CITY OF MUKILTEO

Land Use & Economic Development Committee Agenda

Mukilteo City Hall - 11930 Cyrus Way

Tuesday, May 5, 2020

CALL TO ORDER – 4:00 PM

Meeting Objective:

1. Discussion with Chamber of Commerce (Tentative)
2. Waterfront Development Uses
3. Annexation Update

ADJOURNMENT - 5:30 PM

Next Meeting: Tuesday, June 2, 2020 from 4:00 PM - 5:30 PM at Mukilteo City Hall

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LAND USE & ECONOMIC DEVELOPMENT COMMITTEE AGENDA REPORT	
SUBJECT TITLE: Waterfront Development - Uses	**FOR AGENDA OF:** May 5, 2020
Contact Staff: David Osaki, Community Development Director	**EXHIBITS:** 1. City of Mukilteo Zoning Map 2. City of Mukilteo Zoning Code Use Matrix (Downtown Business (DB) District and Waterfront Mixed Use (WMU) District only) 3. Shoreline Master Program - Environment Designation Map (North City Limits) 4. Shoreline Master Program - Use Matrix
Department Director: David Osaki, Community Development Director	

BACKGROUND

Land Use & Economic Development Committee has expressed interest in waterfront development as it relates to uses that might be allowed.

COMPREHENSIVE PLAN/SUBAREA PLAN/VISION

Determining what uses are appropriate for properties have their basis in visions, goals and policies of adopted plans. Under the Washington State Growth Management Act (GMA), development regulations, like zoning, must be consistent with and implement adopted planning documents.

For the Mukilteo Waterfront, the primary adopted planning documents that provide direction for determining allowable uses include the Mukilteo Comprehensive Plan, Downtown Business District Subarea Plan, Shoreline Master Program goals and policies, and the Downtown Waterfront Master Plan.

USES ALLOWED/PROHIBITED

Using plans as a guide, it is adopted regulations like the zoning code and shoreline master program regulations that establish districts (i.e. zoning districts). These districts identify specific uses that are permitted, prohibited, or allowed subject to a public hearing (i.e. conditional uses).

Permitted and prohibited uses are decided by the City Council when codes are adopted/amended by ordinance. This code adoption/amendment process follows a planning commission public hearing/recommendation and City Council public hearing. Staff relies on the adopted codes when communicating allowable uses to the public and has little discretion

in determining allowed or prohibited uses outside of what the City Council has adopted. (An exception might be an occasional instance when staff has to make a use interpretation because the code is unclear.)

Even certain uses, called "conditional uses", are not decided by staff. Conditional uses are those that require a public hearing by the hearing examiner, who decides whether or not the conditional use application meets certain criteria to be granted. These conditional use criteria are also adopted by the City Council.

WATERFRONT ZONING (North City Limits)

The Mukilteo zoning code (Mukilteo Municipal Code Title 17) addresses land uses citywide. Every property in the City has a zoning designation that defines what uses *are and are not* allowed, and which uses are conditional uses requiring a public hearing.

Exhibit 1 is the City zoning map. The primary zoning districts along Mukilteo's waterfront (north City limits) are:

- Downtown Business (DB) District (west of Park Avenue)
- Waterfront Mixed Use (WMU) District (east of Park Avenue)
- Open Space (i.e. Lighthouse Park, Japanese Gulch)

Exhibit 2 is a zoning code excerpt of the permitted use matrix for the Downtown Business (DB) zoning district (west of Park Avenue) and the Waterfront Mixed Use (WMU) zoning district (east of Park Avenue). The City's zoning code makes extensive use of footnotes. These footnotes typically identify characteristics of the use in order for it to be permitted.

Exhibit 2 identifies permitted and prohibited uses in the Downtown Business (DB) zoning district and the Waterfront Mixed Use (WMU) zoning district based on City Council action. Unless the zoning code is amended by the City Council, individuals interested in developing are limited to those permitted uses (and conditional uses if approved by the hearing examiner) in these two zoning districts (depending on how their specific property is zoned).

SHORELINE MASTER PROGRAM

The City's Shoreline Master Program, updated in 2019, regulates an area 200 feet landward from the Ordinary High Water Mark (OHWM). The Shoreline Master Program designates shoreline areas by "Environment Designations". Development along this defined shoreline area is subject to this additional layer of shoreline regulations, which also regulates uses.

Exhibit 3 is the City's adopted Shoreline Environment designation map (for the north part of the City). Like the City's Zoning Map, the Shoreline Environment Map is also adopted by the City Council following a public process. Not including land used for parks such as Lighthouse Park, the Shoreline Environment designation for the Mukilteo waterfront along the North City Limits is "Urban Waterfront".

With respect to the shoreline environment designation map, the 200 foot shoreline boundary is approximated. Applicants are required to provide a survey at the time of development to depict the exact location of the shoreline boundary.

Exhibit 4 is the adopted Shoreline Master Program's permitted use matrix. The column of that matrix entitled "Urban Waterfront" (highlighted in yellow) is used by staff to convey to the public which uses in the shoreline jurisdiction are and are not allowed, or allowed by conditional use permit. Shoreline permit are also unique in that they have oversight by the Department of Ecology. Certain shoreline permits require Department of Ecology approval.

Again, as is the case with the zoning code, staff uses this shoreline use matrix to convey to the public what is and is not allowed in the shoreline environment. Amendments to this matrix (or any part of the Shoreline Master Program for that matter) require City Council action by ordinance (and Department of Ecology approval).

RECOMMENDED ACTION

Following a brief staff presentation, Land Use & Economic Development Committee to discuss waterfront uses.

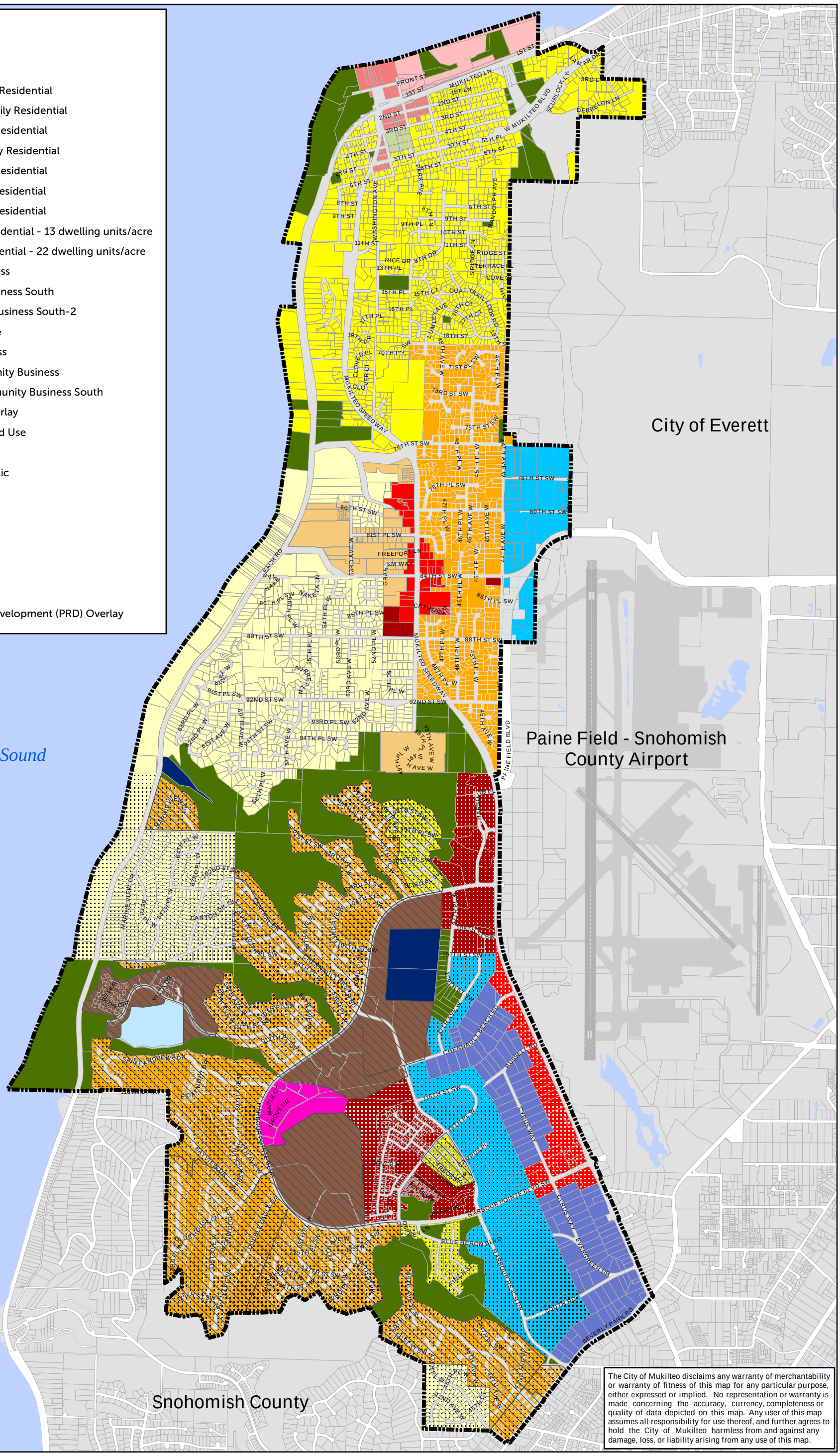
Mukilteo Zoning Map

Exhibit 1

- Mukilteo City Limits
- Right-of-Way

Zoning Districts

- RD 12.5 Single-Family Residential
- RD 12.5 (S) Single-Family Residential
- RD 9.6 Single-Family Residential
- RD 9.6(S) Single-Family Residential
- RD 8.4 Single-Family Residential
- RD 7.5 Single-Family Residential
- RD 7.2 Single-Family Residential
- MRD Multi-Family Residential - 13 dwelling units/acre
- MR Multi-Family Residential - 22 dwelling units/acre
- CB Community Business
- CB(S) Community Business South
- CB(S)-2 Community Business South-2
- TMU Transit Mixed Use
- DB Downtown Business
- PCB Planned Community Business
- PCB(S) Planned Community Business South
- Mobile Home Park Overlay
- WMU Waterfront Mixed Use
- PCB(S)/MR/BP
- PSP Public - Semi Public
- BP Business Park
- PI Planned Industrial
- IP Industrial Park
- LI Light Industrial
- HI Heavy Industrial
- OS Open Space
- Planned Residential Development (PRD) Overlay



The City of Mukilteo disclaims any warranty of merchantability or warranty of fitness of this map for any particular purpose, either expressed or implied. No representation or warranty is made concerning the accuracy, currency, completeness or quality of data depicted on this map. Any user of this map assumes all responsibility for use thereof, and further agrees to hold the City of Mukilteo harmless from and against any damage, loss, or liability arising from any use of this map.

CITY OF MUKILTEO

Map Revised: 7/31/2019
Data Source: Mukilteo GIS, Snohomish County, WSDOT
Official zoning map on file with City Clerk.

0 0.25 0.5 0.75 1 Miles

N W E S

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EXHIBIT 2
CITY OF MUKILTEO ZONING CODE
USE MATRIX

DOWNTOWN BUSINESS (DB) DISTRICT and WATERFRONT MIXED USE (WMU) DISTRICT

P = Permitted Use C = Conditional Use Blank = Not Allowed

I = Interim Use T = Temporary Use

USE	DB	WMU (1)
Residential and Associated Uses		
Animal shelter buildings	C57/P	
Animal shelter buildings for horses and barns47		
Caretakers quarters		
Dwelling units:		
SFR		
SFR Cottage45		
Duplex		
Townhouse		
Multifamily		
Mixed-Use	P58	P59
Accessory dwelling unit11		
Family day care home12		
Group care facility13		
Home occupation14		P
Horse paddocks48		
Housing for people with functional disabilities15	P	
Kennel, hobby49		
Manufactured home51		
Model house/sales office		
Retirement apartments and/or housing16		C
Rooming and boarding17		
Swimming pool, private18		P

USE	DB	WMU (1)
Temporary use dwelling: during construction		
Trailers and mobile homes for living purposes52		
Commercial Uses44		
Adult entertainment business19		
Animal services, animal services facility	P	P
Amusement facility	P	C
Art gallery	P	P
Art studio in conjunction with retail or an art gallery	P	P
Auto repair, minor		
Bed and breakfast20	P	P
Boat launch facility, motorized21		C
Brewery, micro; and winery	P22	P22
Cleaning establishments	P23	P23
Clubs, charitable, nonprofit or social organizations	P	C
Commercial parking lot55	I	I/C56
Commercial parking structure55	C	C56
Concession stand24		C
Day care center25	P	P
Dock and boathouse, public26		P
Ferry terminal and parking area	C	P
Fix-it shop27	C	
Financial institutions	P	P
Government offices	C	C/P
Government garage, shops, fire stations, police stations and storage buildings	C28	C28
Health club	P	P
Hospital29	C	
Hotel/Motel29	P	P

USE	DB	WMU (1)
Marijuana retail facility66		
Marina associated with principal use		P
Mobile fuel distribution53	C53	
Motor vehicle and equipment sales		
Mortuary, funeral home	C	
Museum	P	P
Nursing home29	C	
Office, general	P	P
Park and ride lots	C	C
Personal services shop	P	P
Restaurant	P	P
Retail store/commercial services	P	P
Retail allied to or supportive of the principal use		P
Service station	C	
Tavern/distillery	P	P
Television/radio stations and/or towers	C	
Television and radio towers, for residential, private, noncommercial use over fifty feet in height		
Industrial Uses44		
Auto towing33		
Auto repair, major		
Bakery, wholesale for distribution		
Boat sales, service and repair		
Building contractor, yard		
Cold storage		
Commercial vehicle storage facility		
Equipment rental		
Explosives: storage		

USE	DB	WMU (1)
manufacturing		
Fabrication shop		
Kennel		
Laboratory		C
Manufacturing, heavy		
Manufacturing, light		
Marijuana processing facility66		
Marijuana production facility66		
Mini-self storage		
Printing plant		
Tool rental (med. to heavy equipment)		
Warehousing		
Wholesale establishment		
Community Uses		
Community center buildings and grounds		P
Golf course and driving range	C	
Open space35	P	P
Pedestrian bus/transportation shelter	P	P
Recreational facility not otherwise listed	C	C
Swimming pool, public	C	P
Utilities		
Major aboveground utility facility	C	C
Water and sewer treatment plants	C	C
Wireless communication facilities—Detached	C	C
Wireless communication facilities—Attached	P	C
Wireless communication facilities—Temporary	T	T
Wireless communication facilities—Small cell—Detached	C	C
Wireless communication facilities—Small cell—Attached	P	C

USE	DB	WMU (1)
Small cell facilities in the ROW with a franchise agreement	P	P
Other		
Higher education or trade school		C
Homeless encampments54	T	T
Moved-in buildings (other than manufactured homes)	C	C
Nonconforming use: changes or intensification38	C	C
Places of worship	P	
Railroad right-of-way	C	C
School: K–12 and preschool	P	
Temporary buildings (one year or less)	C	C
Temporary emergency use39	T	T

P = Permitted Use **I = Interim Use**

C = Conditional Use **Blank = Not Allowed**

T = Temporary Use

B. Reference Notes for Permitted Use Matrix.

1. Waterfront Mixed-Use District. All development in the waterfront mixed-use district shall comply with Mukilteo Municipal Code, Chapter 17.25, Design Standards and Guidelines for Mixed-Use Development, and shall be approved through administrative design review.

2. Public/Semipublic Conditional Use Permit Criteria. In considering any conditional use permit for uses within the public/semipublic district, the permit authority shall consider all factors relevant to the public interest including, but not limited to:

   a. Consistency of the proposal with the comprehensive plan and with the purpose of the PSP district;

   b. Impact of the proposal on the visual and aesthetic character of the neighborhood;

   c. Impact of the proposal on the distribution, density or growth rate of the population in the surrounding neighborhoods;

   d. Orientation of facilities to developed or undeveloped residential areas;

   e. Preservation of natural vegetation and other natural features;

   f. Hours of operation;

   g. Ability to provide adequate on-site parking;

   h. Traffic impacts of the proposal on the neighborhood;

   i. Conformance with other city ordinances; and

   j. An overall general benefit shall be provided to the community.

3. Footnote deleted with Ordinance 1088—This footnote is left blank on purpose.

4. Uses in the OS District. Uses only allowed at Mukilteo Lighthouse Park.

5. Uses in the OS District. Uses only allowed at Mukilteo Lighthouse sites.

6. Accessory Uses in the OS District. Only allowed if accessory, incidental, and subordinate to, and in support of, a principal public recreational use. Accessory structures shall be in keeping with the existing design and scale of the site and surrounding neighborhood.

7. Single-Family Residences in the MRD District. Single-family residences in the MRD district shall meet the bulk requirements of the RD 12.5 District (Section 17.20.020).

8. Footnote deleted with Ordinance 1302—This footnote is left blank on purpose.

9. Development Agreements. Single-family residential, duplex, and townhouse uses are only allowed in the planned community business—south (PCB(S)) district if combined with a development agreement approved by the Mukilteo city council.

10. Townhouse. Shall be subject to all conditions of the PRD standards of the Mukilteo Municipal Code.

11. Accessory Dwelling Units. All accessory dwelling units shall comply with Chapter 17.30, Accessory Dwelling Units, and require issuance of an ADU permit pursuant to Chapter 17.30 that must be renewed annually.

12. Family Day Care. A family day care shall be permitted out-right in all zoning districts permitting residences and shall be subject to the following requirements:

a. Meet Washington State child day care licensing requirements;

b. Comply with all building, fire safety, health code, and business licensing requirements;

c. Lot size, building size, setbacks and lot coverage conform to the standards of the zoning district except if the structure is a legal nonconforming structure;

d. Parking requirements shall conform to Chapter 17.56;

e. Signage, if any, will conform to Chapter 17.80;

f. Filing of a business license application form with the city as provided for in Section 5.04.050 of this code;

g. No structural or decorative alteration which will alter the single-family character of an existing or proposed residential structure or be incompatible with surrounding residences is permitted;

h. The licensee shall provide a securely fenced play area which meets the height requirements for front, side and rear yards according to Section 17.20.080;

i. The site must be landscaped in a manner compatible with adjacent residences;

j. All immediately adjoining property owners of the family day care shall be notified of the proposed use and a ten-day comment period shall be established before any final action is taken on the proposal;

k. The planning director or his/her designee may impose reasonable conditions on the approval of the family day care permit in order to ensure that the criteria of this chapter are met and that the facility is in harmony with the surrounding neighborhood; and

l. Any person may appeal a condition that is imposed by the city upon a family day care by appealing the condition to the city council. Any appeals shall be made in writing within twenty-one calendar days of the imposition of the condition by the city. Appeals of the planning director may be made to the city council, in writing, within twenty-one calendar days of the planning director's written decision.

