Next Ord: 1714-11
Next Res: 851-11

VISION STATEMENT

SEDRO-WOOLLEY IS A FRIENDLY CITY THAT IS CHARACTERIZED BY CITY GOVERNMENT AND CITIZENS WORKING TOGETHER TO ACHIEVE A PROSPEROUS, VIBRANT AND SAFE COMMUNITY

MISSION STATEMENT

TO PROVIDE SERVICES AND OPPORTUNITIES WHICH CREATE A COMMUNITY WHERE PEOPLE CHOOSE TO LIVE, WORK AND PLAY

CITY COUNCIL AGENDA

September 28, 2011
7:00 PM
Sedro-Woolley Municipal Building
Council Chambers
325 Metcalf Street

1. Call to Order
2. Pledge of Allegiance
3. Consent Calendar

NOTE: Agenda items on the Consent Calendar are considered routine in nature and may be adopted by the council by a single motion, unless any Councilmember wishes an item to be removed. The Council on the regular agenda will consider any item so removed after the Consent Calendar.

a. Minutes from Previous Meeting
b. Finance
   - Claim Checks #72877 to #72977 in the amount of $931,837.96.
   - Payroll Checks #51312 to #51420 in the amount of $185,360.51.
c. Designate Veterans' Benefit at Riverfront Park a Community Event
d. Final Acceptance - 2011 Sanitary Sewer CIPP Project
e. Interlocal Agreement with Skagit County for Economic Development Funding for SR 20, Metcalf to Township Lane Widening & Bicycle/Pedestrian Improvement Project
f. SCOG Members Intergovernmental Agreement
g. Interlocal Agreement with Skagit County Conservation District - Public Education & Involvement Project in support of the NPDES Phase II Stormwater Permit WAR-04-5555
h. Authorize Mayor to sign letter of commitment for participation in the HUD Regional Planning Grant

4. Public Comment (Limited to 3-5 minutes)

NEW BUSINESS

5. Smoking in Parks *(1st reading)*
6. Business License Ordinance *(1st reading)*

COMMITTEE REPORTS AND REPORTS FROM OFFICERS

7. SR 20 Widening Project Update

There may be an Executive Session immediately preceding, during or following the meeting.

CITY COUNCIL AGENDA
REGULAR MEETING

SEP 28 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 1-3

DATE: September 28, 2011

TO: Mayor Anderson and City Council

FROM: Patsy Nelson, Finance Director

SUBJECT: 1) CALL TO ORDER; 2) PLEDGE OF ALLEGIANCE; 3) CONSENT CALENDAR

1. CALL TO ORDER - The Mayor will call the September 28, 2011 Regular Meeting to Order. The Finance Director will note those in attendance and those absent.

   ____ Ward 1 Councilmember Pat Colgan

   ____ Ward 2 Councilmember Tony Splane

   ____ Ward 3 Councilmember Thomas Storrs

   ____ Ward 4 Councilmember Keith Wagoner

   ____ Ward 5 Councilmember Hugh Galbraith

   ____ Ward 6 Councilmember Rick Lemley

   ____ At-Large Councilmember Brett Sandström

2. PLEDGE OF ALLEGIANCE - The Mayor will lead the City Council and citizens in the Pledge of Allegiance to the United States of America.

3. CONSENT CALENDAR - Mayor will ask for Council approval of Consent Calendar items.

CITY COUNCIL AGENDA
REGULAR MEETING

SEP 2 8 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3a

CITY OF SEDRO-WOOLLEY

Regular Meeting of the City Council
September 14, 2011 – 7:00 P.M. –City Hall Council Chambers

ROLL CALL: Present: Mayor Mike Anderson, Councilmembers: Pat Colgan, Tony Splane, Tom Storrs, Keith Wagoner, Hugh Galbraith, Rick Lemley and Brett Sandström. Staff: Recorder Brue, Finance Director Nelson, City Supervisor/Attorney Berg, Engineer Freiberger, Planner Moore and Police Sgt. Dougher.

The Meeting was called to order at 7:00 P.M.

Pledge of Allegiance

Consent Calendar

- Minutes from Previous Meeting (including September 7, 2011 Worksession)
- Finance
  - Claim Checks #72770 to #72876 in the amount of $284,528.46.
  - Payroll Checks #51199 to #51311 in the amount of $256,718.42.
- Interlocal Cooperative Agreement for Library Services with Skagit County
- MOU with Skagit County – Address Anomalies along Jurisdictional Boundaries
- Resolution 849-11 – Declaring certain property as surplus and authorizing its disposition
- Resolution 850-11 – Interfund Loan

Councilmember Colgan moved to approve the consent calendar. Councilmember Lemley seconded. Motion carried (7-0). Councilmember Lemley abstained from Claims Warrant #72818 payable to JJ's Cruisers, as he is involved with the club.

Special Presentation – Snelson Companies, Inc.

Mayor Anderson presented Snelson Companies, Inc. with a special certificate of appreciation. He noted they designed and built some pump testing equipment for Fire Station 2. Mayor Anderson also noted that both Snelson Companies and Janicki's will be honored Monday, September 19th at 4 P.M. at Harry Osborne Park for work they did on the roof and new load of logs. Mayor Anderson encouraged Council to attend as he will be out of town.

Public Comment

No comments received.

UNFINISHED BUSINESS

Ordinance – Reducing the Permit Parking zone around SWHS

City Supervisor/Attorney Berg noted this request was brought forward by Councilmember Storrs and his neighbors requesting a reduction in the permit parking zone around Sedro-Woolley High School.

Councilmember Storrs moved to approve Ordinance No. 1713-11 which reduces the size of the permit parking zone near the SWHS. Councilmember Galbraith seconded. Motion carried (7-0).

Establishing Rules and Regulation for Mobile Venders

City Supervisor/Attorney Berg reintroduced the topic of mobile venders at the request of the Council from the last worksession. He noted in April of 2010 the topic was under Council consideration and reviewed the previous ordinance that was considered.

Discussion was held regarding fees, sales tax remittance by mobile venders, infrastructure fees paid by brick and mortar businesses, pricing for venders at local fairs, how the ordinance would affect existing venders (kettle corn and annual tool sale), mobile vending as an enhancement to the downtown, proposed fee schedule – Annually of $1000, Daily of $100, vending in public spaces, health department requirements, Planning Commission involvement and creation of spaces at time of Metcalf Street upgrades.

City Supervisor/Attorney will rewrite the ordinance to include items discussed and bring back to Council at the next meeting.

COMMITTEE REPORTS AND REPORTS FROM OFFICERS

SR 20 Widening Project Update

Engineer Freiberger reported on the progress being made on the SR20 Widening Project including traffic being down to one lane as they worked on the crossings, PSE lighting has not yet energized, the traffic detour will begin on the 26th and a review of a proposed change order with request for Council approval.

Councilmember Sandström moved to authorize Mayor Anderson to execute Change Order 1 to the contract with Interwest Construction in the amount of $145,271.00. Councilmember Storrs seconded. Motion carried (7-0).

Engineer Freiberger continued his report. He noted the project is still on schedule and reviewed the work schedule for the next couple of weeks. Freiberger detailed the upcoming road closure and detour. He noted that signs will be set noting businesses are

still open. He also encouraged everyone to consider patronizing the businesses during that time to help them out as they rely heavily on pass-through traffic.

City Supervisor/Attorney Berg – reported on the Sedro-Woolley High School FFA who have been using the City property for a living lab under the direction of Instructor, Wayne Ramsey. Ramsey has found tree stock that may be worth some money and is interested in setting up a program with the students so they can learn how to transplant and maintain the trees and the City would be able to benefit from the sale of the nursery stock. An inventory of the tree stock will be taken and a proposal will be brought back to Council.

Discussion ensued regarding partnering with the school, planting of Christmas trees for future City Christmas trees and the adopt a tree program.

Engineer Freiberger – reported on the completion of the paving projects and the work on the sewer projects in various locations.

Planner Moore – reported on the progress of the state required Shoreline Master Plan update which has received good comments at the preliminary state review. Moore also explained a potential partnership for a regional grant. Sedro-Woolley's share would be approximately $250,000 in order to complete a land use analysis and Brickyard Creek Sub Area plan. The grant includes funds for planning and design.

Sgt. Dougher – noted there was a little trouble in town last weekend with the bars. They are waiting to see how things go with the opening of a new place in town this weekend.

Councilmember Lemley – reported on the Founder's day celebration with fair attendance at the bank robbery reenactment and 265 registered cars at the car show on Sunday.

Councilmember Wagoner – questioned how the new procedure for failure to appear was working. Sgt. Dougher noted the first week went well. Wagoner also pointed out an article in the Municipal Research News.

City Supervisor/Attorney Berg – updated Council that the Upper Skagit Indian Tribe has put their duplex project bon hold as a result of the estimated impact fees.

Councilmember Lemley moved to adjourn. Seconded by Councilmember Colgan. Motion carried (7-0).

The meeting adjourned at 8:05 P.M.

CITY COUNCIL AGENDA
REGULAR MEETING

SEP 28 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3b

DATE: September 28, 2011

TO: Mayor Anderson and City Council

FROM: Patsy Nelson, Finance Director

SUBJECT: FINANCE - CLAIMS

Attached you will find the Claim Checks register proposed for payment for the period ending September 28, 2011.

Motion to approve Claim Checks #72877 to #72977 in the amount of $931,837.96.

Motion to approve Payroll Checks #51312 to #51420 in the amount of $185,360.51.

If you have any comments, questions or concerns, please contact me for information during the working day at 855-1661. This will allow me to look up the invoices that are stored in our office.

CITY OF SEDRO-WOOLLEY

SORTED TRANSACTION WARRANT REGISTER

09/28/2011 (Printed 09/22/2011 15:37)

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
72877	FLOYD, WINNIE	PROFESSIONAL SERVICES	CIV	78.00
		WARRANT TOTAL		78.00
72878	SKAGIT COUNTY AUDITOR	MISC-FILING FEES/LIEN EXP	SWR	1,922.00
		MISC-FILING FEES/LIEN EXP	SAN	1,860.00
		WARRANT TOTAL		3,782.00
72879	ALLELUJAH BUSINESS SYSTEMS	PROFES. SVCS. REIMBURSE	ENG	2.16
		WARRANT TOTAL		2.16
72880	ALL-PHASE ELECTRIC	MAINT OF PUMPING EQUIP	SWR	83.16
		WARRANT TOTAL		83.16
72881	ALPINE FIRE & SAFETY	OFFICE/OPERATING SUPPLIES	PD	115.67
		OPERATING SUP - SENIOR CTR	PK	163.38
		OPERATING SUPPLIES	SWR	78.17
		WARRANT TOTAL		357.22
72882	AMERICAN SOCIETY OF CIVIL	DUES/SUBSCRIPTIONS	ENG	240.00
		DUES/SUBSCRIPTIONS	ENG	240.00
		WARRANT TOTAL		480.00
72883	ANDGAR CORP	REPAIRS/MAINT-DORM	FD	136.25
		WARRANT TOTAL		136.25
72884	ARAMARK UNIFORM SERVICES	MISC-LAUNDRY	CEM	5.60
		MISC-LAUNDRY	CEM	5.60
		MISC-LAUNDRY	ST	6.74
		MISC-LAUNDRY	ST	12.12
		LAUNDRY	SWR	7.51
		LAUNDRY	SWR	26.36
		WARRANT TOTAL		63.93
72885	ASSOCIATION OF WA CITIES	RETIRED MEDICAL	PD	8,254.90
		WARRANT TOTAL		8,254.90
72886	ASSOC PETROLEUM PRODUCTS	AUTO FUEL	CS	340.36
		AUTO FUEL	PD	59.27
		AUTO FUEL	PD	1,439.56
		AUTO FUEL	PD	1,554.84
		AUTO FUEL/DIESEL	ST	64.14
		AUTO FUEL/DIESEL	ST	260.18
		AUTO FUEL/DIESEL	SAN	1,803.20
		AUTO FUEL/DIESEL	SWTR	269.14
		WARRANT TOTAL		5,790.69
72887	BANK OF AMERICA	PROFESSIONAL SERVICES	CIV	150.00
		PRINTING/PUBLICATIONS	PD	36.14
		AUTO FUEL/DIESEL	SWR	48.75
		MEALS/TRAVEL	SWR	433.06
		WARRANT TOTAL		667.95

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
72888	BARNETT IMPLEMENT CO. INC	REPAIR/MT-SMALL TOOLS EQUIP	PK	28.40
		WARRANT TOTAL		28.40
72889	BANK OF AMERICA	BOOKS, PERIOD, RECORDS	LIB	253.66
		WARRANT TOTAL		253.66
72890	BAY CITY SUPPLY	OPERATING SUP - RIVERFRONT	PK	27.61
		OPERATING SUP - RIVERFRONT	PK	58.43
		OPERATING SUP - CITY HALL	PK	213.48
		OPERATING SUP - HAMMER SQ	PK	225.49
		WARRANT TOTAL		525.01
72891	BERG VAULT COMPANY	LINERS	CEM	1,625.00
		WARRANT TOTAL		1,625.00
72892	BLUMENTHAL UNIFORM & EQUP	UNIFORMS/ACCESSORIES	PD	249.62
		MACHINERY & EQUIPMENT	PD	162.14-
		WARRANT TOTAL		87.48
72893	BOUND TREE CORPORATION	OPERATING SUPPLIES	FD	112.61
		WARRANT TOTAL		112.61
72894	BOUWENS, JENNIFER A.	PROF SVC-PROSECUTING ATTY	LGL	2,500.00
		WARRANT TOTAL		2,500.00
72895	CALENDARS	SUPPLIES	ENG	23.09
		WARRANT TOTAL		23.09
72896	CASCADE NATURAL GAS CORP.	PUBLIC UTILTIES	PD	10.60
		PUBLIC UTILITIES	FD	38.93
		UTILITIES-COMMUNITY CTR	PK	10.60
		UTILITIES - SHOP	PK	17.44
		PUBLIC UTILITIES-CITY HALL	PK	134.55
		PUBLIC UTILITIES	SWR	30.97
		WARRANT TOTAL		243.09
72897	CEMEX	CONTRACTED OVERLAY	ST	62,072.59
		CONTAINERS	SAN	41,899.08
		OTHER IMPROVEMENTS	SAN	11,308.24
		WARRANT TOTAL		115,279.91
72898	CITIES INSURANCE ASSOC.	INSURANCE & BONDS	JUD	1,190.62
		INSURANCE & BONDS	FIN	2,981.80
		INSURANCE	LGL	438.11
		INSURANCE	PLN	3,056.79
		INSURANCE	ENG	3,013.16
		INSURANCE	PD	35,177.78
		INSURANCE	FD	22,265.10
		INSURANCE	INSP	1,902.74
		INSURANCE	PK	15,771.86
		INSURANCE	CEM	4,492.90
		INSURANCE	ST	17,799.42

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
		INSURANCE	LIB	8,707.28
		INSURANCE	SWR	32,043.95
		INSURANCE	SAN	708.53
		INSURANCE	SAN	12,496.01
		WARRANT TOTAL		162,046.05
72899	CODE PUBLISHING INC.	CODE BOOK	LGS	415.72
		WARRANT TOTAL		415.72
72900	CRYSTAL SPRINGS	OPERATING SUPPLIES	SWR	28.48
		WARRANT TOTAL		28.48
72901	E & E LUMBER	REPAIRS/MAINT-DORM	FD	61.66
		REPAIRS/MAINT-DORM	FD	4.66
		OPERATING SUP - LIBRARY	PK	10.11
		REPAIR/MT-SENIOR CENTER	PK	90.89
		OPERATING SUPPLIES	ST	40.86
		REPAIR/MAINT-STREETS	ST	70.87
		STRUCTURE KENNEL		211.15
		STRUCTURE KENNEL		59.46
		MAINT OF GENERAL EQUIP	SWR	32.86
		OPERATING SUPPLIES	SAN	29.57
		OPERATING SUPPLIES	SAN	32.72
		WARRANT TOTAL		644.81
72902	EARLY LEARNING PUBLIC LIBRARIES PTN	EARLY LITERACY	LIB	175.00
		WARRANT TOTAL		175.00
72903	ENTERPRISE OFFICE SYSTEMS	SUPPLIES	LGS	7.30
		SUPPLIES	LGS	46.07
		SUPPLIES	ENG	43.27
		OFFICE/OPERATING SUPPLIES	PD	41.09
		WARRANT TOTAL		137.73
72904	EMERGENCY MEDICAL PRODUCTS INC	OPERATING SUPPLIES	FD	319.37
		WARRANT TOTAL		319.37
72905	E-WASTE, LLC	SOLID WASTE DISPOSAL	SAN	395.80
		WARRANT TOTAL		395.80
72906	E.S.R.I INC.	MISC-DUES/SUBSCRIP/MEMSHIP	PLN	252.46
		DUES/SUBSCRIPTIONS	ENG	577.07
		MAINTENANCE CONTRACTS	SWR	856.44
		WARRANT TOTAL		1,685.97
72907	FEDERAL EXPRESS CORP.	POSTAGE	PD	31.40
		CONST-SR20 WIDENING		33.47
		WARRANT TOTAL		64.87
72908	FLOYD, WINNIE	OFFICE/OPERATING SUPPLIES	PD	10.80
		WARRANT TOTAL		10.80

