowing entity under the agreement, which costs shall be the sole responsibility of the borrowing entity;
  - 7. The agreement shall specify that during the term of the employee loan, the employee remains a regular employee of the City of Spokane for all purposes other than the specific work to be done for the direct benefit of the borrowing entity including, without limitation, collective bargaining, worker's compensation, vacation and leave accrual, and employee benefits; and

8. standard dispute resolution provisions and all other provisions required by federal, state, or local law.
- C. The City Council may, by resolution, waive any of the provisions of SMC 03.13.040(B)(1)-(6).

### **Section 03.13.050 Emergencies**

The Police and Fire Departments may, in response to emergency situations including, without limitation, statewide mobilizations, loan City employees under the following conditions:

- A. Notification, within a reasonable period of time, to the City Council of the existence of the emergency condition and the intent to loan City employees in response to the emergency is required;
- B. Emergency loans shall extend for no longer than fifteen (15) calendar days; and
- C. If the emergency need for the loan of City employees persists for longer than fifteen (15) calendar days, City Council approval is required for the extended loan period.

**Section 2.** That there is enacted a new chapter 12.12 of the Spokane Municipal Code to read as follows:

### **Chapter 12.12 Loan of City Property and Equipment**

#### **Section 12.12.010 Purpose and Intent**

This chapter is intended to provide guidance for any loan of City property or equipment to another entity, for any purpose.

#### **Section 12.12.020 Definitions**

- A. "Borrowing entity" means any entity, whether a public agency, nonprofit corporation, or for-profit corporation, that receives the direct benefit or use of property or equipment loaned to it by the City of Spokane.
- B. "Loaned equipment" or "loaned property" personal property of the City of Spokane which is loaned to a borrowing entity while remaining the property of the City of Spokane. "Loaned equipment" or "loaned property" shall not apply to property or equipment purchased for use by jointly sponsored units or property or equipment which has a value less than \$5,000.
- C. "Public agency" means the state of Washington, a county, municipal corporation, public development authority, special taxing authority, or federally-recognized Indian tribe.

### **Section 12.12.030 Authority for Loan of City Property or Equipment**

The City of Spokane has the authority to loan City property or equipment to another entity as part of its responsibilities to provide governmental services, either on its own or as part of a joint undertaking.

### **Section 12.12.040 Written Agreement Required; Mandatory Terms**

- A. Any loan of City property or equipment must be by written agreement, which must be approved by the City Council prior to the start of any loan of City property or equipment.
- B. Agreements providing for the loan of City property or equipment shall specify, at a minimum, the following:
  - 1. The intended or anticipated duration of the loan, which, with the exception of written leases of City-owned real property, shall not exceed 180 calendar days, unless otherwise extended;
  - 2. The purpose(s) of the loan of City property or equipment;
  - 3. The name of the person responsible for the borrowing entity's care and maintenance of the loaned City property or equipment;
  - 4. That the borrowing entity shall pay to the City, at regular intervals throughout the loan period, a reasonable rental or lease rate, based upon fair market value, throughout the duration of the lease of the City property or equipment;
  - 5. That the borrowing entity shall, during the loan period, have the sole responsibility to repair any damages to the loaned property or equipment caused by the borrowing entity, reasonable wear and tear excepted;
  - 6. That during the loan period, the property or equipment remains the property of the City of Spokane, and the property shall be returned to the City in good and serviceable condition at the end of the loan period; and
  - 7. standard dispute resolution provisions and any other provisions required by federal, state, or local law.
- C. The City Council may, by resolution, waive any of the provisions of SMC 03.13.040(B)(1)-(6).

### **Section 12.12.050 Emergencies**

The Police and Fire Departments may, in response to emergency situations including without limitation statewide mobilizations, loan City property or equipment under the following conditions:

- A. Notification, within a reasonable period of time, to the City Council of the existence of the emergency condition and the intent to loan City property or equipment in response to the emergency is required;

- B. Emergency loans of City property or equipment shall extend for no longer than fifteen (15) calendar days; and
- C. If the emergency need for the loan of City property or equipment persists for longer than fifteen (15) calendar days, City Council approval is required for the extended loan period.

**PASSED** by the City Council on August 26 2019.

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

Attest:

Approved as to form:

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

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

Vetoed 9.12.19  
\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

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

## ORDINANCE NO. C35789

An ordinance regulating the practice of loaning city employees and property to other government agencies; enacting new chapters 03.13 and 12.12 of the Spokane Municipal Code.

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

**Section 1.** That there is enacted a new chapter 03.13 of the Spokane Municipal Code is amended to read as follows:

### **Chapter 03.13      Loaned Employees** **Section 03.13.010 Purpose and Intent**

- A. This chapter is intended to provide guidance for any loan of employees of the City of Spokane to other agencies, for any purpose.