13. Group Care Facilities. Approval of group care facilities shall be subject to the following requirements:

a. Comply with the definition of group care facility and type of populations to be served and not served;

b. That the facility must be licensed by the appropriate state authority certifying the adequacy of the proposed structure for the type of use and the maximum number of persons and the required level of supervision and treatment/training required; and

c. Coordination of Restrictions.

i. Group care facilities shall not be adjacent to another group care facility, and there shall be a minimum separation of five hundred feet between facilities,

ii. Not more than two facilities containing a combined total of not more than thirty people shall be allowed in any designated planning area,

iii. Parking. One stall per employee for the largest shift and one stall per person or household where the use of an automobile is allowed,

iv. Signing. Compliance with the city's current sign code,

v. A landscaping plan shall be presented which shall provide an aesthetic buffer adjacent to residential uses, landscaping on a minimum of fifteen percent of the site. If the facility is to serve children, playground equipment shall be supplied and be considered part of said fifteen percent requirement,

vi. Revocation of Permit. If the operation of the group care facility creates a nuisance or safety problem for the surrounding neighborhood, the permit authority may review the permit. Additional conditions may be imposed by the city or, if the problem cannot be satisfactorily resolved by such additions, the permit may be revoked after a hearing.

14. Home Occupations. Home occupations; provided, that the following conditions are met:

a. Occupation is clearly subordinate to the use of the dwelling as a residence;

b. Occupations must be of such a nature that they are customarily carried on by the occupants, within the confines of a residence to the exclusion of accessory buildings and that there is not more than one person other than members of the immediate family employed;

c. That there is no stock in trade other than that produced by the inhabitants which are displayed or sold on the premises;

d. That there is no exterior evidence that the structure is being used for any nonresidential purpose, with the exception of a nonluminous sign bearing the name and occupation of the occupant, three square feet maximum placed flat against the building; and

e. That there is nothing about the occupation which would disturb the surrounding neighbors, such as vibrations, smoke, dust, increased traffic, loud noises, and/or bright lights.

15. Housing for People with Functional Disabilities. Housing for people with functional disabilities, as defined in this code, and which meets the applicable state licensing requirements, shall be considered a residential use of a property for zoning purposes. It shall be a permitted use in all areas zoned for residential or commercial purposes, including areas zoned for single-family dwellings. In addition, the conversion of an existing residential structure to housing for people with functional disabilities shall not be deemed a change of use or an abandonment or discontinuity of the prior use the structure, if such structure constituted a prior legal nonconforming use.

16. Retirement Apartments and/or Housing. Every proposed retirement apartment and/or housing project shall meet the following development standards:

a. The number of dwelling units allowed shall be calculated at twenty-two units per acre.

b. Twenty percent of the net buildable area shall be established as open space and shall be developed to provide for the specific recreational needs of the retirement residents. The open space areas shall include, but not be limited to, a mix of courtyard or plaza features with seating areas, water features, and/or walking paths.

c. All buildings and structures shall maintain a minimum interior side yard setback of fifteen feet and minimum rear yard setback of twenty-five feet. Side yards adjacent to a street shall be the same as the front setback. If the bulk requirements of the zone is more restrictive, the more restrictive code requirement shall apply.

d. A public transit stop shall be located within one-quarter mile of the site and shall be accessible from the site by a direct sidewalk or American Disabilities Act (ADA) accessible walkway route.

e. A special transportation program, such as a public or private van pool, shall be available to the residents of the site for transportation to activities including, but not limited to, places of worship, cultural events, libraries, medical facilities, parks, post offices, personal services, retail shopping and senior centers.

f. Requests for a reduction in the off-street parking requirements may be considered pursuant to Section 17.56.055. Parking stall width shall be increased to a minimum of nine feet. The parking lot area shall have a maximum grade of five percent.

g. Comply with all of the laws, rules, regulations and standards for boarding homes pursuant to Chapter 18.20 RCW. A city business license and a copy of the approved state license for the facility shall be submitted to the city prior to occupancy of the building.

h. All buildings and structures shall be designed to project a residential, rather than an institutional appearance through the use of architecture, landscaping, and building materials. All buildings shall incorporate a pitched roof design; no flat roofed buildings will be allowed. Urban design guidelines contained in the Development Design Review Guide (Ordinance 916, Exhibit B) shall be used for

addressing architectural and site design issues (including, but not limited to, building materials, form, and articulations).

i. The on-site circulation system shall not account for more than twenty percent of the gross development area.

j. Retirement facilities may not be converted to multifamily structures unless allowed by the underlying zoning district and without the consent of the city. If the use of the property should change to a use other than senior housing, the property shall revert to its underlying zoning and density restrictions, parking requirements and any existing structure shall be brought into conformance with the underlying zoning. An acceptable covenant or land use agreement between the developer and the city shall be recorded acknowledging the land use restriction on the property.

k. The planning commission may allow a density up to thirty units per acre and/or an increase in the building height up to thirty-five feet after holding a public hearing on the proposal. In making a decision on the application, the planning commission shall have the authority to approve the application as presented, deny the application, or approve the application with such conditions, regulations, or safeguards as the commission deems necessary to: (1) ensure the application meets the criteria listed below, and (2) that the purpose and intent of retirement housing regulations are not violated. The commission shall also have the power to reconsider any such decision at a public hearing.

i. All retirement apartments and/or housing applications which propose a unit density greater than twenty-two units per acre must have accompanying them a mass and height study showing the relationship between the building and all adjoining properties. The study shall include a comparison of the building heights and the amount of horizontal space separating the retirement housing facility and all adjoining properties at twenty-two units per acre and at thirty units per acre. The density increase may be allowed by the planning commission if the increased density is designed in a way that visually separates the additional units from any adjoining single-family residential neighborhood. Creative site design, building articulation, and/or increased landscaping can be used to meet this requirement.

ii. An increase of five percent open space, for a total of twenty-five percent of the net developable area, shall be included in the design of the project.

iii. The building design shall include common gathering, fitness, and entertainment areas.

iv. Building proposals in the planned community business district (PCB) may exceed the thirty-foot height limit, up to a maximum of thirty-five feet, as measured from the prior undisturbed average ground elevation, where it can be demonstrated to the planning commission's satisfaction that the surrounding properties are impacted less by a taller building with less mass than a shorter building with greater mass.

17. Rooming and Boarding. In single-family residential zones, rooming and boarding of not more than two persons shall be a permitted use, and in the multifamily zones, rooming and boarding shall be limited to not more than four persons.

18. Swimming Pools. Private swimming pools are allowed; provided, that the following conditions are met:

a. It is for the sole use of the occupants and their guests;

b. No swimming pool will occupy a front yard;

c. The swimming pool will not be located closer than seven feet from any rear or side property line; and

d. That the swimming pool will be screened from adjacent properties by a solid wall or fence six feet in height.

19. Adult Entertainment Uses.

a. Scope of Restrictions. All adult entertainment facilities shall comply with the requirements of this section. The purpose and intent of requiring standards for adult entertainment facilities is to mitigate the adverse secondary effects caused by such facilities and to maintain compatibility with other land uses and services permitted within the city. The standards established in this section shall not be construed to restrict or prohibit the following activities or products: (i) plays, operas, musicals, or other dramatic works that are not obscene; (ii) classes, seminars, or lectures which are held for a serious scientific or educational purpose that are not obscene; and (iii) exhibitions, performances, expressions, or dances that are not obscene.

b. Separation Requirements. Adult entertainment facilities shall be permitted as indicated in "Permitted Use Matrix" set forth in subsection A of this section only if the following separation requirements are met:

i. No adult entertainment facility shall be located closer than eight hundred feet to any residential zoning district including, but not limited to, the RD 7.2, RD 7.5, RD 8.4, RD 9.6, RD 9.6(S), RD 12.5, RD 12.5(S), RD 20.0, MR, and MRD zoning districts.

ii. No adult entertainment facility shall be located closer than eight hundred feet to any of the following uses whether or not such use is located within or outside the city limits:

(A) Any public park;

(B) Any public library;

(C) Any public or private nursery school or preschool;

(D) Any public or private primary or secondary school;

(E) Any day care;

(F) Any community youth center;

(G) Any place of worship;

(H) Any multifamily residential use located in the PCB(S) or CB(S) zoning districts.

iii. No adult entertainment facility shall be located closer than five hundred feet to any other adult entertainment facility whether such other facility is located within the city limits or another jurisdiction.

c. Measurement. The five-hundred-foot and eight-hundred-foot buffers required by this section shall be measured by extending a straight line from the nearest point on the property line of the lot containing the proposed adult entertainment facility to:

i. The nearest point on the boundary line of a residential zoning district; or

ii. The nearest point on the property line of a public park; or

iii. The nearest point on the property line of the lot containing a public library, public or private nursery school or preschool, public or private primary or secondary school, day care, community youth center, or place of worship, or multifamily residential use located in the PCB(S) or CB(S) zoning districts; or

iv. The nearest point on the property of the lot containing an adult entertainment facility.

d. Variances. Whenever the applicant for an adult entertainment facility believes that the separation requirements set forth in this section are not necessary to achieve an effective degree of physical separation between the proposed adult entertainment facility and the zoning district and uses identified in subsection (B)(19)(b) of this section, the applicant shall have the right to apply for a variance from the separation requirements subject to the procedures set forth in Chapter 17.64, Conditional Uses and Variances, and upon payment of the applicable fee for a variance application. In determining whether a variance should be granted, the following criteria in addition to the variance criteria set forth in Chapter 17.64, Conditional Uses and Variances, shall be considered:

i. The extent to which physical features would result in an effective separation between the proposed adult entertainment facility and any zoning district or uses identified in subsection (B)(19)(b) of this section in terms of visibility and access;

ii. The extent to which the proposed adult entertainment facility complies with the goals and policies of this code;

iii. The extent to which the proposed adult entertainment facility is compatible with adjacent and surrounding land uses;

iv. The availability or lack of alternative locations for the proposed adult entertainment facility;

v. The extent to which the proposed adult entertainment facility can be avoided by alternative vehicular and pedestrian routes; and

vi. The extent to which the applicant can minimize the adverse secondary effects associated with the proposed adult entertainment facility.

If, after considering these criteria and the variance criteria set forth in Chapter 17.64, Conditional Uses and Variances, the city finds that an effective degree of physical separation between the proposed adult entertainment facility and the zoning districts and uses identified in subsection (B)(19)(b) of this section can be achieved without requiring the full distance of separation provided by this section, the city shall determine the degree of variance to be allowed and shall grant the variance. Otherwise, the variance application shall be denied.

e. Nonconforming Adult Entertainment Facilities. An adult entertainment facility shall be deemed a nonconforming use and shall be subject to the requirements of Chapter 17.68, Nonconforming Uses, Buildings, and Lots, if the property on which the adult entertainment facility is located is rezoned to a

zoning designation which does not allow such uses after the date that such adult entertainment facility has located with the city in accordance with the requirements of this section.

20. Bed and Breakfast. Minimum performance standards:

a. Parking requirements shall be in accordance with the parking code. No on-street parking shall be allowed;

b. Meal service shall be limited to overnight guests of the establishment. Kitchens shall not be allowed in individual guest rooms;

c. The owner shall operate the facility and reside on the premises;

d. One sign for business identification and advertising shall be permitted in conjunction with the bed and breakfast establishment in accordance with the city's sign ordinance;

e. The bed and breakfast establishment shall be conducted in such a manner as to give no outward appearance nor manifest any characteristics of a business, except as to the sign as allowed above, that would be incompatible with the ability of the neighboring residents to enjoy peaceful occupancy of their properties;

f. Guests shall be permitted to stay at the establishment for not more than ten consecutive days at a time;

g. The applicant shall submit a letter from the applicable water purveyor and sewer district, if applicable, stating that each of them has the respective capacity to serve the bed and breakfast;

h. The applicant shall comply with all applicable city codes for fire, health, and building requirements and any applicable food service regulations and on-site sewage disposal requirements of the Snohomish Health District. The applicant shall comply with the applicable requirements of Chapter 258-54 WAC, "public water system rules and regulations," as now written or hereafter amended, if a water system is to be developed or connected to an existing public water system;

i. If three or more guest rooms are proposed, the applicant shall also meet state requirements for a "transient accommodation license," as required by Chapter 212-52 WAC, as now written or hereafter amended; and

j. The owner/operator shall provide screening with shrubs, trees, fencing, and other suitable materials as necessary to minimize the impacts upon the residential character of the surrounding neighborhood.

21. Motorized Boat Launch Facility.

a. The reviewer may regulate, among other factors, required launching depth, lengths of existing docks and piers, or floats at motorized launch facilities;

b. Off-street parking shall be provided in an amount suitable to the expected usage of the facility. When used by the general public, the guideline should be forty spaces capable of accommodating both car and boat trailer for each ramp lane of boat access to the water;

c. A level vehicle maneuvering space separate from parking stalls measuring at least fifty feet square shall be provided;

d. Pedestrian access to the water separate from the boat launching land or lanes, and across launch lanes is required where it is deemed necessary in the interest of public safety;

e. Safety buoys shall be installed and maintained separating boating activities from other water-oriented recreation and uses where this is reasonably required from public safety, welfare and health; and

f. All site improvements for boat launch facilities shall comply with all other requirements of the zone in which it is located.

22. Brewery, Micro; and Winery. Shall be permitted only in combination with a restaurant or tavern, and shall not exceed the square footage of the principal use.

23. Dry Cleaning Shops in the DB and WMU District. Service shops of a dry cleaning or laundry nature are limited as follows:

a. Not more than one thousand five hundred square feet of floor space shall be devoted to processing of clothes; and

b. For safety reasons, any flammable or explosive cleaning agents used in processing must be stored and used in such a manner that they comply with rules and regulations of the city fire marshal and other applicable state and federal laws.

24. Concession Stands. Concession stands are allowed as permitted uses by the Mukilteo city council, after holding a public hearing, and only in association with publicly owned parklands, playgrounds, and recreational facilities.

25. Day Care Center. Commercial day cares may be allowed in the designated zoning districts as follows:

a. Zoning districts: Single-family residential RD 7.5, RD 9.6, RD 12.5, RD 20.0, RD 12.5(S), RD 9.6(S), RD 8.4, RD 7.2 and public/semipublic. A commercial day care may be allowed in the single-family residential zoning districts only upon issuance of a conditional use permit and when accessory to an existing school or church pursuant to Chapter 17.64. Commercial day cares located within the public/semipublic zoning district will be subject to a conditional use permit. In addition to the requirements of Chapter 17.64, commercial day cares in single-family residential zoning districts and public/semi-public zoning districts shall meet the following requirements:

i. Meet Washington State child day care licensing requirements;

ii. Comply with all building, fire safety, health code, and business licensing requirements;

iii. Lot size, building size, setbacks and lot coverage conform to the standards of the zoning district except if the structure is legal conforming structure;

iv. Parking requirements shall conform to Chapter 17.56;

v. Signage, if any, will conform to Chapter 17.80;

vi. Filing of a business license application with the city;

vii. The licensee shall provide a securely fenced play area which meets the height requirements for front, side and rear yards according to Chapter 17.20;

viii. The site must be landscaped in a manner compatible with adjacent residences; and

ix. No structural or decorative alteration which will alter the character of the existing structure used for a commercial day care center is permitted. Any new or remodeled structure must be designed to be compatible with the character of the surrounding neighborhood.

b. All Other Zoning Districts. A commercial day care center is permitted by outright in all commercial and industrial zoned districts subject to the following requirements:

i. Meet Washington State child day care licensing requirements;

ii. Comply with all building, fire safety, traffic safety, health code, and business licensing requirements;

iii. Setbacks, screening, lot size, building size, and lot coverage shall conform to the pertinent portions of the zoning code;

iv. Parking requirements shall conform to Chapter 17.56 of this title;

v. Filing a business license application with the city; and

vi. The licensee shall provide a securely fenced play area which meets the height requirements for front, side and rear yards according to Chapter 17.20 of this title.

26. Docks, Boathouses, and Development on Piers.

a. The height of any covered overwater structure shall not exceed twelve feet as measured from the line of ordinary high water, or fifteen feet in the WMU district on piers;

b. The total roof area of covered, overwater structures shall not exceed one thousand square feet, or three thousand square feet in the WMU district.

c. Structures shall be setback fifteen feet on either side of the pier.

d. No private overwater structure shall extend beyond a distance greater than the average length of all pre-existing overwater structures along the same shoreline and within three hundred feet of the parcel on which it is proposed. When no such preexisting structures exist within three hundred feet, the private dock or pier length shall not exceed fifty feet.

e. In the WMU district, public piers will not exceed fourteen hundred feet in length, and extend out from the shore more than eight hundred feet unless needed for public transportation or rail purposes; and

f. Boathouses and structures, docks and piers shall not be used as a dwelling, nor shall any boat moored at any wharf or pier be used as a dwelling while so moored.

27. Fix-It Shops. Service shops of a fix-it nature are limited as follows:

a. No more than five persons shall be involved in the fabricating or processing of materials; and

b. No more than two-thirds of the total square footage of the shop shall be devoted to repair or processing.

c. Outside storage is prohibited.

28. Governmental Offices. Storage yards associated with a governmental office or facility shall be kept in an enclosed structure.

29. Hospital, Medical Clinics, Nursing Homes, and Hotel/Motels. Hospital, Medical Clinics, and Hotel/Motels are a permitted use.

a. When the abutting property is designated for residential use, a Type I or Type II buffer, as defined in the landscaping section of this code is required;

b. A prescription pharmacy may be permitted when located within the main building containing medical clinics;

c. Hotel/Motels uses shall be subject to the following design review standards, with examples depicted in Ordinance 916, Exhibit B—Development Design Review Guide:

i. Height Limits. No building or portion of a building shall exceed three stories in height and shall not exceed the maximum building height permitted in the LI zone;

ii. Prohibited Signs. On-premise pole and pylon signs and off-premise directional signs are prohibited;

iii. Signs. A monument sign up to four feet in height, measuring no more than eighty square feet double-faced are allowed on major arterial frontages where entrances and exits are located. Signs shall not be internally lit, but instead may be back or front lit.

iv. Landscaped Street Frontages. Street frontages should have at least twenty feet of landscaped area and the building placed near the street so that parking is set back from the street frontage. No more than forty percent of the parking shall be located in front of the building adjacent to the street. Whenever possible parking shall be located behind or to the side of the building;

v. Joint Access. Joint access on the site is required for all proposed site uses and is encouraged for adjoining properties.

vi. Interior Side Setbacks. Interior side setbacks for hotel/motel uses shall be as follows:

(A) One and two stories, five feet (except that the sum of the two side yards must not be less than fifteen feet) with not less than fifteen feet between structures on adjoining properties; and

(B) Three stories, fifteen feet (except that the sum of the two side yards must not be less than twenty-four feet).

vii. Setbacks and Screening. The side and rear setback area shall be a minimum ten-foot landscaped area to buffer the use from adjoining industrial and/or commercially zoned property.

viii. Landscape Screening. When the abutting property is designated for residential use, a Type I or Type II buffer, as defined in the landscaping section of this code is required.

ix. Building. The structure(s), shall have varied building materials, design, texture, color, roof heights or facade and roof modulations to the building.