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
72909	FRONTIER	TELEPHONE	JUD	73.14
		TELEPHONE	EXE	109.71
		TELEPHONE	FIN	109.71
		TELEPHONE	LGL	48.76
		TELEPHONE	IT	36.57
		TELEPHONE	PLN	36.57
		TELEPHONE	ENG	85.33
		TELEPHONE	PD	366.07
		TELEPHONE	PD	57.62
		TELEPHONE	FD	134.09
		TELEPHONE	INSP	36.57
		TELEPHONE	PK	24.38
		PUBLIC UTILITIES-CITY HALL	PK	115.22
		REPAIR-SAFETY EQUIPMENT	ST	12.19
		TELEPHONE	LIB	60.95
		TELEPHONE	SWR	97.52
		TELEPHONE	SAN	48.76
		TELEPHONE	SAN	52.37
		WARRANT TOTAL		1,505.53
72910	GARDNER ELECTRONICS	REPAIR & MAINT - AUTO	PD	86.56
		WARRANT TOTAL		86.56
72911	GROENEVELD	REPAIRS/MAINT-EQUIP	SAN	55.22
		WARRANT TOTAL		55.22
72912	GUARDIAN SECURITY	OPERATING SUP - CITY HALL	PK	335.42
		OPERATING SUP - LIBRARY	PK	220.00
		WARRANT TOTAL		555.42
72913	HONEY BUCKET	UTILITIES-PORTABLE TOILETS	PK	75.00
		WARRANT TOTAL		75.00
72914	HUIZINGA, STEVEN	AUTO FUEL/DIESEL	SWR	273.56
		WARRANT TOTAL		273.56
72915	IKON OFFICE SOLUTIONS	REPAIRS & MAINTENANCE	PD	23.37
		REPAIRS & MAINTENANCE	PD	75.74
		EQUIPMENT LEASE	FD	75.74
		REPAIRS/MAINT-EQUIP	FD	23.36
		WARRANT TOTAL		198.21
72916	INGRAM LIBRARY SERVICES	BOOKS, PERIOD, RECORDS	LIB	86.13
		BOOKS, PERIOD, RECORDS	LIB	26.66
		WARRANT TOTAL		112.79
72917	INTERWEST CONSTRUCTION INC.	CONST-SR20 WIDENING		430,756.01
		CONST-SR20 WIDENING PUD		7,361.93
		WARRANT TOTAL		438,117.94
72918	INSITUFORM	OTHER IMPROVEMENTS	SWR	74,450.54
		WARRANT TOTAL		74,450.54

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
72919	JOB SHOP INC. (THE)	OPERATING SUPPLIES	SAN	127.77
		WARRANT TOTAL		127.77
72920	LOGGERS AND CONTRACTORS	REPAIRS/MAINT-EQUIP	FD	14.04
		OPERATING SUPPLIES	ST	40.17
		OPERATING SUPPLIES	SWR	51.01
		WARRANT TOTAL		105.22
72921	LYNN PEAVEY COMPANY	OFFICE/OPERATING SUPPLIES	PD	63.95
		WARRANT TOTAL		63.95
72922	MCCANN, WILLIAM R.	INDIGENT DEFEND CONTR	JUD	2,557.50
		WARRANT TOTAL		2,557.50
72923	MARTIN MARIETTA MATERIALS	REPAIR/MAINT-STREETS	ST	121.68
		REPAIR/MAINT-STREETS	ST	164.83
		REPAIR/MAINT-STREETS	ST	1,019.82
		WARRANT TOTAL		1,306.33
72924	N C MACHINERY CO.	REPAIR/MAINTENANCE-EQUIP	ST	9.44
		WARRANT TOTAL		9.44
72925	NELSON, PATSY	MEALS/TRAVEL	FIN	597.51
		WARRANT TOTAL		597.51
72926	NEWMAN SIGNS INC	REPAIR/MAINT-STREETS	ST	75.15
		OPERATING SUPPLIES	ST	136.35
		WARRANT TOTAL		211.50
72927	NORTH CASCADE FORD	REPAIR & MAINT - AUTO	PD	34.76
		WARRANT TOTAL		34.76
72928	OASYS	REPAIRS & MAINTENANCE	PD	139.12
		REPAIRS/MAINT-EQUIP	FD	139.12
		WARRANT TOTAL		278.24
72929	OFFICE DEPOT	SUPPLIES/BOOKS	PLN	8.68
		SUPPLIES	ENG	8.69
		OFF/OPER SUPPS & BOOKS	INSP	8.68
		WARRANT TOTAL		26.05
72930	OLIVER-HAMMER CLOTHES	UNIFORMS/ACCESSORIES	PD	210.97
		WARRANT TOTAL		210.97
72931	PACIFIC COMMERCIAL LOCK & KEY	REPAIR/MT-METCALF BALL PARK	PK	202.96
		MISCELLANEOUS	CEM	101.46
		WARRANT TOTAL		304.42
72932	PAPE MACHINERY	REPAIR/MAINTENANCE-EQUIP	ST	86.72
		WARRANT TOTAL		86.72
72933	PAT RIMMER TIRE CTR, INC	REPAIR/MAINTENANCE-EQUIP	ST	18.94

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
		REPAIRS/MAINT-EQUIP	SAN	17.69
		WARRANT TOTAL		36.63
72934	PETTY CASH-DEBRA PETERSON	SUPPLIES	LIB	15.49
		BOOKS, PERIOD, RECORDS	LIB	55.69
		WARRANT TOTAL		71.18
72935	PITNEY BOWES	OPERATING RENTALS/LEASES	FIN	47.34
		POSTAGE	PLN	47.33
		POSTAGE	ENG	47.33
		POSTAGE	PD	47.34
		POSTAGE	FD	47.33
		POSTAGE	INSP	47.33
		WARRANT TOTAL		284.00
72936	PLATT	MAINT OF PUMPING EQUIP	SWR	51.81
		WARRANT TOTAL		51.81
72937	PROQUEST	LIBRARY INFO DATABASES	LIB	159.21
		WARRANT TOTAL		159.21
72938	PRINTSTREAMS	SUPPLIES	JUD	144.99
		WARRANT TOTAL		144.99
72939	PUBLIC UTILITY DIS. NO.1	PUBLIC UTILITIES	FD	436.04
		PUBLIC UTILITIES-MUSEUM	PK	37.82
		PUBLIC UTILITIES	SWR	69.60
		WARRANT TOTAL		543.46
72940	QUICK LANE TIRE & AUTO CENTER	REPAIR & MAINT - AUTO	PD	55.23
		WARRANT TOTAL		55.23
72941	RELIABLE (OFFICE SUPPLY)	OFFICE/OPERATING SUPPLIES	PD	90.03
		WARRANT TOTAL		90.03
72942	SCIENTIFIC SUPPLY	OPERATING SUPPLIES	SWR	62.84
		OPERATING SUPPLIES	SWR	108.30
		WARRANT TOTAL		171.14
72943	SEABURY, DEBRA L.	PROFESSIONAL SERVICES	FD	2,250.00
		WARRANT TOTAL		2,250.00
72944	SEDRO-WOOLLEY AUTO PARTS	OPERATING SUPPLIES	FD	28.11
		SMALL TOOLS & MINOR EQUIP	FD	31.37
		REPAIRS/MAINT-EQUIP	FD	2.33
		REPAIR/MAINT-EQUIP & BLDG	CEM	64.91
		WARRANT TOTAL		126.72
72945	SEDRO-WOOLLEY LOGGERODEO	ADVERTISING-LOGGERODEO	HOT	10,000.00
		WARRANT TOTAL		10,000.00
72946	SEDRO-WOOLLEY VOLUNTEER	MISC-DUES	FD	720.00

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
		WARRANT TOTAL		720.00
72947	SIRCHIE FINGER PRINT	OFFICE/OPERATING SUPPLIES	PD	161.31
		WARRANT TOTAL		161.31
72948	SKAGIT COUNTY EMS	TUITION/REGISTRATION	FD	165.00
		WARRANT TOTAL		165.00
72949	SK. CO. COM ACTION AGENCY	SKAGIT COMM ACTION AGENCY	HLT	2,437.68
		WARRANT TOTAL		2,437.68
72950	SK. CO. INTERLOCAL DRUG	SKAGIT CTY DRUG TASK FORCE	PD	1,000.00
		WARRANT TOTAL		1,000.00
72951	SKAGIT CO. PUBLIC WORKS	SOLID WASTE DISPOSAL	SAN	44,506.76
		WARRANT TOTAL		44,506.76
72952	SKAGIT COUNTY SHERIFF	PRISONERS	PD	297.96
		WARRANT TOTAL		297.96
72953	SKAGIT FARMERS SUPPLY	OPERATING SUPPLIES	ST	240.51
		OPERATING SUPPLIES	SWTR	28.12
		WARRANT TOTAL		268.63
72954	SKAGIT SURVEYORS &	PROFESSIONAL SERVICES	SWTR	281.25
		WARRANT TOTAL		281.25
72955	SKAGIT VALLEY PUBLISHING	LEGAL PUBLICATIONS	LGS	45.00
		ADVERTISING	PLN	75.00
		WARRANT TOTAL		120.00
72956	STAPLES BUSINESS ADVANTAGE	OFFICE/OPERATING SUPPLIES	PD	111.86
		OFFICE/OPERATING SUPPLIES	PD	116.34
		OFFICE/OPERATING SUPPLIES	PD	171.28
		OFFICE SUPPLIES	SWR	150.50
		OFFICE SUPPLIES	SAN	121.98
		WARRANT TOTAL		671.96
72957	SKAGIT REGIONAL CLINICS PHARMACY	RETIRED MEDICAL	PD	64.40
		RETIRED MEDICAL	PD	47.00
		RETIRED MEDICAL	PD	61.00
		RETIRED MEDICAL	PD	33.70
		RETIRED MEDICAL	PD	36.70
		RETIRED MEDICAL	PD	33.92
		WARRANT TOTAL		276.72
72958	STEPHENSON, RETA	EMPLOYEE WELLNESS	EXE	47.62
		WARRANT TOTAL		47.62
72959	STILES & STILES	MUNICIPAL COURT JUDGE	JUD	2,728.00
		WARRANT TOTAL		2,728.00

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
72960	TRAFFIC SAFETY SUPPLY CO.	REPAIR/MAINT-STREETS	ST	2,192.01
		WARRANT TOTAL		2,192.01
72961	TREATMENT EQUIPMENT CO.	MAINT OF GENERAL EQUIP	SWR	1,280.82
		WARRANT TOTAL		1,280.82
72962	TRUE VALUE	MACHINERY & EQUIPMENT	PD	4.32
		MACHINERY & EQUIPMENT	PD	25.91
		OPERATING SUPPLIES	FD	29.74
		REPAIRS/MAINT-EQUIP	FD	3.72
		OPERATING SUP - CITY HALL	PK	29.18
		OPERATING SUP - CITY HALL	PK	5.40
		OPERATING SUPPLIES	CEM	17.30
		OPERATING SUPPLIES	ST	30.29
		OPERATING SUPPLIES	ST	24.88
		OPERATING SUPPLIES	ST	27.56
		MAINT OF GENERAL EQUIP	SWR	66.72
		OPERATING SUPPLIES	SWR	16.21
		OPERATING SUPPLIES	SWR	16.21-
		OPERATING SUPPLIES	SWR	19.43
		OPERATING SUPPLIES	SAN	22.67
		WARRANT TOTAL		307.12
72963	TUCKER, WILLIAM L.	MACHINERY & EQUIPMENT	PD	75.72
		WARRANT TOTAL		75.72
72964	US BANK	AUTO FUEL/DIESEL	PK	75.00
		AUTO FUEL/DIESEL	PK	75.00
		SUPPLIES	LIB	45.97
		SUBSCRIPTIONS	LIB	49.00
		COMMUNITY GRANT PROGRAMS	LIB	1,105.54
		COMMUNITY GRANT PROGRAMS	LIB	537.54
		BOOKS, PERIOD, RECORDS	LIB	124.90
		MISC-DUES/SUBSCRIPTIONS	SWR	82.00
		SMALL TOOLS & MINOR EQUIP	SAN	237.99
		WARRANT TOTAL		2,332.94
72965	VALLEY AUTO SUPPLY	REPAIR & MAINT - AUTO	PD	20.54
		REPAIR/MT-BINGHAM PARK	PK	6.20
		REPAIR/MT-SMALL TOOLS EQUIP	PK	90.34
		REPAIR/MAINTENANCE-EQUIP	ST	10.22
		OPERATING SUPPLIES	SAN	12.98
		WARRANT TOTAL		140.28
72966	VISION FORMS, LLC	POSTAGE	SWR	1,260.89
		POSTAGE	SAN	601.04
		OPERATING SUPPLIES	SWTR	77.91
		WARRANT TOTAL		1,939.84
72967	WALLACE & ASSOCIATES	INSURANCE & BONDS	JUD	33.60
		INSURANCE & BONDS	FIN	61.95
		INSURANCE	LGL	10.85

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
		INSURANCE	PLN	132.65
		INSURANCE	ENG	62.30
		INSURANCE	PD	967.75
		INSURANCE	FD	335.30
		INSURANCE	INSP	54.25
		INSURANCE	PK	195.65
		INSURANCE	CEM	71.75
		INSURANCE	ST	369.60
		INSURANCE	LIB	266.35
		INSURANCE	SWR	582.40
		INSURANCE	SAN	355.60
		WARRANT TOTAL		3,500.00
72968	WA STATE CRIMINAL JUSTICE	TUITION/REGISTRATION	PD	750.00
		WARRANT TOTAL		750.00
72969	WA ST DEPT OF PROF LICEN	INTERGOV SVC-GUN PERMITS	PD	150.00
		WARRANT TOTAL		150.00
72970	WA STATE DEPT OF REVENUE	OFFICE/OPERATING SUPPLIES	PD	3.18
		VEHICLES	PD	390.39
		TAXES AND ASSESSMENTS	PK	117.45
		TAXES AND ASSESSMENTS	CEM	192.71
		COMMUNITY GRANT PROGRAMS	LIB	302.27
		TAXES AND ASSESSMENTS	LIB	9.38
		BOOKS, PERIOD, RECORDS	LIB	24.19
		MAINTENANCE OF LINES	SWR	94.30
		TAXES AND ASSESSMENTS	SWR	5,586.79
		TAXES & ASSESSMENTS	SAN	5,453.92
		OPERATING SUPPLIES	SWTR	38.59
		WARRANT TOTAL		12,213.17
72971	WA ST DEPT OF TRANSPORT	CONST-SR20 WIDENING		2,686.33
		WARRANT TOTAL		2,686.33
72972	WA STATE PATROL	RENTAL TELETYPE	PD	534.00
		WARRANT TOTAL		534.00
72973	WASHINGTON STATE PATROL	INTERGOV SVC-GUN PERMITS	PD	96.25
		WARRANT TOTAL		96.25
72974	WASTE MANAGEMENT OF SKGT	RECYCLING FEE - HOUSEHOLD	SAN	7,960.22
		WARRANT TOTAL		7,960.22
72975	WEST PAYMENT CTR	WESTLAW SERVICES	LGL	223.44
		WARRANT TOTAL		223.44
72976	WOOD'S LOGGING SUPPLY INC	MACHINERY & EQUIPMENT	PD	6.47
		REPAIRS/MAINT-EQUIP	FD	6.82
		REPAIRS/MAINT-EQUIP	FD	37.88
		REPAIR/MAINT-EQUIP & BLDG	CEM	40.91
		REPAIRS/MAINT-EQUIP	SAN	10.77