### **Section 03.13.020 Definitions**

- A. "Loaned employee" means a regular City of Spokane employee who is assigned to perform specific work for a public agency other than the City of Spokane, while remaining an employee of the City of Spokane.
- B. "Public agency" means the state of Washington, a county, municipal corporation, public development authority, special taxing authority, or federally-recognized Indian tribe.
- C. "Receiving agency" means a public agency which receives the services of a loaned employee from the City of Spokane.

### **Section 03.13.030 Authority for Loan of City Employees**

- A. The City of Spokane has the authority, under RCW 39.34.060, to loan City employees to another government entity as part of its responsibilities to accomplish a joint undertaking established by interlocal agreement.
- B. Under RCW 39.34.030(2), "[a]ppropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force."
- C. As part of the City Council's duty and authority to adopt the annual budget for the City of Spokane, the City Council approves the use of City funds for personnel salaries and benefits under Section 26 of the City Charter. The annual City budget dedicates funds for employees to provide services to the City of Spokane, and not to other government agencies, except as provided in this chapter.

### **Section 03.13.040 Required Terms for Loan of City Employees**

- A. Any loan of City employees must be by written interlocal agreement, which must be approved by the City Council prior to the start of any work to be performed by a loaned City employee.
- B. City employees may only be loaned to other government agencies under the following conditions:
  - 1. City loans of employees shall be for a maximum duration of 180 calendar days which may not be extended;
  - 2. The employee loan agreement shall specify the activities which the loaned employee will conduct, the percentage of the employee's regular work week that loaned work will require;
  - 3. Both the lending and receiving agencies shall designate a supervisor by name to supervise the loaned employee as in the normal course, such as approving time sheets, approving any time off requests, and the like, the decision of the City supervisor to prevail in the event of any conflict between the two supervisors;
  - 4. The receiving agency shall reimburse the City for the percentage of the loaned employee's total compensation, including salary and benefits, equal to the percentage of the employee's regular work week that the employee will be performing work for the receiving agency and on the loaned employee's regular pay schedule;
  - 5. Neither the City of Spokane, nor the loaned employee, shall have any obligation to pay for or provide any training, travel, use of a city vehicle, or any equipment the loaned employee requires in order to carry out the job duties required for the loaned work, and those costs shall be the sole responsibility of the receiving agency; and
  - 6. The agreement shall specify that during the term of the employee loan, the employee remains a regular employee of the City of Spokane for all purposes other than those specifically contemplated by the employee loan agreement, including, without limitation, collective bargaining, worker's compensation, vacation and leave accrual, and employee benefits.

**Section 2.** That there is enacted a new chapter 12.12 of the Spokane Municipal Code to read as follows:

#### **Chapter 12.12      Loan of City Property and Equipment** **Section 12.12.010 Purpose and Intent**

This chapter is intended to provide guidance for any loan of City property or equipment to other agencies, for any purpose.

## **Section 12.12.020 Definitions**

- A. "Loaned equipment" or "loaned property" personal property of the City of Spokane which is loaned to another public agency while remaining the property of the City of Spokane.
- B. "Public agency" means the state of Washington, a county, municipal corporation, public development authority, special taxing authority, or federally-recognized Indian tribe.
- C. "Receiving agency" means a public agency which receives property or equipment on loan from the City of Spokane.

## **Section 12.12.030 Authority for Loan of City Property or Equipment**

- A. The City of Spokane has the authority, under RCW 39.34.060, to loan City property or equipment to another government entity as part of its responsibilities to accomplish a joint undertaking established by interlocal agreement.
- B. Under RCW 39.34.030(2), "[a]ppropriate action by ordinance, resolution or otherwise pursuant to law of the governing bodies of the participating public agencies shall be necessary before any such agreement may enter into force."

## **Section 12.12.040 Required Terms for Loan of City Property or Equipment**

- A. Any loan of City property or equipment must be by written interlocal agreement, which must be approved by the City Council prior to the start of any work to be performed under the interlocal agreement.
- B. City property or equipment may only be loaned to other public agencies under the following conditions:
  - 1. With the exception of leases of City-owned real property, no loan of City property or equipment may exceed 180 calendar days which may not be extended;
  - 2. The loan agreement shall specify the purpose of the loan of City property or equipment;
  - 3. Both the lending and receiving agencies, through their respective department heads, shall designate by name a person responsible for the care and maintenance of the loaned City property or equipment;
  - 4. The receiving agency shall pay to the City, at regular intervals throughout the loan period, a reasonable rental amount for the use of the City property or equipment;
  - 5. The receiving agency shall, during the loan period, have the sole responsibility to repair any damages to the loaned property or equipment caused by the receiving agency, reasonable wear and tear excepted; and
  - 6. The agreement shall specify that during the loan period, the property or equipment remains the property of the City of Spokane, and the property

shall be returned to the City in good and serviceable condition at the end of the loan period.

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

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

Attest:

Approved as to form:

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

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

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

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