(A) Building Form. The roof line of buildings should be modulated with pitches, slopes, dormers, stepped roofs, or gables and should include interesting architectural features and provide some variation in height.

Encourage varieties of shapes, angles, and relief in the upper stories of structures over two stories.

Large buildings should avoid continuous, flat facades. Building facades should be divided into increments through the use of architectural features such as bay windows, offsets, recesses, balconies and other devices which step back or extend forward portions of the facade.

Provide repetitive articulation reinforcing the scale of typical single-family, historic resort and waterfront buildings, mariner/marine or northwest timbered structures.

(B) Blank Walls. Avoid using false fronts and large blank walls along arterial streets and pedestrian areas.

(C) Tripartite Articulation. Tripartite building articulation (building base, middle and top) is encouraged to provide pedestrian scale and architectural interest. Stone and masonry is encouraged as a lower base material. Concrete block must be architecturally treated in one or more of the following ways:

(1) Use of textured blocks with surfaces such as split face or grooved;

(2) Use of color mortar;

(3) Use of other masonry types such as brick, glass block, or tile in conjunction with concrete blocks;

(4) Other similar methods approved by the city.

(D) Building Entry. A porch, patio and/or covered entry should be used to provide a recognizable entryway. Provide landscaped walkway from building to parking. Ground mounted or similar lighting is encouraged in landscaped area next to pedestrian ways.

(E) Building Colors. Care should be taken to avoid clashing colors on individual buildings and with other buildings in the area. Colors used on building exteriors should integrate a building's various design elements or features. Accent colors should use color combinations which complement each other. Northwest color and value ranges to emphasize muted primary colors and complementary secondary colors are encouraged.

(F) Building Common Areas. A supervised entryway should be provided limiting access from the outside to the interior by this primary entrance. A lobby area should be provided as a common area. An outdoor patio(s), deck or seating area with southern and western exposure is encouraged. A swimming pool, lap pool, Jacuzzi or water slide and exercise room should be provided with restroom access.

x. Site Landscape Treatment. Building entries, primary vehicular entries off arterials and building perimeters should be enhanced with landscaping which could include ornamental, drought resistant or native varieties of vines, groundcovers, scrubs and trees selected for their screening, canopy, spatial enclosure, and seasonal variations. Annual and perennial flowers and potted plants are encouraged to provide seasonal interest and variety to landscaping. Landscaping (Type II or III) areas or buffers should be used to break up large parking areas, parking and other open areas which are seen from the street.

xi. Perimeter Landscaping. Landscaping on the perimeter of the site shall create a transition between the project and the surrounding area.

xii. Pedestrian Connections. Efforts should be made to provide pedestrian connections to restaurants and other related services using sidewalks along streets and pathways between adjacent properties.

xiii. Limits on Design. Avoid the use of building features or design elements which overemphasize standardized corporate themes, logos, or colors. No part of the building, signage or design elements shall stand above the typical height of surrounding buildings and mature vegetation, when they do not add functional or aesthetic value to the building context.

30. Restaurants and Personal Service Shops in the IP Zone. Located to service principally the constructed industrial park uses.

31. Retail Store. Retail business operated entirely within the community center structure and subject to the criteria listed in Section 17.16.040(B)(34).

32. Retail Use. Not more than twenty percent of the constructed BP or IP zone floor area in any such development may be devoted to those accessory retail commercial uses primarily intended to serve the principal BP or IP zone uses.

33. Auto Towing. Towing yards shall be designed with a maximum capacity of up to ten cars, and shall be completely surrounded with Type I screening.

34. Community Center Buildings and Grounds. The following uses are permitted subject to the standards and provisions of this chapter: Community center buildings and grounds which offer activities and services for residents of Mukilteo including, but not limited to recreational programs and activities, commercial day care as defined in this title, social and public health care agencies, service clubs, libraries, municipal offices, senior citizens organizations, art galleries and classes, public parks, playgrounds, public schools, performing arts facilities, museums, fundraising activities, community fairs and markets, educational seminars or classes, special events, conventions, conferences, and fraternal organizations and clubs. Consumption of alcoholic beverages may be permitted with the forgoing uses provided a Washington State Banquet or Special Occasion Liquor License and the approval of the Rosehill community center director is obtained.

35. Open Space.

a. No bleachers are permitted if the site is less than five acres in size;

b. All lighting shall be shielded so as not to produce glare which would be unduly annoying to adjoining uses;

c. No amusement devices for hire are permitted;

d. Group gatherings of more than twenty-five people require a special use permit; and

e. Camping is allowed on publicly owned land only with a special event permit and if co-sponsored by the city. Camping is prohibited on privately owned land.

36. Utility Installations. Utility installations exempt from the requirements of a conditional use permit shall include, but not be limited to:

a. Storm drainage detention basins approved as part of a plat or binding site plan.

b. Installation, relocation, replacement, repair and maintenance of the following utilities within public right-of-way subject to city approval, or within an easement granted for such purpose, provided that such equipment does not occupy more than twenty-five square feet of land area:

i. Natural gas mains, service lines, and appurtenances;

ii. Water, stormwater and sewer lines, equipment, hookups or appurtenances;

iii. Telephone, television and communication cables, vaults, pedestals and similar equipment; and

iv. Electric lines, poles, transformers and other equipment to existing poles, including undergrounding of existing facilities.

37. Reserved.

38. Change of Existing Nonconforming Uses. Expansion of an existing nonconforming use, or intensification of an existing nonconforming use within the confines of an existing structure or lot shall be subject to the following requirements:

a. Any expansion or intensification must relate to an existing nonconforming use, which has not been idle, unoccupied or vacant for a period of more than one year;

b. Any structure, after an expansion, must result in a ninety percent conformance with the following site and dimensional regulations when existing for the zoning district in which the nonconforming use is located:

i. Minimum lot area;

ii. Maximum lot coverage;

iii. Minimum average lot depth;

iv. Minimum lot width;

v. Maximum building height;

vi. Minimum setback dimensions;

vii. Buffering and screening;

viii. Parking;

c. The expanded or intensified use must not increase, and shall attempt to reduce or mitigate, impacts in all of the following areas:

i. Traffic;

ii. Nuisances, including but not limited to noise, heat, dust, smoke, vibration, solid or liquid waste, glare, odor and fumes;

iii. Storage, including but not limited to equipment, vehicles, materials and supplies;

iv. Streets and utilities;

v. Grading and filling;

vi. Hazard to life or property; or

vii. Visual blight, including but not limited to poor architectural design, incompatible building materials, inadequate maintenance of buildings and elimination of vistas;

d. The expanded or intensified use must not encroach beyond the site, lot or parcel where the existing nonconforming use is located;

e. A site and building plan must be submitted to the city. The plan must address the site and dimension regulations of the zoning code set out in this title and mitigate any impacts addressed in subsection (B)(38)(c) of this section;

f. The expanded or intensified use must comply with the sign code requirements of the Mukilteo Municipal Code; and

g. Revocation of Permit. The conditional use permit shall be subject to reevaluation upon notice of a problem, if the expanded or intensified use creates a nuisance or safety problem for the surrounding neighborhood. As a part of the reevaluation, the city may impose additional conditions, or revoke the permit if the problem cannot be satisfactorily resolved.

39. Temporary Emergency Use or Structures.

a. Such approvals shall apply only to uses or structures normally requiring a conditional or special use permit; and

b. The request shall be approved only where action must be taken immediately, or within a time too short to allow processing of a permit, to avoid imminent danger to public or private property, or to prevent an imminent threat of serious environmental degradation.

40. Optional Park Master Plan Process. All conditional uses shall be considered and processed as permitted uses if a park master plan has been approved by the city council for the subject park or site. The city council approval of a park master plan shall include findings that address the following:

a. That all commercial uses allowed as part of the development are accessory to, or in support of, a principal public recreational use;

b. That the project is consistent with the zoning ordinance, and other city plans and regulations;

c. That the impact of the activities and associated parking can be accommodated at the park and they do not create adverse impacts related to noise, lighting, water quality, or traffic.

41. Commercial Parking Lot or Garage. Must be combined with an office or retail use to apply the accessory dwelling unit credit of one unit per one thousand square feet of commercial space in the downtown business district.

42. Garages, Carports and Accessory Buildings. All single-family residential garages, carports and accessory buildings shall meet the following standards:

a. Detached garages, carports and accessory buildings in single-family residential zones shall meet the height and setback standards as stated in Section 17.20.020(B)(18).

b. Building Design.

i. All detached garages and carports shall be designed as a one-story building with a pitched roof.

ii. Temporary structures which use plastic, canvas, tarps, or other similar materials to cover storage areas, and/or to be used as garages or carports are prohibited in single-family residential zones.

43. Industrial Uses in the CB(S) District. Approval of applications for permitted and conditional industrial uses in the Community Business—South district shall be based upon data submitted by the applicant presenting evidence of their ability to meet the following performance standards:

a. Outside Storage. All storage of materials shall occur within enclosed structures, except that waste receptacles may be located outdoors within an area screened by a sight-obscuring fence.

b. Environmental Compatibility. Uses shall not produce odors, noises, dust, smoke, light, glare or electronic interference beyond property boundaries.

c. Traffic and Access. Access driveways and roads entering and exiting the project site shall be consolidated so as to minimize intersections with city streets. Wherever possible, there shall be one entry/exit driveway for every street frontage. Ingress and egress to the site shall be located so as to cause the least disruption to adjacent areas while providing safe, convenient traffic flow. Roads serving the site shall be improved to city street standards for the entire property frontage.

d. Noise. Noise levels generated within the development shall not exceed those established in Chapter 8.18. Noise of machines and operations shall be muffled so as not to become objectionable due to intermittence, beat frequency, or shrillness.

e. Site Design. Buildings shall be designed with varied roof lines and facades; and mature landscaping consisting of a mix of ornamental trees, shrubs, and ground cover. Plant sizes for all landscaping shall be as follows:

i. Ground-covers: four-inch pot with twelve-inch spacing or one gallon pot with eighteen-inch spacing;

ii. Interior shrubs: eighteen-inch height or spread;

iii. Buffer shrubs: twenty-four-inch height or spread;

iv. Deciduous trees: two-inch caliper;

v. Evergreen trees: six foot height; and

vi. Street trees: two and one-half-inch caliper.

f. Lighting. Lighting from or on buildings and parking lots shall not create glare and shall not emit/spill light beyond the property lines.

44. Commercial and Industrial Uses Allowed with a Development Agreement. A mix of commercial and industrial uses is allowed in the Planned Community Business – South (PCB(S)) district if combined with a development agreement approved by the Mukilteo city council.

45. SFR Cottage Housing Development Standards. Cottage housing developments shall comply with the Cottage Housing standards contained in Chapter 17.51, Planned Residential Development.

46. Mixed-Use Development Standards. Mixed-use developments in the CB and PCB zones shall comply with Chapter 17.25C, Development Regulations for the CB and PCB Districts.

47. Horse Shelter Buildings. Horse shelter buildings shall be subject to the following requirements:

a. A horse shelter building is required whenever a horse or pony is harbored on a lot over night per the requirements of Section 6.20.010.

b. All horse shelter buildings shall be set back at least thirty-five feet from all property lines. If the lot is less than one acre in area and a farm management plan approved by the Snohomish Conservation District is obtained, then the setback may be reduced to ten feet.

c. Minimum lot size:

i. The minimum lot size on which a horse shelter building may be located is one acre. If two horses/ponies are harbored on a single lot then the minimum lot size is two acres. If three horses/ponies are harbored on a single lot then the minimum lot size is three acres.

ii. If a farm management plan approved by the Snohomish Conservation District is obtained and submitted as part of the conditional use permit application, the minimum lot size on which a horse shelter building may be located is twenty thousand square feet with a maximum of three horses/ponies. Adjacent lots with common ownership are considered to be one lot.

d. The maximum number of horses/ponies that may be harbored on one lot is three.

e. In no case may a horse shelter building be located within a steep slope, wetland or stream, or within an associated buffer, as regulated by Mukilteo Municipal Code Chapter 17.52A, 17.52B or 17.52C.

48. Horse Paddocks. Horse paddocks shall be subject to the following requirements:

a. All horse paddocks shall be set back at least ten feet from all property lines.

b. Minimum lot size:

i. The minimum lot size on which a horse paddock may be located is one acre. If two horses/ponies are harbored on a single lot then the minimum lot size is two acres. If three horses/ponies are harbored on a single lot then the minimum lot size is three acres.

ii. If a farm management plan approved by the Snohomish Conservation District is obtained and submitted as part of the conditional use permit application, the minimum lot size on which a horse paddock may be located is twenty thousand square feet with a maximum of three horses/ponies. Adjacent lots with common ownership are considered to be one lot.

c. The maximum number of horses/ponies that may be harbored on one lot is three.

d. In no case may a horse paddock be located within a steep slope, wetland or stream, or within an associated buffer, as regulated by Mukilteo Municipal Code Chapters 17.52A, 17.52B or 17.52C.

49. Hobby kennels are subject to the same requirements for home occupations and the following:

a. Hobby kennel activity does not have to customarily be carried on within the confines of the residence to the exclusion of accessory buildings.

b. If an accessory building is used then that building is an animal shelter building requiring a conditional use permit and must be set back at least thirty-five feet from all property lines, dwellings and other structures.

c. All open run areas shall be enclosed on all sides by a six-foot high fence and setback at least ten feet from all property lines. If no open run area is provided then the entire yard where the dogs and cats have access to shall be fenced on all sides by a six-foot high fence.

d. No hobby kennel shall harbor any inherently dangerous mammal or reptile as defined in Title 6.

50. Kennels are a permitted use in the CB, CB(S), PCB and BP zoning districts only if the kennels are completely contained within a fully enclosed building. If any of the kennel activity is to take place outside of a building, including exercising of animals, then a conditional use permit is required. No kennel shall harbor any inherently dangerous mammal or reptile as defined in Title 6.

51. Manufactured Home Requirements. Only manufactured homes as defined in Section 17.08.020 are permitted. All manufactured homes shall also comply with the manufactured home requirements contained in Chapter 17.76, Manufactured Homes.

52. The temporary use of trailers or mobile homes for living purposes in residential zoning districts is allowed subject to the following:

a. May not exceed a cumulative total of two weeks each calendar year;

b. Must be in conjunction with, and as an accessory to, an established residence.

These provisions shall not apply to the use of a trailer or mobile home as a caretaker's dwelling, which may be a permitted use in nonresidential zoning districts, when such use has been approved in accordance with Chapter 17.16.

53. Mobile Fueling Application Requirements and Locations Allowed.

a. Mobile fuel distribution/dispensing is allowed at the following locations within the city of Mukilteo:

i. Rosehill Community Center Commons grounds;

ii. Service stations (including Pacific Pride).

b. The requirements and criteria for mobile fuel distribution approval are:

i. The only product that can be sold by mobile fuel dispensing is biodiesel-99 or B-100.

ii. The mobile fuel dispensing provider must be licensed by the state of Washington and be insured and bonded against spills. This information will be provided as part of the land use and permit application and must be approved by the fire chief and public works director.

iii. The mobile fuel dispensing device must have a thirty-gallon shut-off to protect from major spills or be staffed during mobile dispensing operations at all times.

iv. A spill response plan must be submitted with the permit application and approved by the fire chief after a site inspection to validate the appropriateness of the plan related to the site to minimize damage from any spill. A spill protection plan must also be submitted to the public works director for his approval to ensure that the storm drainage system can be protected from any spills (e.g., absorbent blanket or logs and/or impervious storm drainage cover) and there must be separate stormwater and sewer connections. The public works director may approve the specific location for mobile dispensing when all other requirements are also met. The city's acceptance of such spill response plan and a spill protection plan shall not be construed to create the basis for any liability on the part of the city, its elected and appointed officials, officers and employees for any damages resulting in any way from any spill on the site or in transit or the inadequacy of any spill response or spill protection.

v. A spill prevention kit is required on the distribution vehicle at all times (including absorbent log(s)).

vi. The locations for mobile fuel dispensing must have containment for fuel spills or the site must be able to limit spills from entering storm drains (also refer to the criteria in subsection (B)(53)(d) of this section for approvals).

vii. A certificate of licensing by the state of Washington for the distribution vehicle and operator, from WSDOT for equipment, and from the Department of Agriculture—Weights and Measures or an automatic shut-off nozzle for smaller vehicles with less than three hundred gallons, and a material safety data sheet (MSDS) are required for the fire chief to sign off. A "one-tank tanker" truck is preferred due to state licensing requirements and as it contains less fuel, but the distribution nozzle must be sized similar to nozzles at gas stations so that the volume and flow is commensurate with automobiles and small trucks.

viii. A business license is also required after meeting all the above requirements and at the time a mobile distribution permit is issued.

54. Homeless encampments must comply with Chapter 17.78, Homeless Temporary Encampments.

55. Commercial parking lots and commercial parking structures, except those located in the WMU zoning district, shall comply with Section 17.56.140, Commercial parking lots and structures.

56. Commercial parking lots and structures in the WMU zoning district shall comply with Section 17.25.090.

57. Animal shelter buildings with a footprint greater than one hundred twenty square feet in area or more than twelve feet high require a conditional use permit.

58. Mixed-Use Development in the DB District. Mixed-use developments in the DB district shall comply with Chapter 17.25A, Design Standards for the DB District.

59. Mixed-Use Developments in the WMU District. Mixed-use development in the WMU district shall comply with Chapter 17.25B, Mixed-Use Design Standards for the WMU District.

60. Reserved.

61. Cottage housing is allowed in the PCB(S) zoning district only with an approved development agreement. See Section 17.51.056(C) for a description of those specific circumstances and for cottage housing standards.

62. Cottage housing is allowed in the CB zoning district if part of a mixed-use development.

63. Cottage housing is allowed in the PCB zoning district only if part of a mixed-use development.

64. Duplexes, Townhouses and Multifamily Units in the CB District. Duplex, townhouse and multifamily uses in the CB district shall comply with Chapter 17.25C, Development Regulations for the CB and PCB Districts. The MRD development regulations are not applicable to duplexes, townhouses and multifamily development in the CB zone. Duplexes, townhouses and multifamily are permitted in the CB district only as part of a mixed-use development.

65. Duplexes, Townhouses and Multifamily Units in the PCB District. Duplex, townhouse and multifamily uses are permitted in the PCB district only as part of a mixed-use development and shall comply with Chapter 17.25C, Development Regulations for the CB and PCB Districts.

66. Marijuana Retail, Processing and Production Facilities. All state-licensed marijuana facilities shall meet the following development standards:

a. All facilities must be state-licensed and comply with all of the standards for state-licensed marijuana facilities.

b. No marijuana facility shall be allowed as a home occupation.

c. The definitions set forth in RCW 69.50.101 through 69.50.102, WAC 314-55-010 and Section 17.08.020 shall control. In the event of conflict, the provisions of Section 17.08.020 shall prevail.

d. Location.

i. No more than one facility shall be located on a single parcel.

ii. Marijuana retail and processing facilities shall be located fully within a permanent structure designed to comply with the city building code and constructed under a building/tenant improvement permit from the city regardless of the size or configuration of the structure.

iii. Marijuana production facilities shall be located:

(A) Fully within a permanent structure designed to comply with the city building code and constructed under a building/tenant improvement permit from the city regardless of the size or configuration of the structure; or

(B) In nonrigid greenhouses, other structures, or an expanse of open or clear ground fully enclosed by a physical barrier enclosed by a sight obscuring wall or fence eight feet high.

iv. Marijuana facilities shall not be located in a mobile structure.

v. No state-licensed marijuana facility shall be located within one thousand feet of the perimeter of the parcel on which any of the entities listed below are located. The distance shall be measured in the manner set forth in WAC 314-55-050(10).