WARRANT	VENDOR NAME	DESCRIPTION		AMOUNT
		OPERATING SUPPLIES	SAN	4.95
		OPERATING SUPPLIES	SAN	7.03
		REPAIR/MAINTENANCE	SAN	10.19
		WARRANT TOTAL		125.02
72977	LENNOX, MARK	GUN PERMITS		13.25
		WARRANT TOTAL		13.25
		RUN TOTAL		931,837.96

FUND	TITLE	AMOUNT
001	CURRENT EXPENSE FUND	108,124.91
101	PARK FUND	18,357.26
102	CEMETERY FUND	6,618.14
103	STREET FUND	84,907.28
104	ARTERIAL STREET FUND	440,837.74
105	LIBRARY FUND	12,005.21
108	STADIUM FUND	10,000.00
111	DOG FUND	270.61
401	SEWER FUND	119,880.74
412	SOLID WASTE FUND	130,141.06
425	STORMWATER	695.01
TOTAL		931,837.96

DEPARTMENT	AMOUNT
001 000 000	13.25
001 000 011	514.09
001 000 012	6,727.85
001 000 013	157.33
001 000 014	3,798.31
001 000 015	3,221.16
001 000 016	228.00
001 000 017	36.57
001 000 018	340.36
001 000 019	3,609.48
001 000 020	4,342.40
001 000 021	53,230.29
001 000 022	27,418.57
001 000 024	2,049.57
001 000 062	2,437.68
FUND CURRENT EXPENSE FUND	108,124.91
101 000 076	18,357.26
FUND PARK FUND	18,357.26
102 000 036	6,618.14
FUND CEMETERY FUND	6,618.14
103 000 042	84,907.28
FUND STREET FUND	84,907.28
104 000 042	440,837.74
FUND ARTERIAL STREET FUND	440,837.74
105 000 072	12,005.21
FUND LIBRARY FUND	12,005.21
108 000 019	10,000.00
FUND STADIUM FUND	10,000.00
111 000 021	270.61
FUND DOG FUND	270.61
401 000 035	119,880.74
FUND SEWER FUND	119,880.74
412 000 037	130,141.06
FUND SOLID WASTE FUND	130,141.06
425 000 039	695.01
FUND STORMWATER	695.01
TOTAL	931,837.96

CITY COUNCIL AGENDA
REGULAR MEETING

SEP 28 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3C

CITY OF SEDRO-WOOLLEY
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-9922
Fax (360) 855-9923

Eron M. Berg
City Supervisor/City Attorney

MEMO TO: City Council
FROM: Eron Berg
RE: Veterans' Benefit at Riverfront
DATE: September 28, 2011

ISSUE: Should the Council make Doyle Guffie's annual veterans' benefit at Riverfront Park a community event under SWMC 12.36.025?

BACKGROUND: Doyle Guffie heads a group that launched a veterans' fundraiser benefit at Riverfront Park in 2009 which has been held annually at the park since that time. Next year will be the fourth annual veterans' fundraiser event and Doyle would again like to see this held in Sedro-Woolley's Riverfront Park. As this event has grown and become part of Sedro-Woolley's annual calendar of events, Mayor Anderson recommends that the Council make it an official community event under SWMC 12.36.025 which will allow the city to make the park available for this event free of charge. All of the funds raised are donated for the benefit of veterans.

RECOMMENDATION: Motion to make Doyle Guffie's annual veterans' benefit at Riverfront Park a community event under SWMC 12.36.025 and to authorize the use of Riverfront Park free of charge for this annual event.

Doyle Guffie's
RALLYE
Auto & Truck Sales
1010 Old Hwy. 99
Burlington, WA 98233
(360) 757-7770

9/16/2011

City of Sedro Woolley
City Hall
Sedro Woolley WA 98284

Dear Mike Anderson:

We are starting the pre-planning of the 2012 local Veterans' Fundraiser, which has been held at Riverfront Park in Sedro Woolley for the past three years. This benefit has been a huge success for the veterans while bringing many visitors to Sedro Woolley.

We would like to reserve Riverfront Park for next year on Sunday July 8, 2012. The past three years the City of Sedro Woolley has been gracious enough to donate the use of the park for this benefit. I would like to ask if it is possible for the City to donate this again next year, it would be greatly appreciated.

We would like to thank you for the past three years support and your consideration for next year.

If you have any questions please telephone me at (360)708-8729.

Sincerely,

Doyle Guffie
Representative for Veterans

CITY COUNCIL AGENDA
REGULAR MEETING

SEP 28 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3d

CITY OF SEDRO-WOOLLEY
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-0771
Fax (360) 855-0733

David E. Lee, PE
Assistant City Engineer

MEMO TO: City Council and Mayor Mike Anderson

FROM: David E. Lee, PE

RE: **Final Acceptance – 2011 Sanitary Sewer CIPP Project**
Insituform Technologies Inc.

DATE: September 21, 2011 (for Council review September 28, 2011)

ISSUE Should Council approve final acceptance of the 2011 Sanitary Sewer CIPP Sewer Project as constructed by Insituform Technologies Inc. of Chesterfield, MO in the amount of $ 220,847.02 (including sales tax)?

BACKGROUND/DISCUSSION
The construction contract for the 2011 Sanitary Sewer CIPP Sewer Project with Insituform Technologies Inc. of Chesterfield, MO was executed on April 14, 2011. The work was started on June 6, 2011, with substantial completion on July 1, 2011 and final completion on August 16, 2011.

We have filed Notice of Completion documents with Washington Department of Labor & Industries, Department of Revenue and Employment Security. Once clearance is received from these agencies, retention will be released.

FINANCIAL

Funds for this project are available from the Account 401 Other Improvements item. Following is a summary of revenue and estimated costs for the project.

REVENUE

Account 401.000.035.596.35.63.00 Other Improvements	$ 230,548
Subtotal	**$ 230,548**

ESTIMATED EXPENDITURES - CONSTRUCTION COSTS

Construction Contract final cost -rounded	$ 220,847
Total	**$ 220,847**

ANALYSIS
The original construction contract for this project totaled $ 152,490.59. One change orders was issued, which increased the contract by $ 78,057.64 to $ 230,548.23. The increase was due to adding additional runs of lining to rehabilitate distressed lines in SR-9. Factoring in the changes and the actual quantities installed, the work came in under budget at $ 220,847.02.

MOTION:

Move for final acceptance of the* 2011 Sanitary Sewer CIPP Sewer Project *as constructed by Insituform Technologies Inc. of* Chesterfield, MO *in the amount of $ 220,847.02 (including sales tax).

NOTICE OF COMPLETION OF PUBLIC WORKS CONTRACT

Contractor's UBI Number: 601 880 220

Date: 9/21/2011

Name & Address of Public Agency	Department Use Only
City of Sedro-Woolley 325 Metcalf Street Sedro-Woolley, WA 98284 **UBI Number:** 298 001 552	Assigned to: Date Assigned:

Notice is hereby given relative to the completion of contract or project described below

Project Name	Contract Number	Job Order Contracting
2011 Sanitary Sewer CIPP Project	2011-PW-07	☐ Yes ☒ No

Description of Work Done/Include Jobsite Address(es)

Sanitary Sewer Cured in Place Pipe Project
Multiple sites within City limits

Federally funded road transportation project? ☐ **Yes** ☑ **No**

Contractor's Name	Telephone Number
Insituform Technologies Inc	636-530-8000

Contractor Address
17988 Edison Avenue, Chesterfield, MO 63005

If Retainage is Bonded, List Surety's Name (or attach a copy)
N/A

Surety Agent's Address
N/A

Date Contract Awarded	Date Work Commenced	Date Work Completed	Date Work Accepted
4/19/2011	6/6/2011	8/16/2011	09/28/2011

Contract Amount	$ 140,934.00			
Additions (+)	$ 72,142.00		Liquidated Damages $	0.00
Reductions (-)	$ 8,966.00		Amount Disbursed $	210,641.52
Sub-Total	$ 204,110.00		Amount Retained $	10,205.50
Amount of Sales Tax Paid at .082				
(If various rates apply, please send a breakdown)	$ 16,737.02			
TOTAL	$ **220,847.02**		**TOTAL $**	**220,847.02**

NOTE: These two totals must be equal

Please List all Subcontractors Below:

Subcontractor's Name:	UBI Number:	Affidavit ID (if known)
Traffic Control Services	601 477 384	
C-More Pipe Services	601 854 387	

F215-038-000 08-2011
REV 31 0020e (08/25/11)

Continued on page 2

Please List all Subcontractors Below:

Subcontractor's Name:	UBI Number:	Affidavit ID (if known)

Comments:

Contact Name: Julie Rosario

Title: Public Works Assistant

Email Address: jrosario@ci.sedro-woolley.wa.us

Phone Number: 360-855-9932

Note: The Disbursing Officer must submit this completed notice immediately after acceptance of the work done under this contract.
NO PAYMENT SHALL BE MADE FROM RETAINED FUNDS until receipt of all release certificates.
Submitting Form: Please submit the completed form to all three agencies below. For a faster response, please submit by e-mail.

Washington State
Department of Revenue
Public Works Section
PO Box 47474
Olympia WA 98504-7474
(360)725-7588
FAX (360) 664-4159
PWC@dor.wa.gov

Washington State
Department of Labor and Industries
Contract Release
PO Box 44274
Olympia, WA 98504-4272
(360)902-4754
FAX (360) 902-6897
ContractRelease@lni.wa.gov

Washington State
Employment Security Department
Specialized Collections Unit
PO Box 9046
Olympia WA 98507-9046
(360) 902-9780
Fax (360) 902-9287
publicworks@esd.wa.gov

For tax assistance or to request this document in an alternate format, visit http://dor.wa.gov or call 1-800-647-7706.
Teletype (TTY) users may call (360) 705-6718.

CITY COUNCIL AGENDA
REGULAR MEETING

SEP 28 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3-e

INTERLOCAL COOPERATIVE AGREEMENT
BETWEEN
SKAGIT COUNTY AND CITY OF SEDRO-WOOLLEY

THIS INTERLOCAL AGREEMENT is entered into this _____ day of _____, 2011 between Skagit County, Washington (the "County") and City of Sedro-Woolley, a Washington Municipal Corporation (the "Recipient") pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT, and in consideration of the mutual benefits do hereby agree as follows:

1. Purpose: The purpose of the contract is to distribute economic development funds pursuant to RCW 82.14.370.

2. Scope of Work: Recipient will use the funds distributed under this agreement pursuant to the intent and purpose of RCW 82.14.370. Further, Recipient is to use such funds only for the Public Facility Project described in Recipient's Economic Development Application submitted to the County which is attached to this document as Exhibit "A".

3. Payment: County will compensate Recipient a maximum of $300,000, chargeable to GL expenditure code # 342 58501XX5200. Recipient shall submit an invoice describing the use of funds to be distributed by the County and the County upon receipt of appropriate documentation shall distribute a portion of the awarded funding as determined by the County Contract Representative described in Paragraph 6.1 of this Contract. However, such payments shall not occur more often than monthly, through the County voucher system. The County Contract Representative has the sole discretion of determining what appropriate documentation is required in order for Recipient to receive a distribution of funds under this Agreement.

4. Recipient agrees that in the event the county or other state or federal agency finds that the funds distributed pursuant to this agreement violate any state or federal laws including but not limited to the primary purpose for which funds pursuant to this agreement are being given, Recipient agrees to return the funds provided by County under this agreement to County including any penalties and interest, and agrees to hold County harmless and indemnify County for distributing such funds contrary to state or federal law. Further, in the event that funds provided to Recipient under this agreement are used for a purpose other then what was originally described in its application of funds, then Recipient agrees to return such funds to the County upon demand.

5. The parties agree that Recipient is an independent contractor and not an employee, or agent of Skagit County. Recipient hereby agrees not to make any representations to any third party or to allow such third party to remain under the misimpression that Recipient is an employee, independent contractor, or agent of Skagit County. All payments made hereunder and all services performed shall be made and performed pursuant to this Agreement. Recipient will defend, indemnify and hold harmless the County, its officers, agents or employees from any loss or expense, including but not

limited to settlements, judgments, setoffs, attorneys' fees or costs incurred by reason of claims or demands because of breach of the provisions of this paragraph. Further the Recipient represents that all employees and sub-contractors are covered under Industrial Insurance in compliance with R.C.W. Title 51.

6. Administration: The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party in writing.

6.1 The County's representative shall be the Budget and Finance Director:
Trisha Logue
1800 Continental Place, Suite 100
Mount Vernon, WA 98273

6.2 Recipient's representative shall be the City Supervisor:
Eron Berg
325 Metcalf Street
Sedro-Woolley, WA 98284

All notices and payments mailed by regular post (including first class) shall be deemed to have been given on the second business day following the date of mailing, if properly mailed and addressed. Notices and payments sent by certified or registered mail shall be deemed to have been given on the day next following the date of mailing, if properly mailed and addressed. For all types of mail, the postmark affixed by the United States Postal Service shall be conclusive evidence of the date of mailing.

7. Defense & Indemnity Agreement: The Recipient agrees to defend, indemnify and save harmless the County, its appointed and elective officers and employees, from and against all loss or expense, including but not limited to judgments, settlements, attorney's fees and costs by reason of any and all claims and demands upon the County, its elected or appointed officials or employees for damages because of personal or bodily injury, including death at any time resulting therefrom, sustained by any person or persons and on account of damage to property including loss of use thereof, whether such injury to persons or damage to property is due to the negligence of the Recipient, its subcontractors, its elected officers, employees or their agents, except only such injury or damage as shall have been occasioned by the sole negligence of the County, its appointed or elected officials or employees. It is further provided that no liability shall attach to the County by reason of entering into this contract, except as expressly provided herein.

8. This Agreement shall become effective on September 20, 2011, per Resolution No. R20110298, and shall expire no later than 18 months from the effective date, or upon completion of the project, whichever is sooner. Work on the project shall be substantially complete within 18 months from the effective date of this Agreement. For the purposes of

this paragraph, the term "substantially complete" shall mean "when the contract work has progressed to the extent that the Recipient has full use and benefit of the facilities, both from the operational and safety standpoint, and only minor incidental work, replacement of temporary substitute facilities, or correction or repair remains to physically complete the total contract." Upon termination of this Agreement, all property acquired by the Recipient shall remain the Recipient's property, with no obligation to pay the County therefore.

9. The Recipient shall not assign any interest in this Contract and shall not transfer any interest in same without prior written County consent.

10. The Recipient will secure, at his own expense, all personnel required in performing said services under this Contract. Recipient shall be personally liable for applicable payroll, Labor and Industries premiums, and all taxes, and shall hold the County harmless from any claims related thereto.

11. Right to Review: This contract is subject to review by the State Auditor's office. The County or its designee shall have the right to review and monitor the financial components of this project. Such review may include, but is not limited to, on-site inspection by County agents or employees, and inspection of all records of other materials, which the County deems pertinent to the Agreement and its performance. Recipient shall preserve and maintain all financial records and records relating to this project under this Agreement for 3 years after contract termination, and shall make them available for such review, within Skagit County, State of Washington, upon request.

12. Acknowledgement of Funding: All books, informational pamphlets, press releases, research reports, articles, requests for information, signs or other public notices developed for or referring to the activities or programs funded by this agreement shall include the statement, "This project received funding from Skagit County," or similar language acknowledging Skagit County's funding contribution. Further, Recipient shall notify the County (or Administrative Services) no later than two weeks before a dedication ceremony or public event for any activities or programs funded by this agreement. Recipient shall also make efforts to verbally acknowledge the County's contributions to the Recipient at all dedication ceremonies or other public events relating to any programs or projects funded by this agreement.

13. Prevailing Wages: If Prevailing Wages are applicable to the work provided under the Agreement then Recipient shall submit a "Statement of Intent to Pay Prevailing Wages" prior to submitting first application for payment. Each statement of intent to pay prevailing wages must be approved by the Industrial Statistician of the Department of Labor and Industries before it is submitted to the County. Unless otherwise authorized by the Department of Labor and Industries, each voucher claim submitted by a Recipient for payment on a project estimate shall state that the prevailing wages have been paid in accordance with the pre-filed statement or statements of Intent to Pay Prevailing Wages on file with the public agency.