(A) Elementary or secondary school (public or private);
(B) Playground;
(C) Recreation center or facility;
(D) Child care center;
(E) Public park;
(F) Public transit center;
(G) Library;
(H) Any game arcade which allows admission to persons under twenty-one years of age.

vi. No state-licensed marijuana retail facility shall be located within one thousand feet of the perimeter of a parcel on which a state-licensed marijuana production or processing facility is located nor shall a state-licensed marijuana production or processing facility be located within one thousand feet of the perimeter of a parcel on which a state-licensed marijuana retail facility is located. The distance shall be measured in the manner set forth in WAC 314-55-050(10).

e. No production, processing or delivery of marijuana may be visible to the public nor may it be visible through windows.

f. All fertilizers, chemicals, gases and hazardous materials shall be handled in compliance with all applicable local, state and federal regulations. No fertilizers, chemicals, gases or hazardous materials shall be allowed to enter neither a sanitary sewer or stormwater sewer system nor be released into the atmosphere outside of the structure where the facility is located.

g. No odors shall be allowed to migrate beyond the interior portion of the structure where a marijuana facility is located.

h. A city of Mukilteo business license pursuant to Chapter 5.04 and a state license pursuant to Chapter 314-55 WAC shall be obtained prior to the start of operations of the facility.

i. All facilities shall comply with Chapter 19.27 RCW, State Building Code Act, and Title 15, Buildings and Construction. Appropriate permits shall be obtained for all changes of use, tenant improvements, mechanical system improvements, electrical upgrades and similar work.

EXHIBIT 3
Shoreline Environment Designations
(North City Limits)

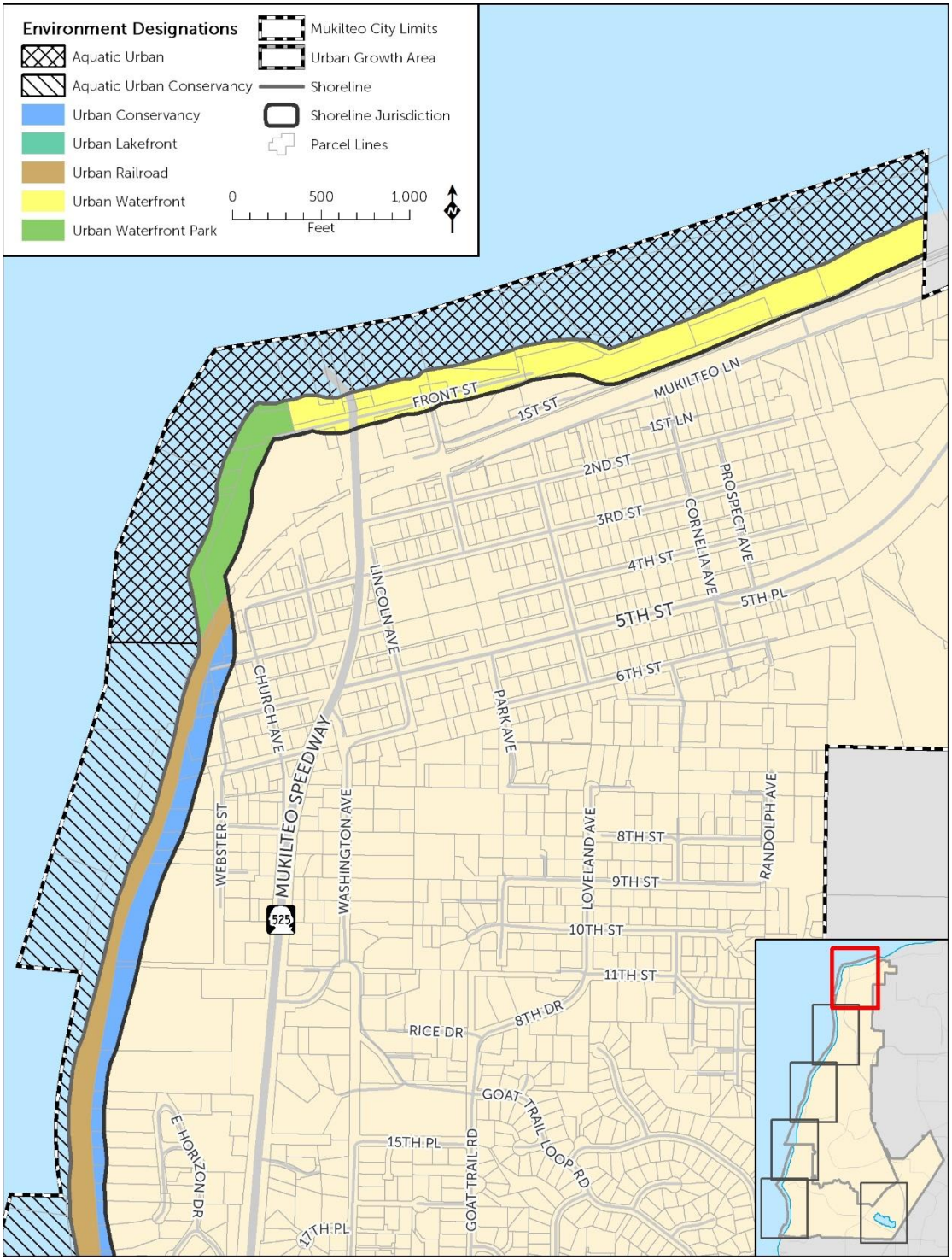

EXHIBIT 4

CITY OF MUKILTEO
SHORELINE MASTER PROGRAM
USE MATRIX

P – Permitted Use; C – Conditional Use; X - Prohibited

Shoreline Use Designation	Urban Waterfront	Urban Waterfront Park	Urban Conservancy	Aquatic Urban	Aquatic Urban Conservancy	Urban Lakefront and Uplands	Urban Railroad
Residential Use							
Animal and Horse Shelter Building, Barns	X	X	C	X	X	C	X
Caretakers Quarters	P[1]	P	X	X	X	X	X
Home Occupation[3]	P	X	P	X	X	P	X
Mixed-Use (Commercial w/Multifamily)	P[2]	X	X	X	X	X	X
Single-Family Detached Residences and Accessory Uses	X	X	P	X	X	P	X
Multifamily in MR Zone Only (MF are Prohibited in All SFR Zones)	X	X	P (in MR Zone Only)	X	X	X	X
Long-Term Transient Residential Uses	X	X	X	X	X	X	X

Shoreline Use Designation	Urban Waterfront	Urban Waterfront Park	Urban Conservancy	Aquatic Urban	Aquatic Urban Conservancy	Urban Lakefront and Uplands	Urban Railroad
Swimming Pool, Private[7]	P	X	P	X	X	P	X
Commercial Uses							
Art Gallery	P	P[1]	X	X	X	X	X
Art Studio in Conjunction with Retail	P	P[1]	X	X	X	X	X
Adult Entertainment	X	X	X	X	X	X	X
Bed and Breakfast	P	C[(4,5,6)]	X	X	X	X	X
Brewery, Micro; Winery[8]	X	X	X	X	X	X	X
Cleaning Establishment	X	X	X	X	X	X	X
Clubs, Charitable, Nonprofit or Social Organizations	X	X	X	X	X	X	X
Commercial Parking Lot or Garage	P[9]	X	X	X	X	X	X
Concession Stand	C	P[1]	X	X	X	X	X
Financial Institutions	X	X	X	X	X	X	X
Health Club	X	X	X	X	X	X	X
Hotel/Motel	P	X	X	X	X	X	X
Museum	C	P[1]	X	X	X	X	X

Shoreline Use Designation	Urban Waterfront	Urban Waterfront Park	Urban Conservancy	Aquatic Urban	Aquatic Urban Conservancy	Urban Lakefront and Uplands	Urban Railroad
Office, General	P[10]	X	X	X	X	X	X
Restaurant	P	X	X	X	X	X	X
All Other Commercial/Retail Service Uses:							
Water—Enjoyment	P	X	X	X	X	X	X
Water—Dependent	P	X	X	X	X	X	X
Water—Related	P	X	X	X	X	X	X
Tavern	X	X	X	X	X	X	X
Industrial Uses							
All Other Industrial Uses Not Listed	X	X	X	X	X	X	X
Mining	X	X	X	X	X	X	X
Railroad Tracks and Accessory Uses	X	X	X	X	X	X	C
Sewer Outfalls	C	C	C	C	C	X	C
Stormwater Outfalls	P	P	P	P	P	P	P
Water and Sewer Treatment Plants and Modifications Thereto	X	X	C	X	X	X	X
Public Uses							

Shoreline Use Designation	Urban Waterfront	Urban Waterfront Park	Urban Conservancy	Aquatic Urban	Aquatic Urban Conservancy	Urban Lakefront and Uplands	Urban Railroad
Local Marine Education Facilities	P	P	P	P	P	X	X
Pedestrian Bus/Transportation Shelter	P	P	X	X	X	X	X
Special Events	P	P	P	P	P	P	X
Recreation							
Dive Park	C	C	X	C	X	X	X
Mukilteo Lighthouse and Park	X	P[1]	X	P	X	X	P
Park Caretakers Quarters	P[1]	P[1]	X	X	X	X	X
Park, Public	P	P	P	P	P	P	X
Park/Recreation/Public Access (Including Bicycle Trails, and Bicycle Lanes Along Streets)	P	P[1]	P (passive recreation only)	P	P	P	X
Water—Enjoyment	P	P[1]	X	P	X	X	X
Water—Dependent	P	P[1]	X	P	X	X	X
Water—Related	P	P[1]	X	P	X	X	X
Utilities (Underground Required)							
Major Aboveground Utility Facilities	C	C	C	C	C	C	X

Shoreline Use Designation	Urban Waterfront	Urban Waterfront Park	Urban Conservancy	Aquatic Urban	Aquatic Urban Conservancy	Urban Lakefront and Uplands	Urban Railroad
Wireless Communication Facilities—Detached	X	X	X	X	X	X	X
Wireless Communication Facilities—Attached	C	C	C	X	X	X	X
Other							
Agriculture	X	X	X	X	X	X	X
Aquaculture	X	X	X	X	X	X	X
Forestry	X	X	X	X	X	X	X
Moved-In Buildings	C	C	C	X	X	C	X
Nonconforming Use: Changes or Intensification	C	C	C	C	C	C	X
Temporary Emergency Use	C	C	C	C	C	C	C
Transportation Facilities	P	P	P	C w/EPF	X	X	C
Boating Facilities and Other Specific Shoreline Uses							
Boating Facilities Not Otherwise Listed	X	X	X	X	X	X	X
Boathouse	X	X	X	X	X	X	X
Boats; Live Aboard	X	X	X	X	X	X	X
Boat Launches	C	P[1]	X	C	X	X	X
Buoys	P	P[1]	X	P	P	X	X

Shoreline Use Designation	Urban Waterfront	Urban Waterfront Park	Urban Conservancy	Aquatic Urban	Aquatic Urban Conservancy	Urban Lakefront and Uplands	Urban Railroad
Covered Moorage	X	X	X	X	X	X	X
Day Moorage	C	X	X	C	X	X	X
Docks	P[1]/C	P[1]/C	X	P[1]/C	X	P	X
Floats	P	P[1]	X	P	X	P	X
Marinas	X	X	X	X	X	X	X
Non-Water-Oriented	P	C	X	C	X	X	X
Navigation Devices	P	P	P	P	P	P	X
Piers	P[1]/C	P[1]/C	X	P[1]/C	X	X	X
Seaplane Facilities	C	X	X	C	X	X	X
Essential Public Facilities (EPF)							
Local EPF	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP
Regional EPF	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP
State	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP	C and SUP
Land Development							

Shoreline Use Designation	Urban Waterfront	Urban Waterfront Park	Urban Conservancy	Aquatic Urban	Aquatic Urban Conservancy	Urban Lakefront and Uplands	Urban Railroad
Subdivision of Land or Binding Site Plans	P	P	X (waterward of BNSF tracks)				

B. Reference Notes for the Permitted Use Matrix.

1. Master Plan Required. The use must be listed in or included as an element of a master plan approved by the Mukilteo city council before the use will be allowed.
2. Residential Units.

a. Single-Family Dwelling Units.

i. No single-family residence may be located north or northwest of the Burlington Northern railroad tracks.

ii. Single-family residences that existed prior to the effective date of the ordinance codified in this title may be altered; provided, that the alterations include only those repairs that are necessary and incidental to meet requirements of law regarding unsafe buildings and that the building is not expanded.

iii. An existing single-family residence may be expanded only if the alteration is combined with commercial uses in accordance with the provisions of this title and the living portion of the building is relocated to above the commercial space. The commercial space shall cover the entire ground floor (street level) of the structure.

b. Multifamily Dwelling Units.

i. Multifamily residences may be located in the WMU district as an accessory use, provided they are combined with retail, service, professional offices or other commercial use.

ii. Dwelling units shall be located above permitted commercial, office, and parking uses.

iii. Density shall be determined based on lot coverage and building height. A maximum of twenty percent of the units may be less than one thousand gross square feet.

3. Home Occupation. Home occupations are allowed, providing the following conditions are met:

a. Occupation is clearly subordinate to the use of the dwelling as a residence;

b. Occupations must be of such a nature that they are customarily carried out by the occupants, within the confines of a residence to the exclusion of accessory buildings and that there is no more than one person other than members of the immediate family employed;

c. There is no stock in trade other than that produced by the inhabitants which are displayed or sold on the premises;

d. That there is no exterior evidence that the structure is being used for any nonresidential purpose, with the exception of a nonluminous sign bearing the name and occupation of the occupant, three square feet maximum placed flat against the building; and

e. That there is nothing about the occupation which would disturb the surrounding neighbors, such as vibrations, smoke, dust, increased traffic, loud noises, and/or bright lights.

4. Uses in the OS District. Uses only allowed at the Mukilteo Lighthouse Park.
5. Uses in the OS District. Uses only allowed at the Mukilteo Lighthouse Park grounds.

6. Accessory Uses in the OS District. Only allowed if accessory, incidentals, and subordinate to, and in support of, a principal public recreational use. Accessory structures shall be in keeping with existing design and scale of the site and surrounding neighborhood.
7. Swimming Pools. Private swimming pools are allowed, provided the following conditions are met:
a. It is for the sole use of occupants and their guests;
b. No swimming pool will occupy a front yard;
c. The swimming pool will not be located closer than seven feet from any rear or side property line; and
d. The swimming pool will be screened from adjacent properties by a solid wall or fence six feet in height.
8. Brewery, Micro; and Winery. Shall be permitted only in combination with a restaurant or tavern, and shall not exceed the square footage of the principal use.
9. Commercial parking lots are allowed in conjunction with the multi-modal transit station.
10. Offices are allowed in multi-use buildings, providing the first (ground) floor is reserved for retail.
11. Shoreline Uses. Where allowed in the Permitted Use Matrix, private, noncommercial docks for individual residential or community use may be authorized; provided, that:
a. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible;
b. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat.
c. An inventory of the site and adjacent beach sections shall be prepared to assess the presence of critical saltwater habitats and functions. The methods and extent of the inventory shall be consistent with accepted research methodology. At a minimum, the Department of Ecology should be consulted with for guidance and technical assistance.
12. Essential Public Facilities. Docks, bulkheads, bridges, fill, floats, jetties, utility crossings, and other human-made structures shall not intrude into or over critical saltwater habitats except when all of the conditions below are met:
a. The public's need for such an action or structure is clearly demonstrated and the proposal is consistent with protection of the public trust, as embodied in RCW 90.58.020;
b. Avoidance of impacts to critical saltwater habitats by an alternative alignment or location is not feasible or would result in unreasonable and disproportionate cost to accomplish the same general purpose;
c. The project, including any required mitigation, will result in no net loss of ecological functions associated with critical saltwater habitat;
d. The project is consistent with the state's interest in resource protection and species recovery.)

LAND USE & ECONOMIC DEVELOPMENT COMMITTEE AGENDA REPORT	
SUBJECT TITLE: Annexation - Master Annexation Inter-local Agreement (MAILA)	**FOR AGENDA OF:** May 5, 2020
Contact Staff: David Osaki, Community Development Director	**EXHIBITS:** 1. DRAFT Master Annexation Inter-local Agreement (MAILA)
Department Director: David Osaki, Community Development Director	

BACKGROUND

City staff has been working with Snohomish County staff on a new Master Annexation Interlocal Agreement ("MAILA"). The MAILA, once executed, does not bind the City to annex land. However, it is required for any annexation to move forward.

ANNEXATION METHODS (GENERALLY)

State law provides for multiple methods of annexation. The more common methods are the petition method (initiated by property owners and based on assessed valuation) and the election method requiring approval of voters in a proposed annexation area. The election method can be initiated by petition of voters or by the city council. Depending on specifics of the annexation, review and a ruling by the Washington State Boundary Review Board for Snohomish County may also be required.

MASTER ANNEXATION INTER-LOCAL AGREEMENT (MAILA) W/ SNOHOMISH COUNTY

Annexation of land requires that the City have a master annexation interlocal agreement ("MAILA") with Snohomish County. The City and Snohomish County have been discussing a new MAILA, which reflects the County's current proposal **(see Exhibit 1)**.

City-County MAILA's typically cover items related to transitioning services and facilities. Besides general provisions, topics in the attached draft MAILA include topic such as:

- Growth Management and Land Use
- Processing of Permits in the MUGA (Municipal Urban Growth Area)
- Records Transfer/Access to records
- County Capital Facilities Reimbursement
- Roads and Transportation
- Surface Water Management

- Parks, Open Space and Recreational Facilities
- Annexation of County Property
- Criminal Justice Services
- Fire Marshal Services

Snohomish County is aware that the City is interested in moving forward with Phase 1 annexation *(Phase 1 being an area along the east side of SR 525 from roughly the QFC intersection south to Beverly Park Road then north from Beverly Park Road to the southern boundary of Paine Field Airport.)*

While Snohomish County is not discounting that a separate Phase 1 annexation MAILA may also be needed, the County states that it made a good-faith effort in revising the latest draft to avoid the need for a separate geographically-specific MAILA for the Phase 1 area.

County and City staff have been meeting to discuss different topics in the MAILA over the past year. "Roads and Transportation" and Growth Management and Land Use are the main topics that still need to be discussed in detail. Other topics that have been discussed still need issues to be worked out.

MAILA LAND USE POLICY ISSUES

One of the reasons cities/property owners/residents have interest in annexation is land use. Cities in particular have direct control over managing growth and development as land is part of the City.