14. Nondiscrimination: During the performance of this contract, the Recipient shall comply with all federal and state nondiscrimination statutes and regulations. These requirements include, but are not limited to:

a. Nondiscrimination in Employment: The Recipient shall not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin, creed, marital status, age, Vietnam era or disabled veterans status, or the presence of any sensory, mental, or physical handicap. Such action shall include, but not be limited to, the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment selection for training, including apprenticeships and volunteers. This requirement does not apply, however, to a religious corporation, association, educational institution or society with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution or society of its activities.

15. Compliance with Applicable Law: The Recipient and all subcontractors of Recipient shall comply with, and the Department is not responsible for determining compliance with, any and all applicable federal, state, and local laws, regulations, and/or policies. This obligation includes, but is not limited to, nondiscrimination laws and/or policies; the Americans with Disabilities Act (ADA); Ethics in Public Service (RCW 42.52); Covenant Against Contingent Fees (48 C.F.R. Sec. 52.203-5); safety and health regulations. In the event of the Recipient's or a subcontractor's noncompliance or refusal to comply with any law or policy, the Department may rescind, cancel, or terminate the contract in whole or in part. The Recipient is responsible for any and all costs or liability arising from the Recipient's failure to so comply with applicable law.

16. Venue and Choice of Law: In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the Superior Court of the State of Washington in and for the County of Skagit. This Agreement shall be governed by the laws of the State of Washington.

17. No Separate Legal Entity: It is understood and agreed that this Agreement is solely for the benefit of the parties hereto and gives no right to any other party. No joint venture or partnership is formed as a result of the Agreement.

18. Termination of Contract for Cause

a. If, through any cause, the Recipient shall fail to fulfill in a timely and proper manner its obligations under this contract or if the Recipient shall violate any of its covenants, agreements, or stipulations of this contract, the County shall thereupon have the right to terminate this contract and withhold the remaining allocation if such default or violation is not corrected within thirty (30) days after submitting written notice to the Recipient describing such default or violation. Further, in the event Recipient fails to expend funds under this contract in accordance with State or Federal laws and/or the provisions of the agreement, the County reserves to right to recapture funds expended to Recipient in an amount equal to the extent of the noncompliance.

b. The County may unilaterally terminate all or part of this contract, or may reduce its scope of work and budget, if there is a reduction in funds by the source of those funds, and if such funds are the basis for this contract.

19. Termination for Public Convenience: The County may terminate the contract in whole or in part whenever the County determines, in its sole discretion, that such termination is in the best interests of the County. Whenever the contract is terminated in accordance with this paragraph, the Recipient shall be entitled to payment for actual work performed at unit contract prices for completed items of work. An equitable adjustment in the contract price for partially completed items of work will be made, but such adjustment shall not include provision for loss of anticipated profit on deleted or uncompleted work. Termination of this contract by the County at any time during the term, whether for default or convenience, shall not constitute a breach of contract by the County. If sufficient funds are not appropriated or allocated for payment under this contract for any future fiscal period, the County will not be obligated to make payments for services or amounts incurred after the end of the current fiscal period. No penalty or expense shall accrue to the County in the event this provision applies.

20. Nonassignability: Neither this contract, nor any claim arising under this contract, shall be transferred or assigned by the Recipient.

21. Taxes: All payments accrued on account of payroll taxes, unemployment contributions, any other taxes, insurance or other expenses for the Recipient or its staff shall be the sole responsibility of the Recipient.

IN WITNESS WHEREOF, the parties have executed this Agreement this ____ day of _____, 2011.

APPROVED:

City of Sedro-Woolley

BOARD OF COUNTY COMMISSIONERS
SKAGIT COUNTY, WASHINGTON

_____
Signature
(Date _____)

_____
Ron Wesen, Chairman

_____
Print Name

_____
Kenneth A. Dahlstedt, Commissioner

_____
Title

_____
Sharon D. Dillon, Commissioner

For contracts under $5000

Mailing Address:
325 Metcalf Street
Sedro-Woolley, WA 98284

_____
County Administrator
(Authorization per Resolution #R20030146)

Telephone No. 360-855-9922
Fed. Tax ID # _____
Contractor Lic. #. _____

Recommended:

_____
Department Head

_____
Budget and Finance Director

Approved as to Indemnification:

_____
Risk Manager

Attest:

_____
Clerk of the Board

Approved as to Form:

_____
Deputy Prosecuting Attorney

Exhibit A

Economic Development Public Facility Project Application

Board of County Commissioners · 1800 Continental Place · Mount Vernon WA 98273
voice 360-336-9300 · fax 360-336-9307 · www.skagitcounty.net/countycommissioners

SKAGIT COUNTY RECEIVED MAY 2 6 2011 COMMISSIONERS

Part 1 Applicant Information

Organization	City of Sedro-Woolley				
Address	325 Metcalf Street	State	WA	Zip	98284
Primary Contact	Eron Berg	Phone	3608559922	Fax	3608559923
E-mail Address	eberg@ci.sedro-woolley.wa.us				

Part 2 Project Information

RCW 82.14.370 (3) defines "public facilities" as bridges, roads, domestic and industrial water facilities, sanitary sewer facilities, earth stabilization, storm sewer facilities, railroad, electricity, natural gas, buildings, structures, telecommunications infrastructure, transportation infrastructure, commercial infrastructure, and port facilities in the state of Washington.

Project Name	Moore St (SR 20), Metcalf Street to Township Street (SR9) Lane Widening & Bicycle/Pedestrian Improvement Project	Location	City limits: Moore Street roundabout to Township Street
Project Type	construction	Start Date	Bid ad date: June 3rd, 2011; construction summer 2011 with completion Nov. 2011

Description: Addition of center turn lane, frontage improvements (including pedestrian and bike facilities) for newly rezoned commercial area in preparation for commercial redevelopment, lowering of highway to allow for over height loads (mostly from Janicki Industries) to get from factory to market and addition of gateway signage promoting downtown businesses and welcoming tourists to Sedro-Woolley. Gateway signage and roadway section under the trestle designs are attached for your information.

Part 3 Required Resources

Provide a budget that shows a breakdown of project costs. Please also provide a breakdown of current and proposed funding that clearly illustrates the total funding required for the project listed by individual funding source, including "out-of-pocket," as well as from the Public Facilities fund. Specify any conditions attached to any funding sources.

Budget			
	Total funding requested from Distressed/Rural County Sales and Use Tax to fund public facilities projects in Skagit County (not to exceed $500,000)	$	500,000.00
	Amount primary sponsor/organization is contributing to the project	$	217,000.00
Other Funding Source:	Transportation Improvement Board (TIB)	$	1,331,071.00
Other Funding Source:	WSDOT	$	20,000.00
Other Funding Source:	TIB Scope Change (pending approval)	$	391,477.00
Other Funding Source:	Additional City money	$	69,084.00
Other Funding Source:		$	
	Total Project Cost	$	2,528,632.00

Comments

Part 4 Growth Management

Planning

Pursuant to RCW 82.14.370(3) (a), public facilities must be listed as an item in the officially adopted county/city overall economic development plan or economic development section of the county's/city's comprehensive plan. Under which plan is the proposed project contained? (Please attach a resolution or ordinance documenting that the project has been approved by the appropriate authority.)

This project is in our six year TIP (copy attached).

Location

Please specify whether the project is located in an incorporated area or an Urban Growth Area.

Sedro-Woolley City limits

Zoning

Please identify the zoning district of the proposed project location.

Mixed Commercial/Central Business District/Industrial

Part 5 Value Proposition

Business

Is this project supportive of a specific business? If so, how many? Please provide names of businesses if known.

Janicki Industries, Neopolis Greek Restaurant, Truck Toys, Moonlighting Antiques, North Cascade Veterinary Clinic, Three Rivers, Mike & Sons, Rite Aid, Latte Da, the National Park Service and businesses located in Sedro-Woolley's central business district.

Jobs

Describe, in specific detail, how this project will create jobs and/or allow for the retention of current jobs.

This project will retain current jobs at existing business like Janicki Industries by allowing the company to move its product to market without relying on the good grace of a private landowner. This project will create jobs in three areas: 1. Revitalization of downtown through increased business traffic resulting from gateway signage; 2. Completion of frontage improvements which would be required of property owners to convert existing residences to the newly zoned commercial area; and 3. The addition of center turn lanes and pedestrian facilities will allow all of the existing businesses to expand through increased traffic resulting from new access from this project. The number one primary objective of this project is economic development following the recent rezone of most of the area within the project scope.

Job Detail

Provide information on the following: (a) the average wage, including health care benefits, and the number of new employees; and/or (b) the average wage, including health care benefits, and the number of retained employees. Please be specific as possible. *Generic information may not be scored.*

	Jobs Retained	Jobs Created 1-3 Years	Jobs Created 3-5 Years
Number of Jobs	470	75	55
Average Wage	$54,200	$60,000	$63,700
Benefits	$16,260	$18,000	$19,100
Total Compensation	$70,460	$78,000	$82,800

Infrastructure

How will this project improve local infrastructure capacity? How much additional capacity will be provided for future development? Please be specific in your answer.

This project will complete the required frontage improvements for nearly 50 parcels in the project area, allowing them to redevelop from residential to commercial. Also added is a continuous center turn lane which will allow all of these parcels better access to and from Moore Street. The road will be lowered to remove the under height BNSF crossing (currently at 14'6") which is extremely significant for Sedro-Woolley and Skagit County as Janicki Industries routinely runs loads that exceed that height from its Sedro-Woolley and Hamilton manufacturing plants. This project will allow for the full 16'0" load height that is needed.

Part 6 Project Timeline

Timeline Provide a timeline for the project. Please include specific deadlines for segments or phases of the project, including project begin date and completion date.

Ad date: June 3, 2011; construction following with completion late 2011; alternate timing if final funding is not available in June: ad date of February 2012 with completion in summer of 2012. This project is 90%+ designed (ad ready plans due by June 1), environmental is complete and no additional rights-of-way are required for construction.

Phasing If this is a phased project, to which phase will you apply this funding?

Not phased.

Completion Put an X in one of the boxes below to indicate when the project phase will be substantially complete. By checking the timeframe below, you agree that unspent contract funds will lapse after this time period and you will need to reapply for the funds.

- [X] 18 months
- [ ] 24 months
- [ ] 36 months
- [ ] 48 months
- [ ] Unknown. Seeking other matching funds. (Please include specific information regarding the other funds in the Required Resources section of the application.)

Efforts So Far Summarize efforts you've taken to date regarding the project. What planning has taken place? Have engineering reports and feasibility studies been prepared? If so, describe them.

This project is 90%+ designed (ad ready plans due by June 1), environmental is complete and no additional rights-of-way are required for construction. If funded by Skagit County in time, we plan to be in construction in July. If not in time for this year, we will go to ad in February of 2012 and complete the project next summer.

Part 7 Action Plan

What quantifiable measures are you going to track to measure the success of the project?

We will track the redevelopment of the parcels fronting the project area to quantify the number of new or expanded businesses and will seek voluntary data from those businesses regarding the number of jobs created.

Part 8 Miscellaneous

Include information related to the project, if any, that would assist the Economic Development Advisory Committee and the Board of County Commissioners in evaluating the funding request, such as emergency declarations, bird-in-hand industry, volunteer efforts, links to other priority projects, etc.

This project is ready to go, but for, this last funding request and funding for a small scope change to TIB (scope change was approved in April and this request will be made in June). This project links the recent Township sidewalk project, Fruitdale/McGarigle Road pedestrian improvements with the SR 20 Roundabout project to the west, completing a gap in improvements.

Note that job data was provided by Janicki Industries (contact: Lisa Janicki); other jobs will most certainly be retained and created at the businesses that currently exist along this project route and through conversion of existing homes to new businesses. We did not attempt to capture job retention or creation information for those businesses. See also support letter from Janicki Industries from March 2, 2009; this has long been a critical project for Sedro-Woolley and eastern Skagit county.

Part 9 Applicant Certification

The applicant here certifies and affirms (1) that it does not now, nor will it during the performance of any contract arising from this application, unlawfully discriminate against any employee, applicant for employment, client, customer, or other person who might benefit from said contract, by reason of age, race, color, ethnicity, sex, religion, creed, place of birth, or degree of handicap; (2) that it will abide by all relevant local, state and federal laws and regulations; and (3) that it has read and understood the provisions and restrictions in each part above and will comply with all provisions thereof.

Signature [signature] Date 5/24/2011

Printed Name Mike Anderson Title Mayor

CITY COUNCIL AGENDA
REGULAR MEETING

SEP 28 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3F

SCOG MEMEBERS INTERGOVERNMENTAL

AGREEMENT Dated May 18, 2011

Pursuant to Chapter 36, Laws of 1959 as amended, and RCW 36.64.080 be it resolved that the Cities of Anacortes, Burlington, Mount Vernon, Sedro-Woolley, Townships of Concrete, Hamilton, La Conner, Lyman, Skagit County, Skagit PUD #1, Port of Anacortes, Port of Skagit County, Skagit Transit, Swinomish Tribal Community and the Samish Indian Nation, do hereby organize and establish a regional agency, hereafter referred to as a Council of Governments.

Section I

The name if the Council so organized and established shall be the Skagit Council of Governments. The address and registered office shall be 204 W. Montgomery Street Mount Vernon WA, 98273 or such place as the council shall designate by resolution.

Section II

PURPOSE

A. The purpose and responsibility of the Council shall be as follows: The council shall act as a research and fact-finding agency of the members thereof. To that end, it may make such surveys, analyses, researches and reports as are generally authorized or requested by majority of its members. The Council, upon such authority or requests my also:

1) Make inquiries, investigations, and surveys concerning the resources of Skagit County;

2) Assemble and analyze the data thus obtained, and formulate plans for the conservation of such resources and the systematic utilization and development thereof;

3) Make recommendations from time to time as to the best methods of such conservation, utilization and development;

4) Cooperate with other commissions and public and private agencies of Skagit County, WA State, and the United States in planning and conservation endeavors;

5) Develop programs of Intergovernmental cooperation for the benefit of member agencies;

6) Conduct programs of local assistance for member agencies.

B. The Council shall, insofar as possible:

1) Coordinate general planning among and for the participating members;

2) Provide technical planning assistance within budget limitations to all participating members.

3) Will give a written report to the members each year.

Section III
BYLAWS

The Authority to make amend, or repeal bylaws is vested in the council so long as such bylaws are consistent with the provisions of these articles. Upon the execution of this Agreement, the Council thereof shall meet and adopt comprehensive and complete Bylaws for the operation of the Skagit Council of Governments.

Section IV
BOUNDARIES

The Council may be expanded to include areas and agencies which are economically and socially related to the Skagit County area. The initial boundaries of the regional planning district shall be conterminous with the boundaries of Skagit County, Washington.

Section V
MEMBERSHIP

Voting membership to the Council shall be open to designated elected officials representing Skagit County and city governments, the Ports, the four tribes within Skagit County, and special districts having county-wide jurisdiction, publicly mandated and whose officials are publicly elected.

Associate membership shall be open to other governmental and non-governmental agencies interested in regional planning as shall be elected to membership by a majority of the Council. Such members shall be non-voting, but shall have all other privileges of membership. Memorandum of Agreement will not be required, but a simple exchange of letters shall suffice to confer associate membership. Dues to be paid by associate members will be established by the Council through its normal budget setting process.

Section VI
OFFICERS

The officers of the Council shall consist of a Chairperson, Vice-Chairperson.

Section VII
Meetings

Meeting of the Council shall be held at such times and places the Council shall determine and specify in its bylaws.

Section VIII
ALLOCATION OF COSTS

Skagit County, cities, and towns, or any other entities holding membership in the Council shall contribute to the expenses of such council if any, pursuant to the budgetary laws set forth in the Revised Code of Washington, to applicable resolutions and/or ordinances of such member entities, and to such bylaws as may be adopted by the Council; provided, however, that services and facilities may be provided by such participating agencies in lieu of assessment.

All general purpose electoral-governmental entities shall be assessed according to a per capita ratio; special purpose electoral entities and associate members in good standing shall be assessed at a mutually agreed upon rate, to be established annually.