The MAILA proposed by the County has several provisions, several of which have their policy basis in the Snohomish County Comprehensive plan, that still need to be discussed/negotiated related to land use which would dictate certain land use/regulation requirements upon the City. Examples include:

Urban Density Requirements

The County is seeking that the City adopt land use designations and zones for the annexation areas that will ensure that new residential subdivisions and development will achieve a minimum net density of four dwelling units per acre.

Urban Center, Transit Pedestrian Village, Urban Village, and Transit Emphasis Corridor Requirements

The County is seeking the City to agree that the City comprehensive plan and development regulations will provide the land use designations and zones necessary to support areas that

have been designated as an Urban Center, Transit Pedestrian Village, or Urban Village, or that have been designated as transit emphasis corridors in the County comprehensive plan

Transfer of Development Rights (TDR)

The County is seeking City agreement that City's development regulations provide equivalent or greater capacity for receiving TDR certificates and equivalent or greater incentives for the use of TDR certificates. After annexation, a County-designated TDR receiving area shall remain a TDR receiving area or the City shall ensure that other areas of the City have the equivalent or greater capacity for receiving TDR certificates.

Flood Hazard Regulations

The County is seeking City agreement that the City comprehensive plan and development regulations that apply within the floodplain will provide equal or greater restrictions on development as those provided by the County flood hazard regulations in Chapter 30.65 (SCC).

Airport Compatibility Regulations

The County is seeking City agreement that the City comprehensive plan and development regulations that apply within the proximity of Paine Field will provide equal or greater discouragement of incompatible uses adjacent to the airport than the County's regulations.

RECOMMENDED ACTION:

Land Use & Economic Development Committee to discuss annexation and ask questions, if any.

EXHIBIT 1

MASTER ANNEXATION INTERLOCAL AGREEMENT BETWEEN THE CITY OF MUKILTEO AND SNOHOMISH COUNTY CONCERNING ANNEXATION AND URBAN DEVELOPMENT WITHIN THE MUKILTEO MUNICIPAL URBAN GROWTH AREA

1. PARTIES

This Interlocal Agreement ("Agreement" or "ILA") is made by and between the City of Mukilteo ("City"), a Washington municipal corporation, and Snohomish County ("County"), a political subdivision of the State of Washington, collectively referred to as the "Parties," pursuant to Chapter 36.70A RCW (Growth Management Act), Chapter 36.115 RCW (Governmental Services Act), Chapter 43.21C RCW (State Environmental Policy Act), Chapter 36.70B RCW (Local Project Review), Chapter 58.17 RCW (Subdivisions), Chapter 82.02 RCW (Excise Taxes), and Chapter 39.34 RCW (Interlocal Cooperation Act).

2. PURPOSE, INTENT, AND APPLICABILITY

2.1 Purpose. The purpose of this Agreement is to facilitate an orderly transition of services and responsibility for capital projects from the County to the City at the time of annexation of unincorporated areas of the County to the City. This Agreement between the Parties also addresses the transition of permit review; joint planning for urban development; joint transportation system planning; and the policies and procedures for reciprocal review and mitigation of interjurisdictional transportation system impacts of land development.

2.2 Snohomish County Tomorrow Annexation Principles. The Parties intend that this Agreement be interpreted in a manner that furthers the objectives articulated in the Snohomish County Tomorrow Annexation Principles; however, in the event of a conflict between such Principles and this Agreement, this Agreement shall prevail. For the purpose of this Agreement, the Snohomish County Tomorrow Annexation Principles means that document adopted by the Snohomish County Tomorrow Steering Committee on February 28, 2007, and supported by the Snohomish County Council in Joint Resolution No. 07-026 passed on September 5, 2007. The Snohomish County Tomorrow Annexation Principles are attached to this Agreement as Exhibit A. As used in this Agreement, the term "Six Year Annexation Plan" means the six-year time schedule which will guide annexation goals, as described in the Snohomish County Tomorrow Annexation Principles.

2.3 Establish a framework for future annexations. The Parties intend that this Agreement provide a framework for future annexations within the Mukilteo Municipal Urban Growth Area (MUGA), to implement urban development

standards within the Mukilteo MUGA prior to annexation, to plan for and fund capital facilities in the unincorporated portion of the Mukilteo MUGA, and to enable consistent responses to future annexations.

2.4 Subsequent agreements and interpretations. The Parties recognize that this Agreement includes general statements of principle and policy, and that addenda or amendments to existing interlocal agreements or government service agreements or subsequent agreements on specific topical subjects relating to annexation and service transition may be executed. By way of example only, and not by way of limitation, the Parties contemplate that such subsequent amendments or agreements might address the following types of issues: roads and traffic impact mitigation; surface water management; parks; police services; fire marshal services; permit review services; revenue- and cost-sharing; common zoning and development standards; and sub-area planning. In addition, a subsequent agreement or an addendum to this Agreement might address issues related to the annexation of a specific area. In the event that any term or provision in this Agreement conflicts with any term or provision in any subsequent agreement, addendum, or amendment, the term or provision in the subsequent agreement, addendum, or amendment shall prevail unless specifically stated otherwise in this Agreement.

2.5 Applicability. This Agreement applies to all annexations by the City, and to joint planning for urban development in anticipation of future annexations, within the geographic areas described in Subsection 2.6 of this Agreement and will become operational after the effective date of this Agreement.

2.6 Geographic areas eligible for annexation.

2.6.1 The Southwest Snohomish County MUGA Boundaries Map in Appendix A of the Snohomish County Countywide Planning Policies (CPP), as now existing or hereafter amended, identifies the Mukilteo MUGA in the Southwest Snohomish County MUGA Boundaries Map. The City may consider future annexations within the Mukilteo MUGA under the terms of this Agreement.

2.6.2 The Southwest Snohomish County MUGA Boundaries Map in Appendix A of the Snohomish County CPP, as now existing or hereafter amended, identifies a gap area not claimed by any city that is adjacent to the Mukilteo MUGA, known as the Lake Stickney Gap Area. If the City proposes any annexation that includes territory located outside the Mukilteo MUGA in a gap area not claimed by any city, and the cities adjacent to the affected gap area and the City have reached formal agreement on the proposed annexation boundaries, the County may not oppose the annexation based solely on such territory being outside the Mukilteo MUGA. If the City proposes an annexation within the Lake Stickney Gap Area, and the cities adjacent to the affected gap area and the City have reached formal

agreement on the proposed annexation boundaries, the provisions of this Agreement shall apply. The Parties mutually acknowledge that an amendment or addendum to this Agreement may be needed to effectuate the above.

2.6.3 If the City proposes any annexation that includes territory located within another city's MUGA, as identified in the Southwest Snohomish County MUGA Boundaries Map in Appendix A of the Snohomish County CPP, and the city in whose MUGA such territory is located and the City have reached formal agreement on the proposed annexation boundaries, the County may not oppose the annexation based solely on such territory being included in another city's MUGA. If the City proposes an annexation that includes territory located within another city's MUGA, and the city in whose MUGA such territory is located and the City have reached formal agreement on the proposed annexation boundaries, the provisions of this Agreement shall apply. The Parties mutually acknowledge that an amendment or addendum to this Agreement may be needed to effectuate the above.

2.6.4 Pursuant to RCW 35A.14.410, the boundaries arising from an annexation of territory shall not include a portion of the right-of-way of any public street, road, or highway except where the boundary runs from one edge of the right-of-way to the other edge of the right-of-way. When such right-of-way of any public street, road, or highway is included in an annexation proposal, it shall be considered a part of the Mukilteo MUGA.

2.6.5 The Mukilteo area of the Southwest Snohomish County MUGA Boundaries Map that is attached to this Agreement as Exhibit B shows the Mukilteo MUGA as well as an adjacent gap area not claimed by any city, known as the Lake Stickney Gap Area. The map in Exhibit B also identifies the Paine Field Area that is adjacent to the Mukilteo MUGA. Consistent with Snohomish County CPP DP-22, Paine Field is a County-administered regional essential public facility. The Paine Field Area is not assigned to a city. This Agreement does not include the Paine Field Area as a geographic area eligible for annexation and this Agreement does not represent an approved agreement for the Paine Field Area.

3. GENERAL PROVISIONS

3.1 Consistency of annexation. If the Snohomish County Council finds that a proposed annexation within the Mukilteo MUGA is consistent with this Agreement and the factors and objectives established in RCW 36.93.170 and 36.93.180, that the health, safety, and general welfare of Snohomish County citizens is not adversely affected by the annexation, and that an addendum pursuant to Section 16 of this Agreement is completed or is not necessary, the County may not oppose the proposed annexation and may send a letter to the Boundary Review Board in support of the proposed annexation.

3.2 Public facilities and services. The Parties share a commitment to ensure that public facilities and services which are within the funding capacities of the Parties will be adequate to serve development within the MUGA at the time such development is available for occupancy and use without decreasing current service levels below locally established minimum standards.

3.3 Reciprocal mitigation and impact fees. The Parties believe it is in the best interest of the citizens of both jurisdictions to enable reciprocal imposition of impact mitigation requirements and regulatory conditions for improvements in the respective jurisdictions. A separate interlocal agreement known as the *"Interlocal Agreement Between Snohomish County and City of Mukilteo Regarding Interjurisdictional Review and Mitigation for Development Impacts on Their Respective Transportation Infrastructure,"* which became effective on May 26, 2009, addressing reciprocal transportation impact mitigation, exists between the Parties. Other or subsequent interlocal agreements on reciprocal mitigation may be negotiated as described in Subsection 2.4 of this Agreement. Whether impact fees can be collected and transferred between the Parties will depend, in part, on the circumstances of any individual annexation and the plans of the jurisdictions to provide improvements for the benefit of the annexed area.

3.4 Joint planning provision. The Parties recognize the need for joint planning to establish local and regional facilities the jurisdictions have planned or anticipate for the area, to identify ways to jointly provide these facilities, and to identify transition of ownership and maintenance responsibilities as annexations occur. This need may result in mutual ongoing planning efforts, joint capital improvement plans, and reciprocal impact mitigation. By way of example only, and not by way of limitation, joint planning issues may include: planning, design, funding right-of-way acquisition, construction, and engineering for road projects; regional transportation plans; infrastructure coordination; watershed management planning; capital construction and related services; parks; open space; permit review services (particularly for urban centers); revenue and cost-sharing; adoption of common zoning and development standards; and sub-area planning.

3.5 Adoption of County codes. The City agrees to adopt by reference the County codes and ordinances listed in Exhibit C of this Agreement solely for the purpose of allowing the County to process and complete permits and fire inspections in annexed areas. Adoption of the County's codes by the City in no way affects applications submitted to the City after the effective date of an annexation within the annexation area. The County shall be responsible for providing copies of all the codes and ordinances listed in Exhibit C of this Agreement, in addition to all the updates thereto, to the Mukilteo City Clerk, so that the City Clerk may maintain compliance with RCW 35A.12.140.

3.6 City and County responsibilities. Within their own jurisdictions, the Parties each have responsibility and authority derived from the Washington State Constitution, state statutes, and any local charter to plan for and regulate uses of land and resultant environmental impacts.

3.7 Intergovernmental cooperation for extra-jurisdictional impacts. The Parties recognize that land use decisions and transportation planning can have extra-jurisdictional impacts and that intergovernmental cooperation is an effective manner to deal with impacts and opportunities that transcend local jurisdictional boundaries.

3.8 Coordinated planning. The Parties recognize that sub-area planning related to interjurisdictional coordination as outlined in the Snohomish County Tomorrow Annexation Principles facilitates the transition of services from the County to the City in the event of an annexation. Addenda or amendments to existing interlocal agreements or government service agreements, or subsequent agreements on specific topical subjects relating to annexation and service transition, as described in Subsection 2.4 of this Agreement, will reflect joint planning between the Parties relative to the Snohomish County Tomorrow Annexation Principles.

3.9 Taxes, fees, rates, charges, and other monetary adjustments. In reviewing annexation proposals, the Parties must consider the effect on the finances, debt structure, and contractual obligations and rights of all affected governmental units. Tax and revenue transfers are generally regulated by state statute.

3.10 Wetland mitigation sites for public projects. The Parties share a commitment to ensure the success of wetland mitigation sites for public projects. The Parties agree that both jurisdictions will benefit from the maintenance and monitoring of such wetland mitigation sites. If such wetland mitigation sites or associated public projects exist in an annexation area, Subsections 8.1, 8.6, 9.1, 9.10, 10.1, and 10.6 of this Agreement shall apply to such sites or projects, unless otherwise mutually agreed to in writing under Subsection 11.3.

4. GROWTH MANAGEMENT ACT ("GMA") AND LAND USE

4.1 Urban density requirements. Except as may be otherwise allowed by law, the City agrees to adopt land use designations and zones for the annexation areas that will ensure that new residential subdivisions and development will achieve a minimum net density[1] of four dwelling units per acre and that will accommodate

[1] For the purposes of this agreement, minimum net density is the density of development excluding roads, drainage detention/retention areas, biofiltration swales, areas required for public use, and critical areas and their required buffers. Minimum net density is determined by rounding up to the next whole unit or lot when a fraction of a unit or lot is 0.5 or greater.

within its jurisdiction the population, housing, and employment allocation assigned by the County under the GMA for the City and the Mukilteo MUGA as established in Appendix B of the Countywide Planning Policies for Snohomish County. Nothing in this Subsection 4.1 shall be deemed as a waiver of the City's right to appeal the assignment of such population and employment allocation under the GMA. After the effective date of an annexation, the zoning adopted by the City for the annexation area shall apply to all new permit applications submitted to the City relating to real property within the annexation area.

4.2 Urban Center, Transit Pedestrian Village, Urban Village, and Transit Emphasis Corridor requirements. The City agrees to ensure after annexation that the City comprehensive plan and development regulations will provide the land use designations and zones necessary to support areas that have been designated as an Urban Center, Transit Pedestrian Village, or Urban Village, or that have been designated as transit emphasis corridors by the County in its comprehensive plan prior to annexation.

4.3 Transfer of development rights. If an area to be annexed has been designated a Transfer of Development Rights (TDR) receiving area by the County, the City agrees that the City's development regulations provide equivalent or greater capacity for receiving TDR certificates and equivalent or greater incentives for the use of TDR certificates. After annexation, a County-designated TDR receiving area shall remain a TDR receiving area or the City shall ensure that other areas of the City have the equivalent or greater capacity for receiving TDR certificates.

4.4 Flood hazard regulations. The City agrees to ensure after annexation that the City comprehensive plan and development regulations that apply within the floodplain, as defined in Chapter 30.65 Snohomish County Code (SCC), will provide equal or greater restrictions on development as those provided by the County flood hazard regulations in Chapter 30.65 (SCC), as required by Snohomish County General Policy Plan, LU Policy 1.A.12 (GPP LU 1.A.12). If the City proposes an annexation that includes any area within the floodplain, the City shall document in its Notice of Intention how the City's regulations will provide a level of flood hazard protection comparable to that provided by the County in Chapter 30.65 SCC.

4.5 Airport compatibility regulations. The City agrees to ensure after annexation that the City comprehensive plan and development regulations that apply within the proximity of the Snohomish County Airport, also known as Paine Field, will provide equal or greater discouragement of incompatible uses adjacent to the airport as is provided under Chapter 30.32E (Airport Compatibility) and Chapter 30.28A (Personal Wireless Telecommunications Services Facilities) of the Snohomish County Code. At the time the City proposes an annexation, the City

shall document in its Notice of Intention that the City has adopted regulations identical to the County's or how the City's regulations will provide the same level of protection for the airport from nearby incompatible land uses.

4.6 Imposition of City standards. For land use permit applications submitted prior to annexation, the County agrees to encourage land use permit applicants within the Mukilteo MUGA to design projects consistent with the City's urban design and development standards; however, the City agrees that the County can require only that an applicant comply with the County's development regulations. The City agrees to review land use permit applications and may make written recommendations to the County on how proposed new land use permit applications could be made consistent with City standards. When approval of a building permit or land use permit is contingent upon extension of water or sewer service provided by the City, the County agrees to impose only those conditions related to the provision of such service voluntarily negotiated between the property owner or developer and the City as a condition of a water or sewer contract between the property owner or developer and the City, provided that the conditions meet minimum County development standards and mitigation conditions. The City agrees that the County can only impose standards and conditions under County codes but could impose conditions suggested by City codes, if the applicant voluntarily agrees in writing.

4.7 Joint planning for transit-oriented development. The Parties agree to cooperate on the development of transit-oriented development (TOD) regulations and transit supportive policies to implement the Parties' comprehensive planning policies.

5. PROCESSING OF PERMITS IN THE MUKILTEO MUGA

5.1 Definitions. For the purposes of this Agreement, the following definitions apply:

"Building permit application" shall mean an application for permission issued by the authorizing jurisdiction that allows for the construction of a structure, and includes repair, alteration, or addition of or to a structure.

"Associated permit application" shall mean an application for mechanical, electrical, plumbing and/or sign permit for a structure authorized pursuant to a building permit.

"Land use permit application" shall mean an application for any land use or development permit or approval and shall include, by way of example and not by way of limitation, any of the following: subdivisions, planned residential developments, short subdivisions, binding site plans, single family detached unit developments, conditional uses, special uses, rezones, shoreline substantial development permits, urban center developments, grading or land disturbing activity permits, and variances. A "land use permit application" shall not include a "building permit application" except for non-single family building permits for

structures greater than 4,000 square feet in size.

"Pending permit applications" shall mean all building permit applications, associated permit applications, and land use permit applications relating to real property located in an annexation area that are either (i) still under review by the County on the effective date of the annexation, or (ii) for which a decision has been issued but an administrative appeal is pending on the effective date of the annexation.

"Permit review phase" shall mean a discrete stage of or discrete activity performed during a jurisdiction's review of a pending permit application that has logical starting and stopping points. By way of example, and not by way of limitation, applications for subdivisions and short subdivisions are deemed to have the following permit review phases: (i) preliminary plat approval; (ii) plat construction plan approval; (iii) revision, alteration or modification of a preliminary plat approval; (iv) construction inspection; (v) final plat processing; and (vi) final plat approval and acceptance. When it is not clear which activities related to the review of a particular pending permit application constitute a distinct permit review phase, the Parties shall determine same by mutual agreement, taking into account considerations of convenience and efficiency.

5.2 City consultation on County land use permit applications. After the effective date of this Agreement, the County agrees to give the City timely written notice and opportunity to view all land use permit applications inside the Mukilteo MUGA, as defined in Subsection 5.1 of this Agreement. When required and provided for in Title 30 of Snohomish County Code, the County will invite City staff to attend meetings between County staff and the applicant relating to such permit applications.

5.3 Review of County land use permit applications. The County will review all land use permit applications under County jurisdiction in the Mukilteo MUGA consistent with all applicable laws, regulations, rules, policies, and agreements including, but not limited to, the applicable provisions of this Agreement, the State Environmental Policy Act (Chapter 43.21C RCW) and the Snohomish County Code.

5.4 Permits issued by County prior to effective date of annexation. All building permits, associated permits, and land use permits and approvals relating to real property located in an annexation area that were issued or approved by the County prior to the effective date of an annexation shall be given full effect by the City after the annexation becomes effective. Any administrative appeals of such decisions that are filed after the effective date of the annexation shall be filed with the City and handled by the City pursuant to the City's municipal code. The County agrees that it shall reasonably make its employees available as witnesses at no cost to the City if necessary to provide assistance on appeals of decisions made by the County prior to the effective date of an annexation.

5.5 Enforcement of County conditions. Any conditions imposed by the County relating to the issuance or approval of any of the permits described in Subsection 5.4 shall be enforced by the City after the effective date of an annexation to the same extent the City enforces its own permit conditions. The County agrees that it shall reasonably make its employees available, at no cost to the City, to provide assistance in enforcement of conditions on permits originally processed and issued by the County.

5.6 Pending permit applications.

5.6.1 Vesting. The Parties agree that any complete building permit application, associated permit application or land use permit application relating to real property located in an annexation area that is submitted to the County prior to the effective date of an annexation and that has vested under Washington statutory, common law, or the Snohomish County Code shall remain subject to the development regulations of the County that were in effect at the time the permit application was deemed complete by the County, notwithstanding any subsequent annexation.

5.6.2 Automatic transfer of authority regarding permits. The Parties understand and agree that the police power relating to real property located in an annexation area automatically transfers from the County to the City on the effective date of an annexation. The parties understand and agree that it is the police power that provides local jurisdictions with the authority to impose and implement building and land use regulations. Accordingly, the parties understand and agree that, as a matter of law, all responsibility for and authority over pending permit applications automatically transfers from the County to the City on the effective date of an annexation.

5.6.3 Completing the active phase of review. The Parties agree that to facilitate an orderly transfer of pending permit applications to the City after the effective date of an annexation, it is desirable for the County to continue processing all pending permit applications through the completion of the permit review phase that was in progress on the effective date of the annexation. Accordingly, beginning on the effective date of any annexation governed by this Agreement, the County shall act as the City's agent for the limited purpose of reviewing and processing all pending permit applications until such time as County personnel have completed the permit review phase that was in progress on the effective date of the annexation at issue. Upon completion of such permit review phase relating to any particular pending permit application, the County shall transfer all materials relating to the pending permit application to the City. After such transfer, the City shall perform all remaining permit review, approval, and issuance activities.

5.6.4 Urban Center permit review. The County shall involve the City in the review of an Urban Center permit application as required in Chapter 30.34A SCC, the County regulations governing Urban Center development.

5.6.5 Administrative appeals. Notwithstanding anything to the contrary contained in Subsection 5.6.3, the Parties agree that it is not desirable for the County's quasi-judicial hearing officers or bodies to act as agents for the City for the purposes of hearing and deciding administrative appeals of permit decisions on behalf of the City, but it is also not desirable to disrupt an administrative appeal that is already in progress on the effective date of an annexation. Accordingly, if the permit review phase that was in progress on the effective date of an annexation was an administrative appeal of a decision made by the County, then that administrative appeal shall be handled as follows:

(i) If the appeal hearing has not yet occurred as of the effective date of the annexation, then all materials related to the appeal shall be transferred to the City as soon as reasonably possible after the effective date of the annexation and the appeal shall be handled by the City pursuant to the procedures specified in the City's municipal code. The County agrees that it shall reasonably make its employees available as witnesses at no cost to the City if necessary to provide assistance to the City on appeals for decisions that were made by the County prior to the effective date of an annexation;

(ii) If the appeal hearing has already occurred as of the effective date of the annexation, but no decision has yet been issued by the County's quasi-judicial hearing officer or body, then the County's quasi-judicial hearing officer or body shall act as an agent for the City and issue a timely decision regarding the administrative appeal on behalf of the City; or

(iii) If a decision regarding the administrative appeal was issued by the County's quasi-judicial hearing officer or body prior to the effective date of the annexation, but a timely request for reconsideration was properly filed with the County prior to the effective date of the annexation, then the County's quasi-judicial hearing officer or body shall act as an agent for the City and issue a timely decision on reconsideration on behalf of the City.

5.6.6 Effect of decisions by the County regarding permit review phases. The City shall respect and give effect to all decisions made in the ordinary course by the County regarding those permit review phases, as defined in Subsection 5.1, for a pending permit application within an annexed area that are completed by the County prior to the effective date of such annexation, or on behalf of the City after the effective date of annexation. Nothing herein shall deny the City its right to appeal, or continue an existing appeal, of any appealable decision made by

the County prior to the effective date of an annexation.

5.6.7 Proportionate sharing of permit application fees. The Parties agree to proportionately share the Title 30 Snohomish County Code (SCC) permit application fees for pending permit applications. Proportionate shares will be calculated based on the County's permitting fee schedule. Relating to each pending permit application, the County shall retain that portion of the permit application fees that may be allocated to the phases of review completed by the County prior to the effective date of the annexation. In compensation for the County's work in reviewing pending permit applications on behalf of the City, the County shall also retain that portion of the Title 30 SCC permit application fees that may be allocated to the phase(s) of review completed by the County while acting as an agent of the City. Within a reasonable time after the completion of a permit review phase, the County shall transfer to the City any remaining portion of the Title 30 SCC permit application fees collected, which shall be commensurate with the amount of work left to be completed relating to the pending permit application at the time the pending permit application is transferred to the City.

5.6.8 Deferred impact fees. Impact fees that were deferred under the provisions of Chapter 30.66A, 30.66B, or 30.66C SCC for building permits issued by the County on properties within an annexation area prior to the effective date of an annexation shall be owed to the County per the requirements of the liens recorded against those properties. For permit applications submitted to the County but not yet issued prior to the effective date of annexation, the City agrees to review any requests for impact fee deferral that were submitted to the County.

5.6.9 Dedications or conveyances of real property. The Parties acknowledge and agree that after the effective date of an annexation the County Council will have no authority to accept dedications or other conveyances of real property to the public relating to real property located in the area that has been annexed by the City; provided, however, that the County may accept dedication or other conveyances of real property when granted, dedicated, or otherwise conveyed specifically to Snohomish County, for such purposes, that include but are not limited to, expanding County owned and operated facilities that were retained by the County within the annexed area. Accordingly, notwithstanding anything to the contrary contained elsewhere in this Section 5, after the effective date of any annexation governed by this Agreement, the approval and acceptance of final plats, final short plats, or other instruments or documents dedicating or conveying to the public an interest in real property located in the annexed area will be transmitted to the City for acceptance by the City.

5.7 Judicial appeals of permit decisions. The County shall protect, save harmless,

indemnify and defend, at its own expense, the City, its elected and appointed officials, officers, employees, volunteers and agents, from any loss or claim for damages of any nature whatsoever arising out of land use decisions regarding building permit applications, associated permit applications, and/or land use permit applications relating to real property located in an annexation area that were issued by the County prior to the effective date of the annexation. The City shall protect, save harmless, indemnify and defend, at its own expense, the County, its elected and appointed officials, officers, employees, volunteers and agents, from any loss or claim for damages of any nature whatsoever arising out of land use decisions regarding building permit applications, associated permit applications, and/or land use permit applications relating to real property located in an annexation area that are issued after the effective date of the annexation. The term "land use decision" as used in this section 5.7 is the same as the definition of "land use decision" as defined in RCW 36.70C.020(2). The County agrees that it shall reasonably make its employees available as witnesses at no cost to the City if necessary to provide assistance to the City on appeals of decisions issued by the County prior to the effective date of an annexation or in its capacity as an agent of the City.

5.8 Permit renewal or extension. After the effective date of annexation, any request or application to renew or extend a building permit, an associated permit or a land use permit relating to real property located in the annexed area shall be submitted to and processed by the City, regardless of whether such permit was originally issued by the County or the City.

5.9 Administration of bonds. The County's interest in any outstanding performance security, maintenance security or other bond or security device issued or provided to the County to guarantee the performance, maintenance or completion by a permittee of work authorized by or associated with a permit relating to real property located in an annexation area will be assigned or otherwise transferred to the City upon the effective date of the annexation if such assignment or transfer is reasonably feasible. If it is not reasonably feasible for the County to transfer any outstanding bond or security device to the City, whether due to the terms of the bond or security device at issue or for some other reason, then the County shall continue to administer the bond or security device until the earlier to occur of the following: (i) the work guaranteed by the bond or security device has been properly completed; (ii) the City has been provided with an acceptable substitute bond or security device; or (iii) the bond or security device has been foreclosed. For bonds and security devices that the County continues to administer after the effective date of annexation, the City shall notify the County when either the work guaranteed by the bond or security device is completed, or when the City is provided with an acceptable substitute bond or security device, at which time the County shall release the original bond or security device. Should it become necessary to foreclose any bond or security

device the County continues to administer after the effective date of annexation, the Parties shall cooperate to perform such foreclosure.

5.10 Building and land use code enforcement cases. Any pending building or land use code enforcement cases relating to real property located in an annexation area will be transferred to the City on the effective date of the annexation. Any further action in those cases will be the responsibility of the City at the City's discretion. The County agrees that it shall reasonably make its employees available as witnesses at no cost to the City if necessary to prosecute transferred code enforcement cases. Upon request, the County agrees to provide the City with copies of any files and records related to any transferred case.

6. RECORDS TRANSFER AND ACCESS TO PUBLIC RECORDS FOLLOWING ANNEXATION

6.1 Records to be transferred. Prior to and following annexation of unincorporated area into the City, and upon the City's request in writing, copies of County records relevant to jurisdiction, the provision of government services, and permitting within the annexation area may be copied and transferred to the City in accordance with the procedure identified in Subsection 6.2 of this Agreement. Said records shall include, but are not limited to, the following records from the Snohomish County Department of Public Works, the Snohomish County Department of Planning and Development Services, and the Business Licensing Department of the Snohomish County Auditor's office: all permit records and files, inspection reports and approved plans, GIS data and maps in both printed and electronic versions, approved zoning files, code enforcement files, fire inspection records, easements, plats, databases for land use, drainage, street lights, streets, regulatory and animal license records, records relating to data on the location, size and condition of utilities, and any other records pertinent to the transfer of services, permitting and jurisdiction from the County to the City. The County reserves the right to withhold confidential or privileged records. In such cases where the County opts to withhold such records, it shall provide the City with a list identifying the records withheld and the basis for withholding each record.

6.2 Procedure for copying. The City records staff shall discuss with the County records staff the types of records identified in Subsection 6.1 of this Agreement that are available for an annexed area, the format of the records, the number of records, and any additional information pertinent to a request of records. Following this discussion, the County shall provide the City with a list of the available files or records in its custody. The City shall select records from this list and request in writing their transfer from the County to the City. The County shall have a reasonable time to collect, copy, and prepare for transfer the requested records. All copying costs associated with this process shall be borne by the City.

When the copied records are available for transfer to the City, the County shall notify the City and the City shall arrange for their delivery.

6.3 Electronic data. In the event that electronic data or files are requested by the City, the City shall be responsible for acquiring any software licenses that are necessary to use the transferred information.

6.4 Custody of records. The County shall retain permanent custody of all original records. No original records shall be transferred from the County to the City. As the designated custodian of original records, the County shall be responsible for compliance with all legal requirements relating to their retention and destruction as set forth in Subsection 6.5 of this Agreement.

6.5 Records retention and destruction. The County agrees to retain and destroy all public records pursuant to this Agreement consistent with the applicable provisions of Chapter 40.14 RCW and the applicable rules and regulations of the Secretary of State, Division of Archives and Records Management.

6.6 Public records requests. Any requests for copying and inspection of public records shall be the responsibility of the party receiving the request. Requests by the public shall be processed in accordance with Chapter 42.56 RCW and other applicable law. If the County considers any portion of a record provided to the City to be confidential, the County shall clearly identify the portion of the record it claims to confidential. If the City receives a request for any portion of a record the County has identified as confidential, the City agrees to withhold from disclosure documents which the County has requested remain confidential and not be disclosed where disclosure is not, in the City's sole determination, mandated by law. In the event the City determines the release of the record is required, the City shall notify the County (i) of the request and (ii) of the date the record will be released unless the County obtains a court order to enjoin the disclosure pursuant to RCW 42.56.540. If the County fails to timely obtain a court order, the City will release the record on the date specified.

7. COUNTY CAPITAL FACILITIES REIMBURSEMENT

7.1 Consultation regarding capital expenditures. The County will consult with the City in planning for new local and regional capital construction projects within the Mukilteo MUGA. The Parties agree to begin consultation regarding existing active County projects within sixty (60) days of approval of this Agreement. Consultation shall include discussions between the Parties regarding the need for shared responsibilities in implementing capital projects, including the potential for indebtedness by bonding or loans. The Parties shall pursue cooperative financing for capital facilities where appropriate. Interlocal agreements addressing shared responsibilities for capital projects within the MUGA shall be

negotiated, where appropriate.

7.2 Continued planning, design, funding, construction, and services for active and future capital projects. Separate interlocal agreements for specific projects will address shared responsibilities for local capital projects and local share of regional capital facilities within the Mukilteo MUGA and the continued provision of County services relating to the planning, design, funding, property acquisition, construction, and engineering for local capital projects within an annexation area. An annexation-specific addendum under Section 16 of this Agreement may document appropriate interlocal agreements relating to planning, design, funding, property acquisition, construction, and other architectural or engineering services for active and future capital projects within an annexation area.

7.3 Capital facilities finance agreements. The Parties will discuss project-specific interlocal agreements for major new local capital facility projects and local share of regional capital facilities within the Mukilteo MUGA. Depending on which jurisdiction has collected revenues, these agreements may include: transfers of future revenues from the City to the County or from the County to the City; proportionate share reimbursements from the City to the County or from the County to the City; and City assumption of County debt service responsibility (or County assumption of City debt service responsibility) for loans or other financing mechanisms for new local capital projects and existing local capital projects with outstanding public indebtedness within the annexation area at the time of annexation. The Parties agree that there should not be any reimbursement for capital facility projects that have already been paid for by the citizens of the annexation area by means such as special taxes or assessments, traffic mitigation, or other attributable funding sources.

7.4 Continuation of latecomers cost recovery programs and other capital facility financing mechanisms. After annexation, the City agrees to continue administering any non-protest agreements, latecomer's assessment reimbursement programs established pursuant to Chapter 13.95 SCC and Chapter 35.72 RCW, or other types of agreements or programs relating to future participation or cost-share reimbursement, in accordance with the terms of any agreement recorded with the Snohomish County Auditor or posted on the Snohomish County website relating to property within the Mukilteo MUGA. In addition to the recorded documents, the County will provide available files, maps, and other relevant information necessary to effectively administer these agreements or programs. If a fee is collected for administration of any of the programs or agreements described in this Subsection 7.4, the County agrees to transfer a proportionate share of the administration fee collected to the City, commensurate with the amount of work left to be completed on the agreement. The proportionate share will be based on the County's fee schedule.

8. ROADS AND TRANSPORTATION

8.1 Annexation of County right-of-way. Except for noncontiguous municipal purpose annexations under RCW 35.13.180 or 35A.14.300 or that right-of-way identified pursuant to Subsection 8.1.1, the City, pursuant to RCW 35A.14.410, agrees to propose annexation of all County right-of-way within and adjacent to an annexation area. As used in Section 8 of this Agreement, "County right-of-way" means "County right-of-way" as defined in SCC 13.02.340. The City agrees to assume full ownership, legal control, maintenance, monitoring, and other responsibilities for all County right-of-way and associated drainage facilities within the annexed area upon the effective date of annexation, unless otherwise mutually agreed to in writing under Subsection 11.3.

8.1.1 County retention of right-of-way. The County, in its sole discretion, may identify and retain ownership of certain segments of County right-of-way based on consideration of the criteria provided below. The County's retention of right-of-way under this provision requires mutual written agreement with the City under Subsection 11.3:

(i) The right-of-way has a special transportation or environmental value to the citizens of Snohomish County, as determined by the Snohomish County Department of Public Works;

(ii) There are efficiencies with the County's operation or maintenance of the right-of-way;

(iii) The County has made a substantial capital investment in the right-of-way, including but not limited to the purchase of the right-of-way property, the development of the facility, and the construction of the right-of-way; and/or

(iv) There are specialized stewardship or maintenance issues associated with the right-of-way that the County is best equipped to address.

8.2 Annexation of continuous right-of-way sections and road maintenance responsibility. Where possible, the City agrees to annex continuous segments of County right-of-way to facilitate economical division of maintenance responsibility and avoid discontinuous patterns of alternating City and County right-of-way ownership. Where the Parties agree annexation of certain segments of County right-of-way adjacent to an annexation area are not practicable or desirable, the Parties agree to consider a governmental services agreement providing for maintenance of certain County road segments by the jurisdiction best able to provide maintenance services on an efficient and economical basis.

8.3 Traffic Mitigation and Capital Facilities

8.3.1 Reciprocal impact mitigation and common road standards. The Parties agree to mutually enforce each other's traffic mitigation ordinances and policies to address multi-jurisdictional impacts, as adopted in the *"Interlocal Agreement Between Snohomish County and City of Mukilteo Regarding Interjurisdictional Review and Mitigation for Development Impacts on Their Respective Transportation Infrastructure"* (effective May 26, 2009) or through subsequent agreement. The Parties may enter into a separate or subsequent agreement that addresses reciprocal impact mitigation, implementation of common UGA development standards (including access and circulation requirements), level of service standards, concurrency management systems, or other transportation planning issues.

8.3.2 Transfer of road impact fees. The County collects road impact fees pursuant to Chapter 30.66B of the Snohomish County Code for system improvements identified in the Transportation Element (TE) of the County's Comprehensive Plan and the road system impact fee cost basis established in the County's Transportation Needs Report (TNR). Only those fees associated with system improvements located within that portion of the County's Transportation Service Areas (TSAs) in which the annexation area is located may be eligible for transfer of fees collected. The Parties may negotiate a separate annexation-specific interlocal agreement regarding the transfer of all or a portion of any eligible unencumbered fees contemplated in this Subsection.

The separate interlocal agreement shall require the City to include in the City's Capital Facilities Plan and impact fee cost basis one or more of the road system improvements for which the fees were collected. Road system impact fees shall not be transferred to the City until the City has amended its Capital Facilities Plan and impact fee cost basis to include the road system improvement(s), and the road(s) system improvements maintenance and ownership responsibilities have been transferred to the City.

Any issues relating to the transfer of road impact fees shall be resolved prior to the effective date of the separate interlocal agreement, which shall be in effect prior to the effective date of the annexation.

8.3.3 Reimbursement for transportation-related capital facilities investment. There will be no reimbursement from the City to the County for existing capital improvements. However, the Parties may agree to develop separate agreements for cost sharing for new capital improvement projects.

8.4 Maintenance services. The Parties agree to evaluate whether an interlocal agreement addressing maintenance of roads, traffic signals, or other

transportation facilities will be appropriate. Any County maintenance within an annexation area after the effective date of the annexation will be by separate service agreement negotiated between the Parties.

8.5 Relinquishment of County Franchise. If any County right-of-way or portion thereof is annexed to the City, the right-of-way shall not be subject to the terms of any County franchise.