Section IX
DEPOSITS AND DISBURSEMENTS

Pursuant to RCW 43.09.285 all funds and appropriations paid to the Council shall be deposited with the Skagit County Treasurer to the account of the Skagit Council of Governments. Disbursements shall be made only by the Skagit County Treasurer upon warrants drawn by the Skagit County Auditor and approved in accordance with the Skagit Council of Governments Bylaws.

In the office of the Skagit County Treasurer. Expenses and lawful claims against the Council shall be disbursed by the Skagit County Treasurer upon warrants drawn by the County Auditor upon vouchers approved by the Executive Board and signed by the Chairperson and the Secretary.

Section X
DIRECTOR AND CONSULTANTS

The Council by action designated in the bylaws, may appoint a Director and employ any consultants or staff deemed necessary to carry out the purpose and functions of the Council. No part of the earnings or property of the council shall inure to the benefit of any private person, except that the council is authorized to pay reasonable compensation for services rendered and make payments in furtherance of its purpose.

Section XI
CONTRACTS AND CONTRACTUAL SERVICES

The Council may contract generally and enter into any contract or reasonable agreement with the Federal Government, the State, any municipal corporation and/or other governmental or private agency for the purpose of regional planning and/or conducting studies of regional problems of mutual concern, and may receive grants and gifts in furtherance of such programs.

Section XII
Duration

The Council shall have perpetual existence, until dissolved by a vote of 2/3 of the voting members.

Section XIII
DISSOLUTION

In case of dissolution of the Council, any unexpended funds and property are to be returned to members on the same pro rata basis as collected.

Section XV

Liability

No member representative shall be personally liable for any monetary damages for conduct, action, or inaction as a member representative, unless such conduct involves intentional misconduct or a knowing violation of law.

Section XIV

AMENDMENT

This agreement may be amended in whatever manner the Council shall determine and specify in its bylaws, subject to ratification by the Governing Bodies of the members.

Section XV

ADOPTION

Adopted by the Skagit Council of Governments at a meeting duly called and held on the 18th day of May, 2011

XVI

Indemnification

The Council shall defend, indemnify, and hold harmless all employees. No member representative shall be personally liable for any monetary damages for conduct, action, or inaction as a member representative, unless such conduct involves intentional misconduct or a knowing violation of law.

_____ Dated: _____

Mayor Ramon Hayes, Town of La Conner

_____ Dated: _____

Mayor Dean Maxwell, City of Anacortes

_____ Dated: _____

Mayor Ed Brunz, City of Burlington

_____ Dated: _____

Mayor Judd Wilson, Town of Concrete

_____ Dated: _____

Mayor Tim Bates, Town of Hamilton

_____ Dated: _____

Mayor Debra Heinzman, Town of Lyman

_____ Dated: _____

Mayor Bud Norris, City of Mount Vernon

_____ Dated: _____

Mayor Mike Anderson, City of Sedro-Woolley

_____ Dated: _____

Commissioner Ray Niver, Port of Anacortes

_____ Dated: _____

Commissioner Jerry Kaufman, Port of Skagit

_____ Dated: _____

Skagit County Commissioner Sharon Dillon

_____ Dated: _____

Skagit County Commissioner Ken Dahlstedt

_____ Dated: _____

Skagit County Commissioner Ron Wesen

_____ Dated: _____

Councilwoman Joanne Valentine, City of Burlington
Skagit Transit Representative

_____ Dated: _____

Chairman Tom Wooten, Samish Indian Nation

_____ Dated: _____

Chairman Brian Cladoosby, Swinomish Tribal Community

_____ Dated: _____

Commissioner Jim Cook, Skagit PUD

Attest:

_____ Dated: _____

James Mastin, Interim Executive Director
Skagit Council of Governments

CITY COUNCIL AGENDA
REGULAR MEETING

SEP 28 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3g

CITY OF SEDRO-WOOLLEY
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-9922
Fax (360) 855-9923

Eron M. Berg
City Supervisor/City Attorney

MEMO TO: City Council
FROM: Mark A. Freiberger, PE
RE: **Possible Interlocal Agreement**
Skagit County Conservation District
Public Education & Involvement Project in support of the
NPDES Phase II Stormwater Permit WAR-04-5555
DATE: September 21, 2011 (for Council action September 28, 2011)

ISSUE: Should the Council authorize the Mayor to sign the attached Interlocal Agreement with Skagit County Conservation District for activities related to NPDES Permit compliance in the amount of $10,188?

BACKGROUND:

The city operates our Stormwater Utility under authority granted by the State of Washington, and must perform per the requirements of National Pollution Discharge Elimination System Phase II Stormwater Permit WAR-04-555 (Permit) issued to the City on January 17, 2007, and originally expiring February 12, 2012. The permit expiration date has been extended by the State to February 12, 2013. The Permit includes a number of program activities and implementation milestones to achieve compliance with the federal Clean Water Act. These activities are phased in over the life of the Permit (2007-2011). We anticipate that compliance activity requirements will continue in the new permit. The city has met compliance requirements to date. The Stormwater program is primarily the responsibility of the Public Works Department, with support from the Finance Department and Planning Department.

Permit requirements involving Public Education & Outreach and Public Participation/Involvement have primarily been met to date under a two year Interlocal Agreement with Skagit Conservation District. SCD has also provided work to support our Illicit Discharge Detection & Elimination program. That agreement expired on June 31, 2011. The previous Interlocal made the city part of a larger program involving Skagit County and the cities of Burlington, Mount Vernon and Anacortes. Working together, the five agencies were able to take advantage of production of brochures relevant to stormwater pollution prevention that are common to all the agencies, public meetings and training events meeting outreach requirements that were area wide, and coordination of volunteer programs that support permit activities. SCD presented their 2010 Annual Report to council at the Council Workshop held on June 1, 2011.

The bulk of the SCD work under the old Interlocal was funded by an Ecology grant and by Mount Vernon. Our cost for the previous agreement consisted of laboratory work to analyze Brickyard Creek sampling done by the Stream Team volunteer network. The sampling work was performed by Wastewater Treatment Facility staff during normal working hours, and was valued at $25,491 over the term of the agreement, which provided matching funds for SCD towards their Ecology grant. The Ecology grant has expired and is no longer available to fund these activities.

DISCUSSION:

SCD has proposed to continue the activities under a cost sharing formula involving the same agencies as before. Skagit County and the three cities have all agreed to participate. The attached Interlocal would include Sedro-Woolley in the program, and allow us to take advantage of these continuing permit related activities.

The initial estimate by SCD for our share, which was determined by an even split among the five agencies involved, was $21,000 per year for four years, totaling $84,000. See the attached Exhibit B worksheet for a breakdown of the proposal. Due to budget limitations, staff has negotiated a reduced agreement for Sedro-Woolley totaling $10,182 for one year, with the option to renew one additional year at the same cost.

The reduced scope of work eliminates the Stream Team Program for Brickyard Creek, which will also eliminate the WTF laboratory work. It also excludes Storm Drain Labeling, which is essentially complete for Sedro-Woolley. It excludes Educational Workshops for Local Contractors and Businesses, which we believe are being hosted by ReSources separately, and some literature production. The agreement preserves enough activities such that it should still meet our Public Education & Outreach requirements.

While even the reduced cost is difficult for our stormwater budget, the alternative is for staff to produce activities and materials to meet these requirements independently. We may well need to do this in subsequent years, but due to short staffing and current workload, prefer to utilize the SCD services for 2012. We have remaining Ecology Stormwater Capacity Grant funds that are available to fund the work. We also are under consideration for an additional Ecology Local Source Control Grant which would fund half of the cost, as well as provide staff time for related activities.

ANALYSIS:

Funds for this work will be from our Ecology Capacity Grant, totaling $96,540. We will carry forward $43,158 to 2012, of which we will budget $32,000 for salaries, leaving $13,158 available.

MOTION:

Move to authorize Mayor Anderson to enter into the Interlocal Agreement with Skagit Conservation District for activities related to NPDES Permit compliance in the amount of $10,188.

After Recording Return to:

CITY OF SEDRO-WOOLLEY
325 METCALF STREET
SEDRO-WOOLLEY, WA 98284

INTERLOCAL COOPERATIVE AGREEMENT

BETWEEN

SKAGIT CONSERVATION DISTRICT
AND
THE CITY OF SEDRO-WOOLLEY

WHEREAS, Phase II municipal stormwater permits require that municipalities develop, and implement a stormwater management program ("SWMP") designed to reduce pollutants to the maximum extent practicable and that minimum control measures in the SWMP include: (i.) Public education and outreach on stormwater impacts, (ii.) Public participation/involvement opportunities, (iii.) Detection and elimination of illicit discharges to the MS4 (a regulatory program), (iv.) Post-construction stormwater management in new development and redevelopment (a regulatory program), and (v.) Pollution prevention and good housekeeping for municipal operations; and,

WHEREAS, Sedro-Woolley and the Skagit Conservation District would achieve mutual benefit from an agreement which would allow the District to perform work on a reimbursable basis to assist Sedro-Woolley complete certain tasks related to the implementation of NPDES Phase II permit requirements; and,

WHEREAS, working cooperatively on these programs can greatly aid in their overall quality, efficiency and economy.

NOW THEREFORE, THIS AGREEMENT (herein the "Agreement") is made and entered into by and between Skagit Conservation District, a Washington special purpose district and quasi-municipal corporation ("District") and Sedro-Woolley, a political subdivision of the State of Washington ("City") pursuant to the authority granted by Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT. District and City may be individually referred to herein as "party" and may be collectively referred to herein as the "parties." In consideration of the following terms and conditions, the parties mutually agree as follows:

1. GENERAL PURPOSE: The City will reimburse the District in an amount not to exceed Eighty Four Thousand Dollars ($10,188) of the District's actual costs of planning and carrying out specific public education and outreach activities related to stormwater management, as specified in Exhibit A (attached hereto and incorporated by reference). The City intends to use these activities to fulfill its responsibilities under National Pollution Discharge Elimination System Phase II (NPDES II) permit Program under Section S5.C.1 and Section S5.C.2. This work is in addition to a previous agreement between the City and the District for similar services (Agreement dated June 11, 2008), which successfully completed several initial tasks associated with NPDES II permit compliance, including LID workshops, stormwater education in schools, and coordination of the Stream Team volunteer program.

2. RESPONSIBILITIES:

2.1 The City shall:

2.2.1 Verify with the State Department of Ecology that tasks and deliverables performed and submitted pursuant to this Agreement meet the City's NPDES, Phase II requirements.

2.2.2 Reimburse the District for the work as identified in Exhibit A (Scope of Work and Schedule), in accordance with the terms of this Agreement.

2.2.3 The City is not obligated to perform or provide any other services, duties, or responsibilities except as otherwise specified pursuant to the terms of this Agreement.

2.3 The District shall:

2.3.1 Provide the work, services, and deliverables as described in Exhibit A (Scope of Work and Schedule), in accordance with the terms of this Agreement.

2.3.2 Be responsible for overseeing and managing volunteers identified in Exhibit A. All volunteers shall be volunteers of the District and not volunteers of the City.

2.3.3 Be responsible and liable for all costs and expenses associated with all work involved in the education and outreach plan not reimbursed under this Agreement unless this Agreement is subsequently amended as provided for in Section 9 of this Agreement.

3. TERM OF AGREEMENT: The term of this Agreement shall be effective upon the date of mutual execution through December 30, 2012, unless sooner terminated pursuant to the terms herein. This agreement includes the option to extend the agreement by one year at the Annual Cost amount shown in Section 4.3.

4. MANNER OF PAYMENT:

4.1 The District shall submit invoice(s) in a timely manner and include with each invoice a report fully documenting each task and work accomplished. Invoices shall be accompanied by any backup documentation pertaining to the invoice as may be requested by the County.

4.2 Upon receipt of invoices from the District pursuant to 4.1, the City shall pay the District for expenditures based on satisfactory performance and progress toward deliverables as provided and documented in reports accompanying detailed invoices for services. The City shall pay such invoice(s) to the District within thirty (30) days. Such payment shall be full compensation for work performed or services rendered, including, but not limited to all labor, materials, supplies, equipment, and incidentals necessary to complete the work (as identified and described at Exhibit A).

4.3 The maximum funding to be provided by the City to the District pursuant to this Agreement is limited to a total amount not to exceed Ten Thousand One Hundred and Eighty-eight Dollars ($10,188) for the services performed by the District as outlined in Exhibit A (Scope of Work and Schedule). The parties agree that no more than Ten Thousand One Hundred and Eighty Eight Dollars ($10,182) is eligible for reimbursement by the County to the District in any single calendar year.

5. ADMINISTRATION: The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

5.1 The City's representative shall be the City of Sedro-Woolley NDPES Stormwater Permit Coordinator of Sedro-Woolley Public Works.

_____5.2 District's representative shall be the District Manager.

6. TREATMENT OF ASSETS AND PROPERTY: No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

7. INDEMNIFICATION: Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to the City by reason of entering into this contract except as expressly provided herein.

8. TERMINATION: Any party hereto may terminate this Agreement upon thirty (30) days notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

9. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS: The Agreement may be changed, modified, amended or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

10. SEVERABILITY: In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

11. DOCUMENTS AND MATERIALS PRODUCED: The City shall have the right to use and distribute any and all documents, writings, data, public records or other materials prepared by either party in connection with performance of this Agreement. When using material that is funded under the Implementation Grant, the parties shall acknowledge the funding source.

12. DEFAULT: Failure of the parties to comply with the terms of this Agreement shall constitute default.

13. VENUE AND CHOICE OF LAW: In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this agreement, the venue of such action of litigation shall be in the Superior Court of the State of Washington

in and for the County of Skagit. This agreement shall be governed by the laws of the State of Washington.

14. NO THIRD PARTY BENEFICIARIES: This Agreement is not intended to nor does it create any third party beneficiary or other rights in any third person or party, including, but not limited to, any agent, contractor, subcontractor, consultant, volunteer, or other representative of either party.

15. ENTIRE AGREEMENT: This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

EXECUTED, this _____ day of _____, 2011, for the SKAGIT CONSERVATION DISTRICT:

SKAGIT CONSERVATION DISTRICT:

By: _____
Janet McRae
Chair

Mailing Address:

Skagit Conservation District
2021 E. College Way, Suite 203
Mount Vernon, WA 98273-2373

IN WITNESS WHEREOF, the parties have executed this Agreement this ___ day of _____, 2011.

APPROVED:

_____
MIKE ANDERSON, Mayor

Recommended:

By:_____
Director of Public Works

By:_____
Finance Director

Approved as to Indemnification:

Required Tasks and Deliverables:
The District shall:

- Design and produce one media advertisement annually. The media format may include newspaper, social media, internet, and radio.
- The District will coordinate the advertisement with the Skagit County Public Information Officer.

Approved as to Form:

By:_____
City Supervisor

Exhibit A – Scope of Work and Schedule

Public Education, Outreach, Participation and Involvement Project for National Pollution Discharge Elimination System (NPDES) Phase II Compliance

1.0 Public Education, Outreach, Participation and Involvement

The District, with City assistance, shall develop and implement activities for addressing the "Public Participation and Involvement" minimum control measure, one of six measures required to meet the conditions of the NPDES stormwater permit. The essential goals include improving public knowledge of local stormwater issues, receiving public input on potential solutions, gaining public support for the compliance with the City's Comprehensive Stormwater Management Plan (CSMP), and developing a volunteer workforce to help implement this plan.

Task BMP 1-1 Host Two Private Stormwater Facility Maintenance Workshops

The District will organize and implement two public workshops focusing on Private Stormwater Facility Maintenance. The target audience for this group will be Home Owner Associations, private stormwater facility owners, and the general public. These workshops will focus on educating the audience on their responsibilities to maintain their private stormwater facilities.

Required Tasks and Deliverables:

The District, with City assistance, shall develop and deliver two partial day or evening workshops. The first workshop shall occur before June 30, 2013. The second workshop shall occur before June 1, 2015. The workshops shall include:

1) An overview of the key components of identifying private stormwater maintenance and a field trip to visit several private facility examples.
2) An assessment of the attendees behavior change as a result of the workshop.

Annual Cost: $1,500

- Plus 10% Administration fee = **$1,650**

Task BMP 1-2 – Watershed Masters Volunteer Training Program

This volunteer training program will target residents of all major drainage basins within the lower Skagit, including Big Lake on an annual basis. This program consists of 40 hours of training and will focus on: providing presentations/training to the Watershed Masters (WSM) on City stormwater program priorities through classroom and fieldtrip activities. Topics covered include, but are not limited to: watershed history and geology, water quality, stream ecology, salmon, wetlands and soils, agricultural and forestry Best Management Practices (BMPs), stormwater

runoff and activities that landowners can do to reduce stormwater water quality impacts, and low impact development practices. Content of coursework will be coordinated with City staff to meet the needs of City stormwater program. Participants will return 40 hours of volunteer service and make a commitment to reduce stormwater runoff impacts in their own backyards.

Required Tasks and Deliverables:
The District shall organize and present one Watershed Masters Program annually beginning in 2011. The District shall:

1. Perform recruitment of interested community residents to participate in the annual Watershed Masters Volunteer Training Program.
2. Document participation and volunteer activities conducted by the Watershed Masters volunteers.
3. Coordinate and track volunteer hours contributed by participants.
4. Include program evaluation forms that will be completed by the participants to determine behavior changes implemented.
5. Participants will report BMPs implemented at home based on education learned during training.

Annual Cost: $1,500

- Plus 10% Administration fee = **$1,650**

Task BMP 1-3 – Volunteer Water Quality Monitoring Program (Skagit Stream Team)

The primary purposes of the program are: to inspire stewardship in regards to water quality by educating citizens about land use, stormwater runoff, and nonpoint source pollution and involving them in the process of water quality data gathering; to develop and implement a routing sampling program that can be used to assess water quality trends, characterize the existing water quality of priority freshwater drainages, and to determine how water quality conditions compare to State Standards; and to document improvements in water quality as a result of the implementation of BMPs. A Quality Assurance/Quality Control (QA/QC) plan and lab plan for the Stream Team program have been approved by the Washington Department of Ecology. Water quality conditions samples by volunteers currently include: fecal coliform bacteria, dissolved oxygen, water temperature, turbidity, and total depth.

The City will not participate in this Task during the period of this agreement.

Task BMP 1-4 – Storm Drain Labeling

Storm drain labeling involves labeling storm drains with messages warning citizens not to dump pollutants in the streams. Based on previous experience, the District

recommends the use of permanent marking methods, such as ceramic tiles, plastic markers, or metal markers (rather than painting with stencils). Permanent storm drain markers are more cost effective in the long term, more durable and aesthetic, and are environmentally friendly. Volunteer groups, such as the Watershed Masters, Skagit Stream Team, Skagit Valley College students, and Boy Scouts/Girl Scouts can be trained to install the labels.

The City will not participate in this Task during the period of this agreement.

2.0 Public Education and Outreach

The District, with City assistance, shall develop and implement activities for addressing the "Public Education and Outreach" minimum control measure, one of six measures required to meet the conditions of the NPDES stormwater permit. The goal of this minimum control measure is to facilitate greater public awareness of the sensitivity of local surface waters, their beneficial uses, the detrimental effects of polluted storm water and illicit discharges, and measures that can be taken to reduce stormwater pollution.

Task BMP 2-1 – Backyard Conservation Stewardship Short Course Program

This annual 6-week short course will feature tips for native plant landscaping, environmentally friendly gardening practices, composting, mulching, nutrient management, pest management, landscaping for wildlife, water conservation tips, low impact development practices for homeowners, and overall, backyard practices that will reduce stormwater runoff pollution. The training will be provided by local experts. Participants will attend 6 evening sessions (once a week) and two Saturday field excursions. The following topics will be included in the training: Proper use and disposal of pesticides, herbicides, and fertilizers, and use of non-toxic alternatives; use of native plants in landscaping, reducing size of lawn,; preventive car maintenance, including proper disposal of used oil, coolant, and other toxic materials; use of permeable pavement for driveways and patios; proper disposal of pet waste and livestock waste and composting.

<u>Required Tasks and Deliverables:</u>

The District shall organize and present one Backyard Conservation Stewardship Course Program annually beginning in 2012. The District shall:

- Organize and conduct the Backyard Conservation Stewardship program in partnership with local jurisdictions on an annual basis.
- Engage in recruitment of interested residents to participate in the annual Backyard Conservation Stewardship program.
- Coordinate with, and involve businesses, schools, parks, and other organizations in establishing backyard stewardship practices that will promote habitat for wildlife and reduce stormwater runoff.

- Provide one evening or Saturday public workshop promoting backyard conservation practices annually beginning in 2012.
- Document participation of class attendees.
- Ensure that program evaluation forms are completed by the participants to determine class effectiveness. Follow up surveys will be conducted on an annual basis to determine whether or not class participants have made behavior changes to reduce stormwater impacts based on what was learned in the program.

Annual Cost: $1,500

- Plus 10% Administration fee = **$1,650**

Task BMP 2-2 – Resource Materials/Education for Local Schools

The District currently maintains an enviroscape watershed model that is available for presentations or available for teachers (or other agency personnel) to borrow. An information packet, which contains a brief description of all materials available to teachers will be compiled and mailed to all elementary schools located throughout Skagit County (urban and rural areas) each September, to all elementary school teachers as well as science and agriculture teachers at the middles school and high school levels, home schools, and other groups. Information about other District educational programs, such as Envirothon, 6th Grade Conservation Tour, and the Annual Natural Resource Poster Contest, and live presentations available by District staff will be included in the packet.

Required Tasks & Deliverables:

The District shall prepare and send out an annual teacher's packet, provide classroom presentations, and provide educational resources to teachers. The District shall:

- Incorporate a special section in the annual teacher's packet that will specifically highlight stormwater and low impact development education materials and presentations available.
- Provide classroom presentations on stormwater and water resources to local schools (and other groups) as requested. The enviroscape model and the "Raindrop Walk" are both useful tools in teaching youth about stormwater and water quality.
- Distribute 300 teacher's information packets highlighting resources on stormwater and water quality available through the District office.
- Give a minimum of 10 presentations each year to local schools or other youth groups on pollution from stormwater.

Annual Cost: $1,100

- Plus 10% Administration fee = **$1,210**

Task BMP 2-3 – Stormwater Poster Contest for Local Youth

Creating a contest for youth in our community will provide an opportunity to directly involve them in learning/teaching about stormwater impacts with the added benefit of generating parent participation and gaining their awareness. The contest will directly involve local school age youth in designing a poster for stormwater awareness in Sedro-Woolley. A winning entry from each jurisdiction will be selected. The winning entry(s) may be used on various stormwater educational materials, such as brochures, fliers, bookmarks, newspaper ads, and more.

Required Tasks and Deliverables:

The District shall organize and hold one Stormwater Poster Contest on or before June 30, 2013. The District shall:

- Coordinate with local jurisdictions to design the logistics for hosting a logo, theme, and/or poster contest for local youth specifically focusing on stormwater pollution prevention that students can participate in at home or at school.
- Promote the contest theme and rules to all schools (could be promoted with the annual teachers packets discussed above and during classroom presentations). After mailing information, follow up with phone calls to interested teachers/classrooms.
- Provide classroom presentations to promote the contest and to provide background education about stormwater issues will be conducted as requested.
- Coordinate with participants, collect and maintain all entries.
- Coordinate with local jurisdictions to arrange judging.
- Coordinate recognition event for winner(s).
- Incorporate winners posters in stormwater education information posted to the City's website.

Annual Cost: $1,696

- Plus 10% Administration fee = **$1,866**

Task BMP 2-4 – Stormwater Educational Brochures and Fact Sheets

The District will develop a series of educational brochures and/or fact sheets for the general public and specific audiences (homeowners, businesses, landscapers, property managers, engineers, developers, contractors, land use planners, etc) on various topics that could range from landscaping, low impact development, recycling, disposing of motor oil and other hazardous materials, water conservation, pet waste management, etc. Where the demographics are applicable, the information may also be printed in Spanish.

Required Tasks and Deliverables:

The District shall develop and mail stormwater related education brochures, fact sheets, and posters to a variety of target groups. The District shall:

- Coordinate with the City and local citizen groups to choose stormwater education topics that will be used to generate a series of brochures and/or fact sheets.
- Oversee printing and distribution of these materials.
- A minimum of 4 educational brochures/fliers will be developed & distributed.
- Develop educational materials to target mobile businesses, landscapers, homeowners, and property managers.
- Complete and distribute two educational fliers or brochures on or before June 30, 2013.
- Complete and distribute two educational posters on or before June 15, 2015.

Annual Cost: $1,960

- Plus 10% Administration fee = **$2,156**

Task BMP 2-5 – Workshops for Local Contractors and Businesses

The District will organize and implement two public workshops focusing on topics that include green roofs, pervious pavement, rain gardens, bioinfiltration, pervious pavement, and pervious concrete. The target audience for these workshops will be local contractors and businesses.

The City will not participate in this Task during the period of this agreement.

Task BMP 2-6 – PSSH Community Event Display Board

The District will coordinate with all of the Skagit County Municipal NPDES Phase II permittees to design and produce a community event display board. The display board will emphasize the Puget Sound Starts Here (PSSH) logo and materials and be displayed at various community events throughout Skagit County.

The City will not participate in this Task during the period of this agreement.

Task BMP 2-7 – Produce Media Advertisements

The District will coordinate with all of the Skagit County Municipal NPDES Phase II permittees to design and produce a variety of media advertisements to promote the permittees stormwater pollution hotline numbers.

The City will not participate in this Task during the period of this agreement.

TOTAL ANNUAL COST ALL TASKS **$10,182**

CITY COUNCIL AGENDA
REGULAR MEETING

SEP 2 8 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 3b

Planning Department
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-9929
Fax (360) 855-0733

MEMO:

To: City Council
Mayor Anderson

From: Jack Moore
Planning Director/ Building Official

Date: September 23, 2011

Subject: Letter of commitment for Regional Planning Grant/ Skagit Regional Consortium

ISSUE

Submittal of the Sedro-Woolley portion of Regional Planning Grant application

HISTORY

In August, a pre-application was submitted for consideration in the HUD Sustainable Communities Regional Planning Grant program. Our pre-application was approved.

This grant, if awarded will fund numerous projects that will benefit Sedro-Woolley:

1. Brickyard Creek Sub-Area Plan
    A. Design for stormwater conveyance and flood control
    B. Critical Areas study and restoration plan
    C. Recreation area/ trails/ open space design

2. Land Use Capacity Analysis

3. Comprehensive Plan Updates

4. Municipal Code Updates

5. Design Review Manual Updates

RECOMMENDED ACTION

Make a motion to authorize the mayor to sign the attached letter of commitment for the Regional Planning Grant

City of Sedro-Woolley
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-0771
Fax (360) 855-0733

September 22, 2011

Honorable Ron Wesen
Chair, Board of Commissioners
Skagit County
1800 Continental Place
Mount Vernon, WA 98273

Dear Commissioner Wesen:

The City of Sedro-Woolley is pleased to submit this letter of commitment for our participation in the HUD Sustainable Communities Regional Planning Grant being proposed by the Skagit Regional Consortium, for which Skagit County is serving as the lead applicant.

Sedro-Woolley would have lead responsibility for the following project(s) being proposed as part of the consortium's grant: Development of Affordable Multi-Family Housing in Sedro-Woolley and the Brickyard Creek Sub-Area Plan. In addition, we would participate in the Skagit Regional Consortium's development and review of a regional plan for sustainable development and other regional components of the consortium's grant proposal, including development of a regional affordable housing plan and a regional non-motorized transportation plan. Conservatively, we anticipate that our organization would contribute $90,000 in personnel costs, fringe benefits and contractual services to the overall consortium effort. Our own projects will also include significant community involvement, which should provide additional cost-share, although we recognize that this cannot be counted toward the cost-share in the proposal since the community participants cannot submit letters of commitment at this time.

If the Skagit Regional Consortium's proposal is approved, Sedro-Woolley is prepared to enter a formal consortium agreement no later than 120 days after the effective start date of the cooperative agreement. The formal processes that the consortium would use to achieve interjurisdictional approval of a regional plan for sustainable development are generally already in place as part of the legal and political framework to implement Washington State's Growth Management Act in Skagit County. In conjunction with these processes, we are committed to helping the consortium involve a wide range of the community in development and implementation of the regional plan, including private sector and business interests that play significant roles in regional economic growth as well as diverse populations that are traditionally underrepresented in long-range regional planning efforts, including minorities, youth, farm workers, rural residents, and local Indian tribes.

Thank you for Skagit County's willingness to serve as the lead applicant on behalf of the consortium. If you or representatives of HUD have any questions about Sedro-Woolley's participation in this project, please do not hesitate to contact our city's planning director, Jack Moore, at jmoore@ci.sedro-woolley.wa.us or (360)855-0771.

Sincerely,

Mike Anderson, Mayor

cc: Jack Moore, Planning Director/Building Official, City of Sedro-Woolley
Kirk Johnson, Senior Planner, Skagit County PDS

CITY COUNCIL AGENDA
REGULAR MEETING

SEP 28 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 4

SUBJECT: PUBLIC COMMENT

Name:
Address:
Narrative:

Name:
Address
Narrative:

Name:
Address:
Narrative:

Name:
Address:
Narrative:

Name:
Address:
Narrative:

NEW BUSINESS

CITY COUNCIL AGENDA
REGULAR MEETING

SEP 28 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 5

CITY OF SEDRO-WOOLLEY
Sedro-Woolley Municipal Building
325 Metcalf Street
Sedro-Woolley, WA 98284
Phone (360) 855-9922
Fax (360) 855-9923

Eron M. Berg
City Supervisor/City Attorney

MEMO TO: City Council
FROM: Eron Berg
RE: Smoking in Parks
FOR MEETING: September 28, 2011

ISSUE: Should the Council adopt the attached ordinance modifying the SWMC to prohibit smoking in Memorial Park, Hammer Heritage Square and within 25 feet of city owned playgrounds?

BACKGROUND: This item has been discussed on numerous occasions at the parks committee and at Council worksessions. Fundamentally, the concern that has been raised is two-fold: 1. Exposure to tobacco use in public parks in unhealthy and offensive to many residents, and 2. The impacts of tobacco use in parks includes increased litter in the parks and facilities (i.e., butts in playgrounds) and damage to facilities (i.e., soot marks at the gazebo in HHS).

The attached ordinance bans smoking at Memorial Park (including the walkways and parking areas), Hammer Heritage Square, and within 25 feet of city owned playgrounds. Violations of these restrictions include civil infractions of $50, $100 and $250 (1st, 2nd, 3rd violations) with a 4th violation within a year resulting in a criminal misdemeanor.

I have attached an article from the Trust for Public Lands detailing recent smoking restrictions, including a most recent ban in New York City. The following information is provided in response to past questions.

State Street High School has been a regular source of smokers to Memorial Park. RCW 28A.210.310 prohibits all smoking on school property and reads as follows:

> **RCW 28A.210.310**
> **Prohibition on use of tobacco products on school property.**
>
> (1) To protect children in the public schools of this state from exposure to the addictive substance of nicotine, each school district board of directors shall have a written policy mandating a prohibition on the use of all tobacco products on public school property.
>
> (2) The policy in subsection (1) of this section shall include, but not be limited to, a requirement that students and school personnel be notified of the prohibition, the posting of signs prohibiting the use of tobacco products, sanctions for students and school personnel who violate the policy, and a requirement that school district personnel enforce the prohibition. Enforcement policies adopted in the school board policy shall be in addition to the enforcement provisions in RCW 70.160.070.

[1997 c 9 § 1; 1989 c 233 § 6. Formerly RCW 28A.31.170.]

Existing Sedro-Woolley code prohibits youth smoking parks and is codified in SWMC 9.75, reproduced below:

9.75.010 Definitions.

For purposes of this chapter, the following terms shall means as follows, unless otherwise required by the context:

A. "Minor" means an individual less than the age of eighteen years.

B. "Public place" means a public street, alley, right-of-way, sidewalk, park or any structure, facility or area within the city generally open to the public. By way of example, and not by way of limitation, it shall include schools, school grounds, stores, restaurants, parking lots, the interior of a motor vehicle located upon or within a public place, or private property upon which the individual does not have specific authority to be present.