8.6 Transfer of Federal and State Permits. If there are structures or work related to County right-of-way that are authorized under active federal or state permits located in an annexation area, as the new owner the City, if allowed by the federal or state permit, agrees to execute documents validating the transfer of the permit(s) and accept the responsibility and liabilities associated with compliance with the permit(s) terms and conditions, unless otherwise mutually agreed to in writing under Subsection 11.3. Active federal or state permits are those permits under which there are responsibilities and duties that have not been completed by the permittee according to the permit terms and conditions, including but not limited to, monitoring and maintenance responsibilities and duties.

9. SURFACE WATER MANAGEMENT

9.1 Legal control and maintenance responsibilities. If an annexation area includes surface water management improvements or facilities (i) in which the County has an ownership interest, (ii) over or to which the County has one or more easements for access, inspection and/or maintenance purposes, and/or (iii) relating to which the County has maintenance, monitoring, or other responsibilities, all such ownership interests, rights and responsibilities shall be transferred to the City, effective by the date of the annexation, except as otherwise negotiated between the Parties in any subsequent agreements under Subsection 11.3. The County agrees to provide a list of all such known surface water management improvements and facilities to the City. If the County's current Annual Construction Program or Surface Water Management Division budget includes major surface water projects in the area to be annexed, the Parties will determine how funding, construction, programmatic and subsequent operational responsibilities, legal control and responsibilities will be assigned for these improvements, and the timing thereof, under the provisions of RCW 36.89.050, RCW 36.89.120 and all other applicable authorities.

9.2 Snohomish County Airport. The City agrees to take all necessary steps to maintain the surface water management facilities and structures in the areas annexed by the City to prevent any adverse or detrimental impacts to the County Airport attributable to such surface water management facilities and structures. Exhibit D includes maps and data tables that reference locations of stormwater

structures serving Snohomish County Airport. The City agrees that the structures specifically identified as a "Point" in each of the data tables in Exhibit D, and any known or unknown drainage system components between the points in Exhibit D, will not be altered or modified without prior notification, review, and written approval by the County Airport Director.

9.3 Taxes, fees, rates, charges and other monetary adjustments. The City recognizes that service charges are collected by the County for unincorporated areas within the County's Surface Water Management Utility District. Surface water management service charges are collected at the beginning of each calendar year through real property tax statements. Upon the effective date of an annexation, the City hereby agrees that the County may continue to collect and, pursuant to Title 25 SCC and to the extent permitted by law, to apply the service charges collected during the calendar year in which the annexation occurs to the provision of surface water services designated in that year's budget. These services, which do not include servicing of drainage systems in road right-of-way, will be provided through the calendar year in which the annexation becomes effective and will be of the same general level and quality as those provided to other property owners subject to service charges in the County. If the City intends for the County to continue providing surface water services beyond the calendar year after annexation, a separate interlocal agreement must be negotiated between the Parties.

9.4 Compliance with NPDES Municipal Stormwater Permit. The Parties acknowledge that upon the effective date of any annexation, the annexation area will become subject to the requirements of the City's Phase II NPDES Municipal Stormwater Permit, and will no longer be subject to the requirements of the County's Phase I NPDES Municipal Stormwater Permit. Notwithstanding the County's continued provision of stormwater management services in an annexation area pursuant to Section 9.3, the City expressly acknowledges, understands and agrees that from and after the effective date of any annexation (i) the City shall be solely responsible for ensuring the requirements of the City's NPDES Permit are met relating to the annexation area, and (ii) any stormwater management services the County continues to provide in the annexation area pursuant to Section 9.3 will not be designed or intended to ensure or guarantee compliance with the requirements of the City's Phase II NPDES Permit.

9.5 Access during remainder of calendar year in which annexation occurs. To ensure the County is able to promptly and efficiently perform surface water management services in the annexation area after the effective date of annexation, as described in Subsection 9.3, the City shall provide the County with reasonable access to all portions of the annexation area in which such services are to be performed. Reasonable access shall include, by way of example and not by way of limitation, the temporary closing to traffic of streets, or

portions thereof, if such closing is reasonably necessary to perform the service at issue.

9.6 Lake Serene lake management service charges. The City agrees that the lake level management service charges under SCC 25.20.065 for the affected Lake Serene properties shall apply to those affected properties and be collectable by the County until 2028, or until such time that the City agrees to pay the County for the balance of such lake level management service charges. The City agrees to work with the County on any further agreements to effect such collection, or to provide for the City's payment to the County of the balance, of lake level management service charges.

9.6.1 The following options for collection and payment of lake management service charges as given in SCC 25.20.065 or their equivalent shall be employed, through a mutual written agreement between the City and the County:

(1) Delay of annexation of Lake Serene lakefront properties and lots A, B, and C of Short Plat SP 295 (6-78) recorded under Auditor File Number 8003120189 until after December 31, 2027, the end of the County collection period for such lake management service charges;

(2) A lump-sum payment or annual prorated payment from the City to the County of the total amount collectable from the annual $197 per each property subject to the lake management service charge under SCC 25.20.065, from the date of annexation until December 31, 2027; or

(3) The City may establish a special lake management district for collection of such charges as provided under SCC 25.20.065, for repayment of the same charges to the County.

9.6.2 The City may authorize the County to collect such lake management service charges as provided in SCC 25.20.065 from those properties subject to SCC 25.20.065, on behalf of the City, for repayment to the County.

9.6.3 The City agrees it may not annex an area that encompasses the affected Lake Serene properties until a legally enforceable agreement or legally valid service charge is in place that guarantees payment to the County of the balance of the lake level management service charges.

9.7 Surface Water Facility Data. In addition to the list of County facilities and assets provided in Section 9.1, the County shall provide:

9.7.1 Available data on surface water facilities which the County has in its database, which may include but not be limited to: inspection and maintenance records, spatial and attribution data (ArcGIS), As-Built construction plans, ownership status (private, public), and current maintenance responsibility.

9.7.2 Available data on surface water programs concerning the annexation area, which may include but not be limited to: drainage complaints; water quality complaints; business inspections; facility inspections; education and outreach; monitoring; salmon recovery; and special studies.

9.8 Surface Water Management cases referred to PDS code enforcement for county code violations. Any pending Surface Water Management cases referred to PDS code enforcement for county code violations relating to real property located in an annexation area will be transferred to the City on the effective date of the annexation. Any further action in those cases will be the responsibility of the City at the City's discretion. The County agrees to make its employees available as witnesses at no cost to the City if necessary to assist with transferred code enforcement cases. Upon request, the County agrees to provide the City with copies of any files and records related to any transferred case.

9.9 Government service agreements. The Parties intend to negotiate one or more interlocal agreements for joint watershed management planning, capital construction, infrastructure management, habitat/river management, water quality management, outreach and volunteerism, and other related services.

9.10 Transfer of Federal and State Permits. If there are structures or work related to County surface water management improvements or facilities that are authorized under active federal or state permits located in an annexation area, as the new owner the City, if allowed by the federal or state permit, agrees to execute documents validating the transfer of the permit(s) and accept the responsibility and liabilities associated with compliance with the permit(s) terms and conditions, unless otherwise mutually agreed to in writing under Subsection 11.3. Active federal or state permits are those permits under which there are responsibilities and duties that have not been completed by the permittee according to the permit terms and conditions, including but not limited to, monitoring and maintenance responsibilities and duties.

10. PARKS, OPEN SPACE AND RECREATIONAL FACILITIES

10.1 Parks. If an annexed area includes parks, the City agrees to assume full ownership, legal control, and maintenance responsibility of park facilities within an annexation area upon the effective date of the annexation except when, prior to annexation, the County declares its intention to retain ownership of the specific park facilities pursuant to Subsection 10.2 of this Agreement, or when the County identifies it intent to retain ownership over a park facility in this Subsection 10.1. Pursuant to this Subsection, the City and County agree that the County will retain ownership of Paine Field Community Park. If the City and County later determine that Paine Field Community Park should be transferred to the City,

such transfer of ownership requires mutual written agreement under Subsection 11.3.

10.2 County retention of ownership. The County, in its sole discretion, may identify and retain ownership of parks based on consideration of the criteria provided below, which are consistent with the Snohomish County Park and Recreation Element. The County's retention of parks under this provision requires mutual written agreement with the City under Subsection 11.3:

(i) The facility has a special historic, environmental or cultural value to the citizens of Snohomish County, as determined by the Snohomish County Department of Parks and Recreation;

(ii) There are efficiencies with the County's operation or maintenance of the facility;

(iii) The County has made a substantial capital investment in the facility, including but not limited to the purchase of the facility property, the development of the facility, and the construction of the facility;

(iv) There are specialized stewardship or maintenance issues associated with the facility that the County is best equipped to address;

(v) The facility generates revenue that is part of the larger County park operation budget;

(vi) The facility serves as a regional park or is part of the County's trail system and should remain a part of the County's regional network; and/or

(vii) Retaining ownership of the facility is consistent with the Snohomish County Tomorrow Annexation Principles.

10.3 Third Party Agreements. For those park facilities for which the City assumes ownership, the City shall honor any and all third-party agreements for property use or operation between the County and third-parties that are in place at the time of the annexation, according to the requirements of the agreement. The County shall provide the City with copies of all such third-party agreements promptly upon request by the City. Typical third-party agreements include, but are not limited to, operation of park facilities by athletic associations and/or private vendors.

10.4 Level of Service Standards. For those park facilities for which the City assumes ownership, any credit toward satisfaction of County level-of-service standards which are provided by features within the park shall be retained by the County for

the period of five years following the annexation after which time the credit for those facilities shall revert to the City.

10.5 Joint planning for parks, recreation and open space. The Parties may, upon the effective date of this Agreement, establish an interlocal agreement for parks facilities. Such an interlocal agreement shall be based upon the Parties' efforts to provide parks and open space within the MUGA and surrounding area. This agreement shall be consistent with the joint planning efforts of the Parties under the Snohomish County Tomorrow Annexation Principles, establish the nature and type of facilities the jurisdictions have planned or anticipate for the area, identify ways to jointly provide these services, and identify transition of ownership and maintenance responsibilities as annexations occur. This effort will result in a mutual ongoing planning effort, joint capital improvement plans, and reciprocal impact mitigation.

10.6 Transfer of Federal and State Permits. If there are structures or work related to County park facilities that are authorized under active federal or state permits located in an annexation area, as the new owner the City, if allowed by the federal or state permit, agrees to execute documents validating the transfer of the permit(s) and accept the responsibility and liabilities associated with compliance with the permit(s) terms and conditions, unless otherwise mutually agreed to in writing under Subsection 11.3. Active federal or state permits are those permits under which there are responsibilities and duties that have not been completed by the permittee according to the permit terms and conditions, including but not limited to, monitoring and maintenance responsibilities and duties.

11. ANNEXATION OF COUNTY PROPERTY

11.1 Early notification. Section 8 (Roads and Transportation), Section 9 (Surface Water Management), and Section 10 (Parks, Open Space and Recreational Facilities) of this Agreement provide for the transfer of certain County-owned properties to the City upon the effective date of an annexation. When the City is proposing an annexation, the City agrees to provide written notice that identifies the boundaries of the proposed annexation to the County six months, or a mutually agreed upon amount of time, prior to submitting a Notice of Intention for a proposed annexation in order for the Parties to determine the County's real property interests and any continuing maintenance, monitoring or similar obligations and responsibilities located in the annexation area.

11.2 The transfer of County real property interests not specifically mentioned in this Agreement. The transfer of County real property interests not specifically mentioned in this Agreement may require an amendment or addendum to this Agreement as provided under Section 16 of this Agreement.

11.3 County retention of other County real property interests. The County, during the time period identified in Subsection 11.1, agrees to identify all County real property interests within the annexation area that the County will retain ownership of under Subsections 8.1.1, 9.1, and 10.2, and any associated federal or state permits under which the County will remain the sole permittee under Subsections 8.6, 9.10, and 10.6. If the County identifies real property interests or federal and state permits it intends to retain within the annexation area, the County and City agree to negotiate and execute an addenda or amendment to this Agreement identifying properties and permits to be retained by the County prior to the City's submittal of a Notice of Intention to the Boundary Review Board for the annexation.

11.4 Conveyance instruments for the transfer of property. The City shall accept and approve deeds, bills of sale, and other conveyance instruments with respect to all properties, improvements, and facilities specifically mentioned in Sections 8, 9, and 10 as well as any other County real property interest identified by the County in accordance with Section 11.1. The Parties shall complete all necessary paperwork related to the transfer and acceptance of County property within 90 days after the effective date of the annexation, or within a reasonable time thereafter.

11.5 Retention of Easements. The County shall retain ownership of any and all real property interests acquired with Snohomish County Conservation Futures funds within the boundaries of the proposed annexation, except as identified by the County in accordance with Subsection 11.3.

11.6 Retention of land use rights. For real property that the County retains within an annexation area, the City agrees to allow the County to continue its uses of the real property within the area annexed to the City either as allowed uses or in accordance with Washington State law on legal nonconforming uses.

12. POLICE SERVICES

As provided by law, at the effective date of annexation the responsibility for police services will transfer to the City; or, if necessary, the Parties may agree to discuss the need for developing a contract for police services in order to accommodate the needed transfer of police services within an annexed area and the unincorporated UGA. Upon request of the City, the Snohomish County Sheriff's Office will provide detailed service and cost information for the area to be annexed. This request to the Sheriff's Office for detailed service and cost information for police contract services does not preclude the City from seeking additional service and cost information proposals for similar services from other governmental entities. Agreements between the Parties will be made consistent with RCW 41.14.250 through 41.14.280 and RCW 35.13.360 through

35.13.400.

13. CRIMINAL JUSTICE SERVICES

All misdemeanor crimes that occur within an annexation area prior to the effective date of annexation will be considered misdemeanor crimes within the jurisdiction of Snohomish County for the purposes of determining financial responsibility for criminal justice system services, including but not limited to prosecution, court costs, jail fees and services, assigned counsel, jury and witness fees, and interpreter fees. After the effective date of annexation, the County shall continue, at its cost and expense, to prosecute such misdemeanor crimes to completion in accordance with the then-existing policies, guidelines, and standards of the Snohomish County Prosecuting Attorney's Office. On and after the effective date of any annexation, all misdemeanor crimes that occur in the annexation area will be considered crimes within the jurisdiction of the City for purposes of determining financial responsibility for such criminal justice system services.

14. FIRE MARSHAL SERVICES

After the effective date of an annexation, the County shall no longer be responsible for fire inspections, fire code enforcement, or fire investigations within the annexed area. Any further actions or enforcement will be at the discretion of the City.

15. STATUS OF COUNTY EMPLOYEES

Subject to City civil service rules and state law, the City agrees to consider the hiring of County employees whose employment status is affected by the change in governance of the annexation areas where such County employees make application with the City per the City hiring process and meet the minimum qualifications for employment with the City. The City's consideration of hiring of affected sheriff department employees shall be governed by the provisions set forth in RCW 35.13.360 through 35.13.400. The County shall in a timely manner provide the City with a list of those employees expressing a desire to be considered for employment by the City.

16. ADDENDA AND AMENDMENTS

16.1 Addenda. At the discretion of the Parties, an addendum to this Agreement may be prepared for each annexation by the City to address any issues specific to a particular annexation. If the Parties decide an addendum is necessary, the Parties may negotiate the addendum prior to the City's submittal of a Notice of Intention to the Boundary Review Board for the annexation.

16.2 Amendments. The Parties recognize that amendments to this Agreement may be necessary.

16.3 Process for addending or amending this Agreement. An addendum or amendment to this Agreement must be mutually agreed upon by the Parties and executed in writing. Any addendum or amendment to this Agreement shall be executed in the same manner as this Agreement.

16.4 Additional agreements. Nothing in this Agreement limits the Parties from entering into interlocal agreements on issues not covered by, or in lieu of, the terms of this Agreement.

17. THIRD PARTY BENEFICIARIES

There are no third party beneficiaries to this Agreement, and this Agreement shall not be interpreted to create any third party beneficiary rights.

18. DISPUTE RESOLUTION

Except as herein provided, no civil action relating to any dispute, claim or controversy arising out of or relating to this Agreement may be commenced until the dispute, claim or controversy has been submitted to a mutually agreed upon mediator. The Parties agree that they will participate in the mediation in good faith, and that they will share equally in its costs. Each jurisdiction shall be responsible for the costs of their own legal representation. Either party may seek equitable relief prior to the mediation process, but only to preserve the status quo pending the completion of that process. The Parties agree to mediate any disputes regarding the annexation process or responsibilities of the parties prior to any Boundary Review Board hearing on a proposed annexation, if possible.

19. HONORING EXISTING AGREEMENTS, STANDARDS AND STUDIES

In the event a conflict exists between this Agreement and any agreement between the Parties in existence prior to the effective date of this Agreement, the terms of this Agreement shall govern the conflict.

20. RELATIONSHIP TO EXISTING LAWS AND STATUTES

This Agreement in no way modifies or supersedes existing state laws and statutes. In meeting the commitments encompassed in this Agreement, all parties will comply with all applicable state or local laws. The Parties retain the ultimate authority for land use and development decisions within their respective jurisdictions. By executing this Agreement, the Parties do not intend to abrogate the decision-making responsibility or police powers vested in them by law.

21. EFFECTIVE DATE, DURATION AND TERMINATION

21.1 Effective Date. As provided by RCW 39.34.040, this Agreement shall not take effect unless and until it has: (i) been duly executed by both parties, and (ii) has either been filed with the County Auditor or posted on the County's Interlocal Agreements website.

21.2 Duration. This Agreement shall be in full force and effect through December 31, 2030. If the parties desire to continue the terms of the existing Agreement after the Agreement is set to expire, the parties may either negotiate a new agreement or extend this Agreement through the amendment process.

21.3 Termination. Either party may terminate this Agreement upon ninety (90) days advance written notice to the other party. Notwithstanding termination of this Agreement, the Parties are responsible for fulfilling any outstanding obligations under this Agreement incurred prior to the effective date of the termination.

22. INDEMNIFICATION AND LIABILITY

22.1 Indemnification of County. The City shall protect, save harmless, indemnify and defend, at its own expense, the County, its elected and appointed officials, officers, employees, volunteers, and agents, from any loss, suit or claim (collectively "Claims") for damages of any nature whatsoever arising out of the City's performance of this Agreement, including claims by the City's employees or third parties, except for those damages caused solely by the negligence of the County, its elected and appointed officials, officers, employees, volunteers, or agents. The City's obligations under this subsection 22.1 shall expressly exclude any Claims challenging or otherwise concerning the validity and/or substantive content of any ordinances, regulations, policies or rules (collectively "County Enactments") originally enacted by the County. The forgoing exclusion does not include any Enactments that are subsequently adopted by reference by the City.