C. "Tobacco product" or "tobacco" means a product which contains tobacco and is intended for human consumption; provided, that, with the goal of insuring consistency with state law, to the extent that RCW 70.155.010(7), as now existing or hereafter amended or succeeded provides a definition which is broader, said statutory definition shall be deemed to be adopted by this reference. By way of representation, it shall include cigarettes, cigars, cigarillos, and chewing tobacco. (Ord. 1329-99 § 1, 1999)

9.75.020 Violation—Infraction.

A minor commits an infraction who either:

A. Purchases or attempts to purchase or obtains or attempts to obtain tobacco products; or

B. Uses or consumes a tobacco product in a public place. Upon a finding of committed, that individual shall be subject to the civil penalties, and mitigation therefrom, set forth in Section 9.75.030. (Ord. 1329-99 § 2, 1999)

9.75.030 Violation—Penalty.

An individual found to have violated the provisions of Section 9.75.020 shall be subject to the following penalties:

A. For the first violation, a monetary penalty of fifty dollars or, in the discretion of the court, proof of successful participation in a smoking cessation program, or both.

B. For the second violation found to have been committed, a monetary penalty of fifty dollars and, upon the order of the court, proof of successful participation in a smoking cessation program.

C. For the third and successive violations found to have been committed, a monetary penalty of up to two hundred fifty dollars; provided, that, seventy-five dollars of such penalty may not be suspended nor deferred. (Ord. 1329-99 § 3, 1999)

9.75.040 Unlawful acts.

It is unlawful to sell, give or transfer, or to allow the sale, giving or transfer to any minor any tobacco product, including, but not limited to any cigar, cigarette, chewing tobacco, or to do or allow the same acts in relation to cigarette papers or wrappers. Compliance with RCW 70.155.090(2), as now existing or hereafter amended or succeeded shall be a defense to a prosecution under this section. A conviction of a violation of this section is a crime, and shall be subject to punishment as provided in Section 9.86.010 of the Sedro-Woolley Municipal Code. (Ord. 1329-99 § 4, 1999)

If adopted by the Council, I would expect to utilize signage like the following from Santa Monica.

RECOMMENDATION: **[FIRST READING ONLY TONIGHT]** Motion to adopt Ordinance _____-11, an ordinance prohibiting smoking in Memorial Park, Hammer Heritage Square and within 25 feet of city owned playgrounds.

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF SEDRO-WOOLLEY, WASHINGTON, PROHIBITING SMOKING IN CERTAIN PUBLIC PLACES AND ESTABLISHING PENALTIES FOR VIOLATIONS

WHEREAS, the City is an optional municipal code city, organized under Title 35A RCW, with all powers possible for a city or town to have under the Constitution and laws of the State; and

WHEREAS, the City Council finds that smoking in certain public parks has resulted in increased litter in the parks and parks facilities and damage to the grounds and facilities; and

WHEREAS, the City Council finds that medical and scientific studies generally indicate that exposure to smoke, even from a second or third hand sources, can have adverse health consequences; and

WHEREAS, citizens have complained and requested that certain parks and play areas be designated as no smoking, particularly to protect children from tobacco smoke; and

WHEREAS, the City Council finds that it is in the interests of the public health, safety and welfare to adopt the policies set forth below, now therefore;

THE CITY COUNCIL OF THE CITY OF SEDRO-WOOLLEY, WASHINGTON, DO ORDAIN AS FOLLOWS:

SECTION 1. Chapter 9.45 of the Sedro-Woolley Municipal Code is hereby enacted, and shall read as follows:

9.45.010 Intent.

It is declared to be the policy of the city to minimize the exposure of citizens to the harmful physiological and psychological effects of tobacco use. It is the express intent of the city to restrict tobacco use in certain public parks and playgrounds; preserving for the community the use, value and enjoyment of public parks and playgrounds and the quality of the environment. The ordinance codified in this chapter should be construed consistent with this intent.

9.45.020 Unlawful acts designated.

It is unlawful for any person to smoke or light cigars, cigarettes, tobacco or other smoking material within Memorial Park, including the walkways and parking lots around the Library, Senior Center, Community Center and shelter, Hammer Heritage Square, and

within twenty five (25) feet of any city owned playground. The parks department shall post signs in appropriate locations notifying the public of these restrictions.

9.45.030 Violation—Penalty.
Any person who violates any of the provisions of this chapter shall have committed a civil infraction. Procedure for issuance of a notice of infraction and the processing thereof in the courts shall be substantially as set forth for traffic infraction pursuant to the justice court traffic infraction rules as now or hereafter promulgated by the Washington State Supreme Court or local court rules. Penalties for violations shall be as follows:

A. Upon a first violation, a fine of not more than fifty dollars;

B. Upon a second violation, a fine of not more than one hundred dollars;

C. Upon a third violation, a fine of not more than two hundred fifty dollars.

9.46.040 Repeated violations are crimes.
Any person, firm or corporation who violates any of the provisions of this chapter more than three times in any twelve-month period of time shall have committed a misdemeanor which shall be punishable as set forth in Section 9.86.010.

SECTION 2. If any of the provisions of this chapter or its application to any person or circumstances is held invalid, the remainder of this chapter or the application of the provision to other persons or circumstances is not affected, and to this end, the provisions of this chapter are declared to be severable.

SECTION 3. This ordinance shall be effective five (5) days after passage and publication as provided by law.

PASSED by majority vote of the members of the Sedro-Woolley City Council this _____ day of _____, 2011, and signed in authentication of its passage this _____ day of _____, 2011.

_____
Mike Anderson, Mayor

Attest:

_____
Patsy Nelson, Finance Director

Approved as to form:

_____

Eron Berg, City Attorney

First Reading by City Council: September 28, 2011
Second Reading by City Council:
Approval by City Council:
Published:

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Who We Are

City Parks Blog is a joint effort of the Center for City Park Excellence at the Trust for Public Land and the City Parks Alliance to chronicle the news and issues of the urban park movement. Read more about us.

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Smoking Bans in Public Parks

Posted on July 8, 2011 by John Crotty

New York City's no smoking sign. Credit: Susan Sermoneta (Flickr Feed).

In early February, the New York City Council (36-12) approved, and Mayor Bloomberg signed, a ban on smoking in the city's parks, beaches, pedestrian malls and plazas. Effective as of May 23rd, the city's Department of Parks and Recreation can now impose $50 fines on rule breakers. Given what we know about the health value of parks, addressing the issue of smoking bans in parks is salient. What restrictions may a city or municipality place on park users in order to achieve some health or environmental value?

As residents of New York know, administrative code already bans smoking in bars, the subway, retail stores, and several other indoor and outdoor locations. But the most recent amendment, as codified in New York City Administrative Code § 17-503(c)(3), expands the scope of the ban to "any park or other property under the jurisdiction of the department of parks and recreation." Exceptions to this ban extend to

sidewalks immediately adjoining parks and public places, pedestrian routes through any park strip, median or mall adjacent to traffic, parking lots, and theatrical productions.

Two common lines of reasoning characterize the smoking ban debate. Arguments against bans on smoking in public parks often reference the overreach of government into the lives of private citizens, whereby the governmental entity unreasonably infringes upon an individual's right to undertake a particular behavior. Arguments for bans invoke the government's role to promote public goods, such as health, and to ensure non-smokers are free of a harmful nuisance. The following overview addresses the legal and policy issues implicating both sides of the argument.

Examples of Outdoor Bans

The New York ordinance is not new; towns and cities across the country have enacted outdoor smoking bans. There are 1,313 states, commonwealths, territories, cities, and counties with a law that restricts smoking in public outdoor places such as parks and beaches.[1] Levels of stringency vary from town to town, but the rationale underlying the bans are generally the same – there are environmental and health issues so important as to justify prohibiting individuals from lighting up in a public outdoor area.

Santa Monica, California no smoking sign. Credit: Flickr Feed.

An ordinance in Bellaire, Texas, a suburb of Houston, forbids smoking within the city's public parks, in part to prevent children from exposure to smoke.[2] The ban, however, does not prohibit smoking on the public streets or sidewalks.[3] Santa Monica, California, passed an ordinance restricting smoking on its public beaches to address the environmental issue of cigarette butts littering the beaches and water.[4] In fact, the ordinance comprehensively prohibits smoking in a variety of outdoor places: public parks, public beaches, anywhere on city pier except in designated areas, outdoor service areas, or within two feet of any entrance, exit or window of a public building.[5] Both cities may impose fines on violators of the ban.

In 2006, the city of Calabasas, a small community northwest of Los Angeles, enacted one of the toughest anti-smoking ordinances in the nation.[6] It characterized its anti-smoking efforts as an attempt to limit exposure to secondhand smoke (SHS), as opposed to an outright ban on the act of smoking itself. The ordinance prohibits smoking in all public places where an individual may be exposed to secondhand smoke, including parks, sidewalks, outdoor cafés, bus stops, and athletic fields.[7] Fines for violation are imposed up to $500 with a misdemeanor criminal classification.

The New York ordinance allows for some smoking outlets if you are at a public park. Like Bellaire park users, visitors to New York parks are still able to light up on sidewalks bordering the outside of the park.

A Right to Smoke?

A man smoking in a Chicago plaza. Credit: Mary Anne Enriquez (Flickr Feed).

A ban on smoking in a public park raises an interesting question: are there particular rights that ensure that adults may freely undertake a legal act using a legal substance or item in a taxpayer-funded public space that may have a marginal detrimental health impact on other people using that space? Think of drinking a bottle of wine with your special lady friend as you lounge about on a picnic blanket (or grasping onto a flask of whiskey for dear life as you curl up underneath a bench to shield yourself from the brutal chill of a relentless winter wind). What about lighting fireworks? Yelling into an oversized bullhorn to warn of an impending apocalypse? Swinging a metal bat to smash a tightly wound baseball?

A court will invalidate law that, either on its face or in its application, violates a constitutional right. The Constitution does not explicitly reference a right to smoke, so any claim to a right to smoke will fall under the auspices of another constitutional right.[8] Here are just a few examples of avenues that right to smoke advocates have pursued to challenge smoking bans.[9]

Fourteenth Amendment. The equal protection clause of the Fourteenth Amendment guarantees that a state government will not treat similar groups of people differently without good reason. However, there are classes of people based on race, alienage, national origin and gender that receive greater protection against discriminatory government acts than do other classes – say, women under 5'2" or bald men. Courts review a law that applies to a protected class under a strict or intermediate level of scrutiny. Strict scrutiny requires a state or local law to be necessary to achieve a compelling government interest.

The Supreme Court has rejected the notion that a classification is suspect when the scope of the class is based on voluntary action.[10] Since smoking is a discretionary act, it does not merit greater scrutiny for equal protection purposes. A smoking ban will be constitutionally valid if there is a reasonably conceivable set of facts that provides a rational basis for the classification, such as the promotion of public health.[11]

First Amendment. Conduct alone, such as smoking, is not generally considered speech and thus not afforded First Amendment protections. Smoking bans not targeted at suppressing speech content, and not favoring a particular group, are deemed "content-neutral."[12] For content -neutral regulations to be valid, they need only be substantially related to an important governmental interest. For example, the federal court in *NYC C.L.A.S.H., Inc. v. City of New York* upheld the smoking ban in restaurants and bars, finding that smoking in such venues is not a sufficiently expressive conduct to merit First Amendment protection and that the ban was a valid, content-neutral regulation with an important health interest.[13]

In the 2005 case, *Roark & Hardee LP v. City of Austin*, a federal district court held that an Austin ordinance prohibiting smoking in enclosed public places did not violate bar owners' First Amendment right to be free from compelled speech.[14] The city "compelled" bar owners to take "necessary steps" to stop patrons from smoking in order to protect the city's population from the effects of SHS. Since the ordinance regulated conduct and not actual speech, and the owners were free to express views on the ordinance, the city was within its bounds to regulate smoking.

As long as a smoking ban is rationally related to a legitimate government goal, the Constitution will not stand in the way of its passage.[15] Smoking bans have been uniformly upheld against a variety of challenges to their validity.[16] Courts embrace such legislation because of the time-honored acknowledgement that protecting the public's health is one of the most essential functions of government.[17]

Legislative Rationale

When smoking bans are challenged on constitutional grounds, legislators must justify the ban by demonstrating a legitimate government interest. A frequent argument is that public health concerns justify infringements on smoking.[18] But the effect of public outdoor exposure to SHS is not conclusive. On the one hand, proximity to smoking, even outdoors, may lead to SHS exposure. A recent Stanford University study indicates that tobacco smoke within three feet of a smoker outside is comparable to inside levels. But, as Michael Siegel stated in a *New York Times Op-Ed*, there is no evidence demonstrating outdoor exposure causes substantial health damage.

Legislators may also cite "annoyance costs" related to smoking, such as cost of cleaning up cigarette butts.[19] Right to clean air advocates often compare smoking to nuisances regulated by the state, such as noisome factories.[20] There is also an argument for treating smoking like sex—as a legal activity relegated to the private sphere.

Public Support

Attitudes towards smoking bans vary depending on locale. Since 2000, the American Academy of Pediatrics has conducted a nationwide survey asking participants if and where in outdoor parks smoking should be allowed.[21] The latest results, from a 2008 survey of nearly 1,500 people, showed that roughly 20 percent of respondents thought smoking should be banned outright in parks, 39 percent thought it should be permitted, and 42 thought it should be banned in some areas of parks. This differs slightly from the 2000 survey, in which support for some form of restriction was roughly 60 percent (although, at that time, 40 percent supported an outright ban). The same survey also addressed support of smoking bans in Mississippi. It indicated that over 50 percent of Mississippians do not believe smoking should be banned in parks.

Attitudes do differ. A 2006 survey showed that 70 percent of over 1,500 randomly selected Minnesota respondents favored tobacco-free park policies in parks.[22] Supporting rationale for such policies included reducing litter (71%) and reducing youth opportunities to smoke (65%). Prior to the New York's outdoor ban, the Coalition for a Smoke-Free City commissioned a 2009 Zogby poll that surveyed 1,002 residents and showed that 65 percent supported a smoking ban in parks and beaches.

Smoking and Public Parks

A woman smokes in a park. Credit: Ripton Scott (Flickr Feed).

Cities and municipalities must weigh the benefits of placing restrictions on potentially harmful behavior to help cultivate healthy outdoor environments against the rights of residents in a public venue. For example, part of the context for the New York park smoking ban was a 2009 New York City Department of Health and Mental Hygiene study showing that a greater proportion of New York adults, despite lower levels of smoking, are exposed to secondhand smoke than are adults nationally.[23] While there are rights issues involved with smoking bans, such restrictions generally fall within the ambit of legitimate governmental action. And, ideally, enactments to restrict smoking in a park will be borne out of people's support for the restriction in a publicly funded venue.

The question then is whether the government action achieves its objective. If New York is attempting to improve air quality for park users, pushing smokers to the sidewalks outside parks may not accomplish that goal. It seems that where a park is quite small, such an outlet renders the ban moot because smoke can still get up into park users' faces. And whether a park is large or small, or one smokes inside or outside the bounds of the park, the impact on the overall ambient air quality of the park would presumably be the same. However, as we learn more about the impact of secondhand smoke on individuals in an outdoor area, it may be the case that the ban, in its current state, is justified.

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[1] *See* Am. Nonsmokers' Rights Found., Overview List – How Many Smokefree Laws? (2011), *available at* http://www.no-smoke.org/pdf/mediaordlist.pdf.

[2] *See* Michele L. Tyler, Note, *Blowing Smoke: Do Smokers Have a Right? Limiting the Privacy Rights of Cigarette Smokers*, 86 Geo. L.J. 783, 805-06 (1998).

[3] Bellair Mun. Code § 22-28(a)(b) (2010).

[4] George P. Smith, II, *Cigarette Smoking as a Public Health Hazard: Crafting Common Law and Legislative Strategies for Abatement*, 11 Mich. St. J. Med. & Law 251, 268 (2007).

[5] Santa Monica Mun. Code § 4.44.020 (2006).

[6] Jordan Raphael, *The Calabasas Smoking Ban: Local Ordinance Points the Way for the Future of Environmental Tobacco Smoke Regulation*, 10 Minn. J.L. Sci. & Tech. 413, 417 (2007).

[7] Calabasas Mun. Code §§ 8.12.030–.040 (2006), *available at* http://www.bpcnet. com/codes/calabasas.