22.2 Indemnification of City. The County shall protect, save harmless, indemnify, and defend at its own expense, the City, its elected and appointed officials, officers, employees, volunteers, and agents from any loss, suit or claim (collectively "Claims") for damages of any nature whatsoever arising out of the County's performance of this Agreement, including claims by the County's employees or third parties, except for those damages caused solely by the negligence of the City, its elected and appointed officials, officers, employees, volunteers, or agents. The County's obligations under this subsection 22.2 shall expressly exclude any Claims challenging or otherwise concerning the validity and/or substantive content of any ordinances, regulations, policies or rules (collectively "City Enactments") originally enacted by the City.

22.3 Extent of liability. In the event of liability for damages of any nature whatsoever arising out of the performance of this Agreement by the Parties, including claims by the City's or the County's own officers, officials, employees, agents, volunteers, or third parties, caused by or resulting from the concurrent negligence of the Parties, their officers, officials, employees, and volunteers, each party's liability hereunder shall be only to the extent of that party's negligence.

22.4 Industrial Insurance. For purposes of indemnification only, the parties, by mutual negotiation, hereby waive, as respects the other party only, any immunity that would otherwise be available against such claims under the industrial insurance provisions of Title 51 RCW.

22.5 Hold harmless. No liability shall be attached to the City or the County by reason of entering into this Agreement except as expressly provided herein. The City shall hold the County harmless and defend at its expense any legal challenges to the City's requested mitigation and/or failure by the City to comply with Chapter 82.02 RCW. The County shall hold the City harmless and defend at its expense any legal challenges to the County's requested mitigation or failure by the County to comply with Chapter 82.02 RCW, and any liability for any loss or claim of damage of any nature whatsoever arising out of the County's processing of building permit applications, associated permit applications and land use permit applications prior to annexation.

22.6 Survivability. The provisions of this section shall survive the expiration or termination of this Agreement with respect to acts and omissions occurring during the effective term hereof.

23. SEVERABILITY

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

24. EXERCISE OF RIGHTS OR REMEDIES

Failure of either party to exercise any rights or remedies under this Agreement shall not be a waiver of any obligation by either party and shall not prevent either party from pursuing that right at any future time.

25. RECORDS

The Parties shall maintain adequate records to document obligations performed under this Agreement. The Parties shall have the right to review each other's records with regard to the subject matter of this Agreement, except for privileged documents, upon reasonable written notice. Public records will be retained and destroyed according to Subsection 6.5 of this Agreement.

26. ENTIRE AGREEMENT

This Agreement constitutes the entire Agreement between the Parties concerning annexation within the Mukilteo MUGA, except as set forth in Subsection 2.4 and Sections 16 and 19 of this Agreement.

27. GOVERNING LAW AND STIPULATION OF VENUE

This Agreement shall be governed by the laws of the State of Washington. Any action hereunder must be brought in the Superior Court of Washington for Snohomish County.

28. CONTINGENCY

The obligations of the Parties in this Agreement are contingent on the availability of funds through legislative appropriation and allocation in accordance with law. In the event funding is withdrawn, reduced or limited in any way after the effective date of this Agreement, the City or County may terminate the Agreement under Subsection 21.3 of this Agreement, subject to renegotiation under those new funding limitations and conditions.

29. FILING

A copy of this Agreement shall be filed with the Mukilteo City Clerk and posted on the Snohomish County website pursuant to RCW 39.34.040.

30. ADMINISTRATORS AND CONTACTS FOR AGREEMENT

The Administrators and contact persons for this Agreement are:

_____	Frank Slusser, Senior Planner
City of Mukilteo	Snohomish County
City Hall	Department of Planning and Development Services
_____	3000 Rockefeller Avenue
Mukilteo, WA 98___	Everett, WA 98201
(425) ___-____	(425) 388-3311

IN WITNESS WHEREOF, the parties have signed this Agreement, effective on the later date indicated below or when the provisions of Subsection 21.1 are met, whichever date is later.

THE CITY:

The City of Mukilteo, a Washington municipal corporation

By_____
Name: _____
Title: _____

Date: _____

ATTEST:

_____

City Clerk/Treasurer

Approved as to Form:

_____
City Attorney

THE COUNTY:

Snohomish County, a political subdivision of the State of Washington

By_____
Name: _____
Title: _____

Date: _____

ATTEST:

_____

Clerk of the County Council

Approved as to Form:

_____
Deputy Prosecuting Attorney

Reviewed by Risk Management:
APPROVED ( ) OTHER ( )
Explain.

Signed:_____

Date: _____

EXHIBIT A – SNOHOMISH COUNTY TOMORROW ANNEXATION PRINCIPLES

The following principles are intended as a "roadmap" for successful annexations but are not intended to require cities to annex all UGA lands. The desired outcome will reduce Snohomish County's current delivery of municipal services within the urban growth area while strengthening the County's regional planning and coordinating duties. Likewise, cities/towns will expand their municipal services to unincorporated lands scattered throughout the UGAs in Snohomish County. These principles propose altering historical funding and service delivery patterns. All parties recognize that compromises are necessary.

1. The County and all Snohomish County cities will utilize a six-year time schedule which will guide annexation goals. This work will be known as the Six Year Annexation Plan. As follow-up to the county's Municipal Urban Growth Area (MUGA) policies, those cities that have a (MUGA) land assignment, should designate this land assignment a priority. Each jurisdiction shall conduct its normal public process to ensure that citizens from both the MUGA areas and city proper are well informed. All Snohomish County cities have the option of opting in or out of this process. Cities that opt in will coordinate with the county to establish strategies for a smooth transition of services and revenues for the annexations proposed in the accepted Six Year Plan.

2. Each city will submit a written report regarding priority of potential annexation areas to the county council every two years, at which time each city will re-evaluate its time schedule for annexation. This report will serve as an update to the Six Year Annexation Plan.

   The report to the county council should be based upon each city's internal financial analyses dealing with the cost of those annexations identified for action within the immediate two-year time period. This analysis shall include: current and future infrastructure needs including, but not be limited to, arterial roads, surface water management, sewers, and bridges. A special emphasis should be given to the financing of arterial roads, including historical county funding and said roads' priority within the county's current 6-year road plan. Where financing and other considerations are not compelling, the city and county may "re-visit" the annexation strategies at the next two-year interval.

3. To facilitate annexation within urban growth areas (UGAs), the host city and the county may negotiate an Interlocal agreement providing for sub-area planning to guide the adoption of consistent zoning and development regulations between the county and the city. Coordination of zoning densities between the county and the host city may require the revision of land use maps, adoption of transfer

rights or other creative solutions. Upon completion of sub-area planning, if densities cannot be reconciled, then the issue would be directed to SCT for review and possible re-assignment to alternate sites within the UGA.

The Interlocal Agreement would also address development and permit review and related responsibilities within the UGA, apportioning related application fees based upon the review work performed by the respective parties, and any other related matters. The format for accomplishing permit reviews will be guided in part by each city's unique staffing resources as reflected in the Interlocal agreement between the host city and the county.

4. The city and the county will evaluate the financial and service impacts of an annexation to both entities, and will collaborate to resolve inequities between revenues and service provision. The city and county will negotiate on strategies to ensure that revenues and service requirements are balanced for both the city and the county. These revenue sharing and/or service provision strategies shall be determined by individual ILAs to address service operations and capital implementation strategies.

5. The county and the host city will negotiate with other special taxing districts on annexation related issues. Strategies for accomplishing these negotiations will be agreed to by the county and host city, and reflected in the host city's annexation report. (See preceding Principle #2.)

6. To implement the goals of the Annexation Principles regarding revenue sharing, service provision, and permit review transitions, the county and the cities will consider a variety of strategies and tools in developing Interlocal Agreements, including:
   - Inter-jurisdictional transfers of revenue, such as property taxes, Real Estate Excise Taxes (REET), storm drainage fees, sales tax on construction, and retail sales tax. Dedicated accounts may be opened for the deposit of funds by mutual agreement by the county and city;
   - Service provision agreements, such as contracting for service and/or phasing the transition of service from the county to the city;
   - Identifying priority infrastructure improvement areas to facilitate annexation of areas identified in Six Year Annexation Plans.

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EXHIBIT B – MUKILTEO MUNICIPAL URBAN GROWTH AREA MAP

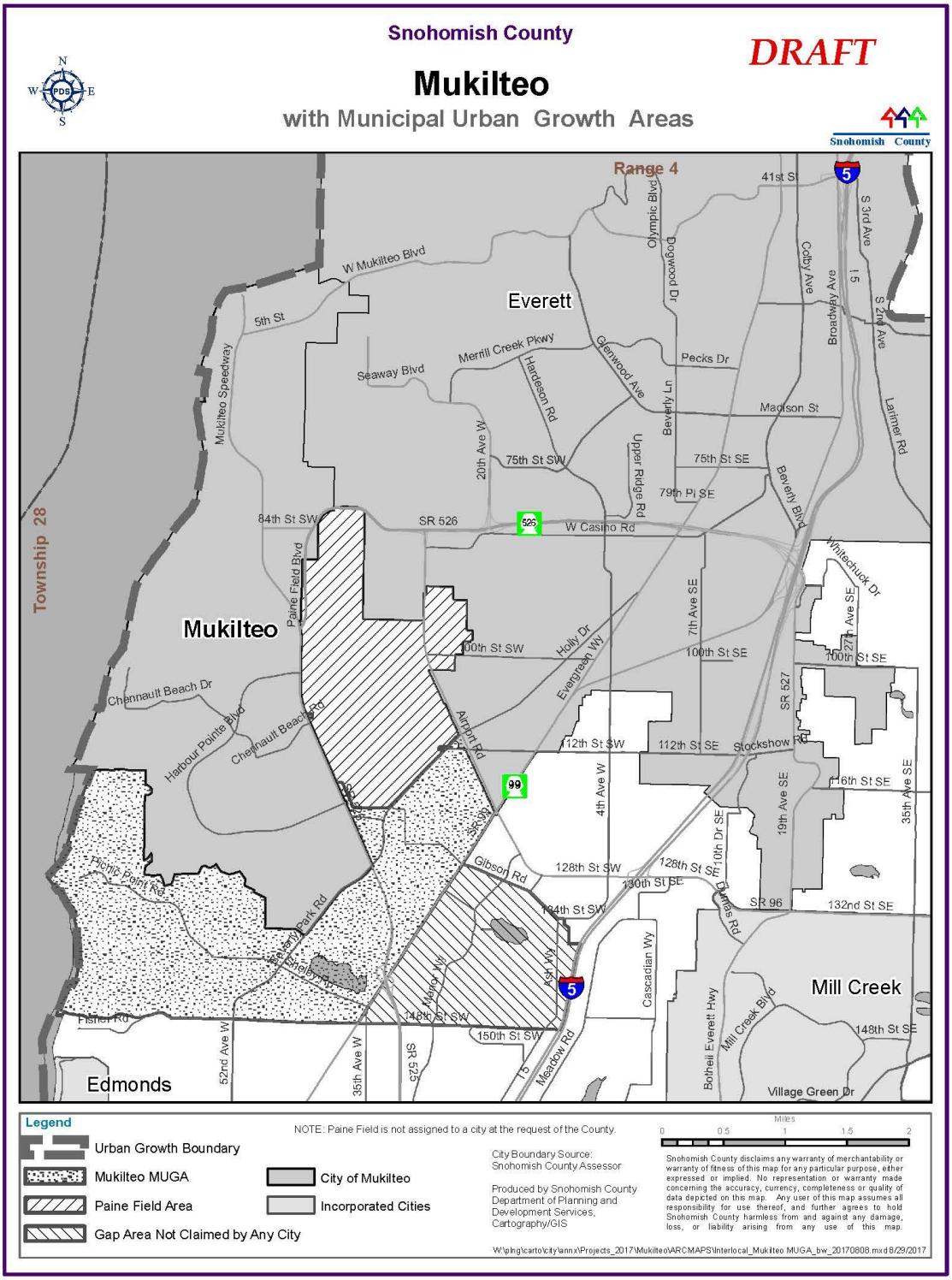

EXHIBIT C – SNOHOMISH COUNTY CODE ("SCC") PROVISIONS TO BE ADOPTED BY CITY

A. The following portions of Title 13 SCC, entitled ROADS AND BRIDGES: Chapters 13.01, 13.02, 13.05, 13.10 through 13.70, 13.95, 13.110 and 13.130

B. Title 25 SCC, entitled STORM AND SURFACE WATER MANAGEMENT

C. Subtitle 30.2 SCC, entitled ZONING AND DEVELOPMENT STANDARDS

D. Subtitle 30.3 SCC, entitled PERFORMANCE STANDARD ZONES, RESOURCE LANDS AND OVERLAYS

E. Subtitle 30.4 SCC, entitled LAND USE PERMITS AND DECISIONS

F. Subtitle 30.5 SCC, entitled CONSTRUCTION CODES

G. Subtitle 30.6 SCC, entitled ENVIRONMENTAL STANDARDS AND MITIGATION

H. Subtitle 30.9 SCC, entitled DEFINITIONS

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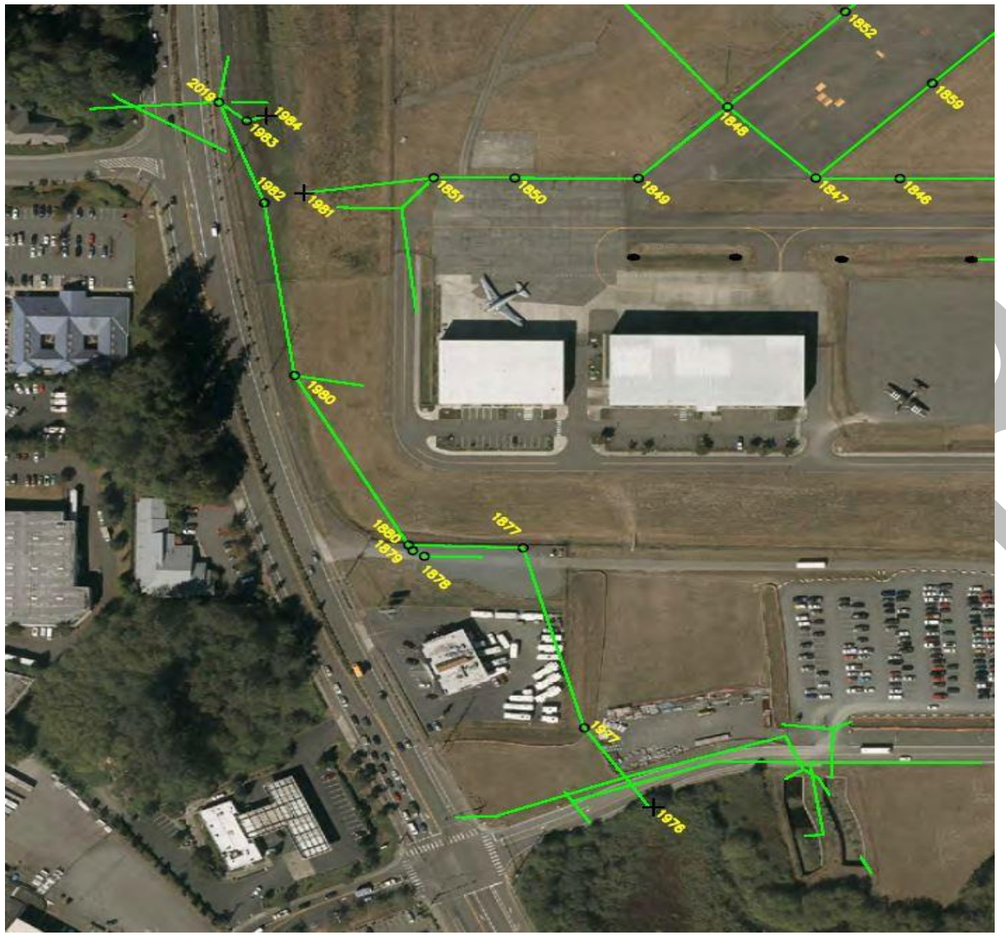
EXHIBIT D - SNOHOMISH COUNTY AIRPORT DRAINAGE STRUCTURES

Structure			Pipe Out				Pipe In No.1				Pipe In No.2				Pipe In No.3			
Point	Rim Elev.	CB Type	Size	Material	Dir.	MD *	Size	Material	Dir.	MD *	Size	Material	Dir.	MD *	Size	Material	Dir.	MD *
2019	**517.86**	Type 2 - 72"	42	CONC	W	20.70	12	CMP	N	13.07	30	CONC	SE	14.85	24	CONC	S	12.27
1983	**519.99**	Type 2 - 54" (CM)	30	CONC	W	16.12	30	CONC	E	15.97								
1982	**520.28**	Type 2 - 42"	24	CONC	N	11.22	24	CONC	S	4.60	8	CONC	NE	3.74				
1980	**531.37**	Type 2 - 42"	24	CONC	N	10.99	24	CONC	S	10.93	8	CONC	E	6.16				
1880	**538.32**	Type 2 - 72"	24	CONC	NW	16.50	24	CONC	E	16.63	18	CONC	SE	15.83				
1877	**538.24**	Type 2 - 72"	24	CONC	W	15.40	24	CONC	S	15.63								
1878	**538.62**	Type 2 - 48"	18	CONC	NW	15.92	18	CONC	E	15.88								
1879	**538.68**	Type 3 - 48"	18	CONC	NW	15.44	24	CONC	SE	16.33								
1977	**527.14**	Type 2 - 72"	24	CONC	N	5.36	24	CONC	SE	5.15								

* Measure Down



Structure			Pipe Out				Pipe In No.1				Pipe In No.2				Pipe In No.3			
Point	Rim Elev.	CB Type	Size	Material	Dir.	MD*	Size	Material	Dir.	MD*	Size	Material	Dir.	MD*	Size	Material	Dir.	MD*
3030	**548.33**	Type 2 - 54" (CM)	24	CONC	SE	16.52	24	CONC	NW	16.33								
3031	**547.06**	Type 2 - 54" (CM)		See Comment	SE	19.2	24	CONC	NW	15.45	18	CMP	E	3.45				
3034	**541.38**																	
3028	**548.44**	Type 2 - 54"	36	CONC	SW	6.68	36	CONC	NW	5.92	18	CONC	NE	6.64				
2538	**545.89**																	

* Measure Down

Structure			Pipe Out				Pipe In No.1				Pipe In No.2				Pipe In No.3			
Point	Rim Elev.	CB Type	Size	Material	Dir.	MD*	Size	Material	Dir.	MD*	Size	Material	Dir.	MD*	Size	Material	Dir.	MD*
1124	**567.13**	Type 1	12	CONC	NE	1.60	8	HDPE Corr	SW	1.42								
1125	**567.45**	Type 1	12	CONC	NE	1.75	12	CONC	SW	1.79								
1126	**566.23**	Type 1	8	HDPE Corr.	SE	2.40	6	HDPE Corr	NW	2.2	4	HDPE Corr	NE	2.08				
1131	**565.89**	Type 1	12	CONC	NE	1.90	12	CONC	SW	1.75								
1132	**566.05**	Type 1	12	CONC	NE	1.83	8	CMP	SW	1.43								
1190	**569.24**	Type 1	10	CMP	E	2.73	8	HDPE Corr	SW	2.59	10	CMP	NW	2.75	6	HDPE Corr	NE	2.49

* Measure Down