[8] *See* Samantha K. Graff, Tobacco Control Legal Consortium, *There is No Constitutional Right to Smoke: 2008* (2008). Courts have explicitly refused to recognize a fundamental right to smoke. *See,* e.g., *Coal. for Equal Rights, Inc. v. Owens*, 458 F. Supp. 2d 1251, 1263 (D. Colo. 2006) (holding that there is no fundamental right for bar owners to allow smoking in their establishments); *Fagan v. Axelrod*, 550 N.Y.S.2d 552, 559 (Sup. Ct. 1990) ("There is no more a fundamental right to smoke cigarettes than there is to shoot-up or snort heroin or cocaine or run a red-light."); *Craig v. Buncombe County Bd. of Educ.*, 343 S.E.2d 222, 223 (N.C. Ct. App. 1986) ("The right to smoke in public places is not a protected right …").

[9] There are several other avenues not addressed here (e.g., procedural due process, freedom of association).

[10] *NYC C.L.A.S.H., Inc. v. City of New York*, 315 F. Supp. 2d 461, 482 (S.D.N.Y. 2004).

[11] *Id.* at 481. Thus, people are subjected to a variety of restraints "in order to secure the general comfort, health, and prosperity of the state."

[12] *NYC C.L.A.S.H., Inc. v. City of New York*, 315 F. Supp. 2d 461, 479 (S.D.N.Y. 2004).

[13] *Id.* at 480.

[14] *Roark & Hardee LP v. City of Austin*, 394 F. Supp. 2d 911, 918 (W.D. Tex. 2005) ("[I]t is clear that there is no constitutional right to smoke in a public place.").

[15] Graff, *supra* note 10, at 5.

[16] *See*, e.g., *City of Tucson v. Grezaffi*, 23 P.3d 675 (Ariz. Ct. App. 2001) (Fifth Amendment taking, prohibition on special legislation, freedom of association, equal protection, government's ability to regulate health matters); *Lexington Fayette County Food & Beverage Ass'n v. Lexington-Fayette Urban County Gov't*, 131 S.W.3d 745 (Ky. 2004) (impermissible government interference with business, vagueness).

[17] *See Jacobson v. Massachusetts*, 197 U.S. 11, 25 (1905) ("According to settled principles, the police power of a state must be held to embrace, at least, such reasonable regulations established directly by legislative enactment as will protect the public health and the public safety.").

[18] Tyler, *supra* note 2, at 806-07.

[19] *Id.*

[20] *Id.* For a more in-depth analysis of nuisance and smoking, *see* Smith, *supra* note 4, at 268-73.

[21] Am. Acad. of Pediatrics, 2008 National Social Climate Survey of Tobacco Control, *available at* http://socialclimate.childhealthdata.org/DataQuery/SurveyAreas.aspx.

[22] Elizabeth G. Klein et al., *Minnesota Tobacco-Free Park Policies: Attitudes of the General Public and Park Officials*, 9 Nicotine & Tobacco Research S49 (2007). Current policies banning or limiting tobacco use on park and recreation grounds exist in at least 70 communities around Minnesota.

[23] The higher prevalence of secondhand smoke exposure across racial and socioeconomic strata in New York compared to the national level suggested that exposure in dense, urban settings may be elevated.

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One Response

1. **DanEastSide**, on July 12, 2011 at 9:16 pm said:

   Smoking in your car should be banned. People whom smoke don't realize you can smell their smoke five cars away. It's a great idea that California is banning smoking in public parks, I hope other states will follow.

Leave a Reply

CITY COUNCIL AGENDA
REGULAR MEETING

SEP 28 2011

7:00 P.M. COUNCIL CHAMBERS
AGENDA NO. 6

Memorandum

To: Mayor Anderson & City Council

From: Patsy Nelson Patsy

Date: 9/21/2011

Re: Business Licenses & Regulations Code Update –first read

ISSUE: Shall the Council adopt the draft ordinance updating the business licenses and regulations section of the code to reflect partnering with Washington State as well as updating some vintage sections?

BACKGROUND: Business license processing and partnering with Washington State Business License Services was discussed at the April 6 work session and the Interlocal Agreement was approved at the April 13 meeting. Since that time, the Licensing Section was moved from the Department of Licensing to the Department of Revenue as part of the State's cost savings program.

The changes relating to partnering are consistent with the model ordinance presented at the April 6 meeting.

Other changes are proposed to streamline various vintage regulations such as amusement devices, vending machines, pool, billiards, cardrooms, and dance halls. Consolidating the various licenses into the following three classes is also proposed. 1.) Specialty Business License for pawnbrokers, taxicabs and establishments operating under the Washington State Liquor board. Businesses in this classification tend to require more of our police department's time. The current license fee of $35 plus the entertainment license fee of $100 would be combined for these establishments. 2.) Nonprofit Business License issued at no cost to 501(c)(3) entities. 3.) All other businesses would fit into the General Business License category which would retain the $35 fee. The former Class 1 license of $75 is eliminated.

RECOMMENDATION: Motion to adopt Ordinance _____-11, an ordinance amending the business licenses and regulations section of the Sedro-Woolley Municipal Code.

Chapter 5.04

BUSINESS LICENSES*

Sections:

5.04.010 Definitions.
5.04.020 Purposes.
5.04.030 License fees.
5.04.040 Procedure for obtaining license.
5.04.050 Examinations of business premises.
5.04.055 Fire inspection certificates.
5.04.060 Penalties.
5.04.070 Additional remedies.
5.04.080 License—Compliance—Revocation.
5.04.090 License—Needed for defense.
~~**5.04.320 Public utilities.**~~
5.04.330 Unpaid license fee.
5.04.360 Exemptions.
5.04.380 Publishers.
5.04.420 Duties of the city clerk.

* Prior ordinance history: 373, 376, 391, 403, 509, 595, 598, 605, 865, 880, 948, 949, 950, 960, 966, 972 and 978.

5.04.010 Definitions.

The following terms when used in this chapter shall have the meanings designated below:

A. "Person" means all individuals, partnerships, domestic and foreign corporations, associations, syndicates, joint ventures, and societies transacting and carrying on any business in the city of Sedro-Woolley, Washington.

B. "Business" means professions, trades, occupations, shops and all and every kind of calling, but **not including**, however, the following:

1. Suppliers who do not have a place of business in the city and those engaged solely in wholesale selling to licensed retailers;

2. Any person whose income is based solely on an hourly, daily, weekly, monthly or annual wage or salary;

3. Any person transacting and carrying on any business which is exempt from a license fee by virtue of the Constitution of the United States, the Constitution of the state of Washington, or the laws of the United States or the state of Washington;

4. Vendors in a temporary bazaar or community fair for which a master license has been given to the sponsor thereof;

5. Rental or lease of real property by an owner, provided that the owner of any structure on real property shall obtain a fire inspection certificate for each property from the Sedro-Woolley fire department if required by this chapter; and provided that any business on the property shall, if otherwise required by Section 5.40.030, obtain a business license. Rentals with added services, including but not limited to hotels, motels, storage facilities, and bed-and-breakfasts, shall obtain a business license;

~~6. Businesses and organizations which have IRS 501(c)(3) nonprofit tax status, for activities within the scope of their IRS 501(c)(3) purpose, provided that:~~

~~a. The organization fill out an information form and provide proof of IRS 501(c)(3) status to the satisfaction of the city clerk,~~

~~b. The activity shall not include the sale of food, beverages, cigarettes, or gambling, and~~

~~c. The owner of property used for this exempt purpose shall obtain a fire inspection certificate if required by this chapter.~~

6. Beginning July 1, 2008, entities located outside of the City of Sedro-Woolley which are merely complying with destination-based sourcing sales tax rules without engaging in other business activities within the City (e.g. sales of goods in the city delivered via common carriers without engaging in other business activities) do not need a City of Sedro-Woolley business license;

7. Any instrumentality of the United States, the State of Washington, or political subdivisions thereof with respect to the exercise of governmental functions;

8. Newspaper carriers under the age of 18

C. The agent or agents of a nonresident proprietor engaged in a business for which a license is required by this chapter shall be liable for the payment of the fee thereon as herein provided and for the penalties for failure to pay the same or to comply with the provisions of this chapter to the extent and with like effect as if such agent or agents were themselves proprietors. (Ord. 1422-02 § 1, 2002: Ord. 1192 § 1 (part), 1993)

5.04.020 Purposes.

A. To provide revenue for municipal planning, policing, and regulatory purposes and to provide revenue to pay for the necessary expense required to issue the license for and to regulate the businesses licensed.

B. The license fees levied by this chapter shall be independent and separate from any ~~license or~~ permit fees now or hereafter required of any person to engage in any business by any ordinance of the city, regulating any business herein required to be licensed, and all such businesses shall remain subject to the regulatory provisions of any such ordinances or ordinances now or hereinafter in effect, and the persons engaged in all such businesses shall be liable for the payment of any license fees for which provision has been made herein.

C. The levy or collection of a license fee upon any business shall not be construed to be a license or permit of the city to the person engaged therein to engage therein, in the event such business shall be unlawful, illegal, or prohibited by the ordinance of the city or the laws of the state or the United States. (Ord. 1192 § 1 (part), 1993)

5.04.030 License fees.

A. No person shall engage in business in the city without first having applied for, paid for and obtained the license therefore for the current year, as provided herein, and without having first complied with any and all applicable provisions of this chapter~~.~~

B. ~~Class 1~~Speciality Business License: each person engaged in the following business in the city shall pay an annual basic license fee of ~~seventy-five~~ one-hundred and thirty-five dollars:

~~1. Banks;~~

~~2. Building materials and supplies companies;~~

~~3. Bus companies;~~

~~4. Canneries, except custom canneries;~~

~~5. Department stores, major;~~

~~6. Food processors;~~
~~7. Grocery stores, supermarket type, having over three thousand square feet;~~
~~8. Manufacturing - large, over twenty-five employees;~~
~~9. Motor freight and transfer companies;~~
~~10. New car dealers having used car lots;~~
~~11. Railroad companies;~~
~~12. Savings and loan associations;~~
~~13. Soft drink manufacturers and/or bottlers;~~
~~14. Title insurance companies;~~
~~15. Theaters;~~
~~16. Wholesale petroleum products dealers;~~
~~17. Billboards.~~

1. Taverns, bars and lounges selling beer, wine and or spirits, operating under license or authority of the Washington State Liquor Control Board;

2. Clubs/Societies operating under license or authority of the Washington State Liquor Control Board.

3. Restaurants serving beer, wine and or spirits, operating under license or authority of the Washington State Liquor Control Board which also provide entertainment including but not limited to pool, darts, dancing, live music and karaoke;

4. Pawnbrokers. No person shall be issued a license to operate a pawnbroker unless he possesses the following qualifications:

a. Is at least twenty-one years of age;

b. Is a resident of the state of Washington for at least six months prior to filing application;

c. Has not been convicted of any offense involving moral turpitude or intent to defraud or any property crime, within three years prior to the time of application.

. I. When an application for a license to operate a pawnbroker, duly signed and notarized, and accompanied by required information, has been received by the police chief, he shall investigate the statements contained therein and may obtain such other information concerning the applicant's character, integrity, personal habits, past conduct and general suitability to maintain a pawnshop within the city.

II Each application for a pawnbroker's shall be accompanied by a complete set of fingerprints of the applicant, utilizing a fingerprint form provided by the city police department.

III. All applications shall become null and void after sixty days from the date of filing if the application for any reason is denied or is not obtained by the applicant.

5. Taxicabs

a. No taxicab license or driver's permit shall be issued to any person who:

1. Has been convicted of an offense of such a nature to indicate that he is unfit to hold a license or a permit;

2. Is guilty of committing two or more offenses for which mandatory revocation of driver's license is provided by law;

3. Has been convicted of manslaughter resulting from the operation of a motor vehicle or convicted of negligent homicide;

4. Is intemperate or addicted to the use of narcotics.

b. Any license or permit issued may be revoked if the holder is found guilty of the above mentioned disabilities or physically or mentally unfit upon complaint of the police chief or a committee of the city council designated for that purpose by the council as a whole, at which hearing the holder or licensee may appear and be heard on his own behalf.

c. No person may be issued a taxicab license or driver's permit within one year after his conviction in any local, state, or federal court or authority, of the violation of any ordinance or law pertaining to the sale or possession of alcoholic beverages, and any license or permit issued shall be revoked for one year upon the conviction of the holder of a violation of local, state, or federal ordinances, laws, or regulations pertaining to the sale or possession of alcoholic beverages.

d. The payment of such license fee shall permit the owner or operator to operate as many taxicabs under one license as he may desire.

e. Nothing herein contained shall prevent the operator of a taxicab licensed to operate in another city or town or within this or other county, from entering and leaving the city for picking up or depositing passengers in the usual course of business.

C. ~~Class 2~~General Business License: all persons engaged in ~~the~~ business in the city not included in ~~Class 1~~Speciality or Nonprofit Business License sections shall pay an annual basic license fee of thirty-five dollars.

D. Nonprofit Business License: Business and organizations which have IRS 501(c)(3) nonprofit tax status, for activities within the scope of their IRS 501(c)(3) purpose, are exempted from any fees in this Chaper; however, they are not exempted from registering with the City of Sedro-Woolley, provided that:

1. The organization shall provide proof of IRS 501(c)(3) status
2. the activity shall not include the sale of food, beverages, cigarettes or gambling, and
3. The owner of property used for this exempt purposes shall obtain a fire inspection certificate if required by this chapter.

~~D. Businesses located outside the city limits making retail sales and deliveries within the city limits, businesses located outside the city limits engaged in sales or service within the city limits, vending machine operators, and peddlers and solicitors will pay the annual Class 2 business license fee herein as well as any other required fees.~~

~~E~~E. The license required by this chapter shal have a term as established by the State of Washington BLS, in cooperation with the City ~~The license fee herein required shall be due and payable on January 1st of each year for the year commencing and shall be delinquent on and after the following March 1st of each year. Licenses for persons engaging in any business after January 1st in any year shall be due and payable upon such person engaging in such business and shall be delinquent if not paid within ten days thereafter; provided, however, that persons engaging in any such businesses for the first time, after July 1st of any year, shall pay only fifty percent of the annual fee for the remainder of the license year.~~

F. Each branch establishment or separate location of a business conducted by any person shall, for the purpose thereof, be a separate business and subject to the license therefore provided for herein.

G. If any person be engaged in operating or carrying on in the city more than one business, then such person shall pay the license herein prescribed for as many of said businesses as are carried on by such person.

H. A change of physical location of a business inside the city will require approval by the city before business may commence at the new location, and may require the filing of a new Master Business Application.

~~H. The license year shall commence on January 1st of each year, and shall terminate at midnight on December 31st of the year. (Ord. 1422-02 § 2, 2002: Ord. 1408-01 § 1, 2001: Ord. 1192 § 1 (part), 1993)~~

5.04.040 Procedure for obtaining license.

A. All licenses shall be issued and renewed by the ~~city clerk~~ State of Washington Department of Revenue Business Licensing Services (BLS). ~~Normally, such licenses shall be issued within seven days of~~

~~the date application is made.~~ Building and Fire inspections and approvals must be issued before an initial Business License is issued. ~~Provided, however, when, in the opinion of the city clerk, there exists sufficient question regarding the appropriateness of approving an application, said application shall be considered by the city council at its next regularly scheduled meeting~~. All licenses and permits are subject to revocation at any time by the council for cause.

~~B. The application for such license shall contain the following information:~~

~~1. The name of the applicant, with a statement of all persons having an interest in said business, either as proprietors or owners of said business;~~

~~2. The location of the place where the business is conducted;~~

~~3. A description of the trade, shop, business, profession, occupation or calling to be carried on within the city;~~

~~4. The amount of money tendered with the application;~~

~~5. The date of the application;~~

~~6. The signature of the applicant.~~

B. Application for the business license shall be made by submitting a completed Master Business application, and any appropriate addenda forms to the BLS, in cooperation with the City. Said application shall be accompanied by payment of all respective license fees due for that application and the BLS application handling fee.

C. No license issued to do business within the limits of the city shall be transferable. Only the individuals to whom the license is issued shall be eligible to operate on that license.

D. ~~The city clerk shall issue a license only after payment of the full fee.~~ All persons operating on or doing business under license ~~of the city~~issued by the Business Licensing Services shall, at all times, keep such license either on their person or properly displayed while so operating within the city limits.

E. Issuance of a business license shall not relieve the applicant from the need to comply with all other applicable city ordinances. (Ord. 1192 § 1 (part), 1993)

5.04.050 Examinations of business premises.

City officials shall have the authority to investigate and examine all places of business licensed or subject to license under this chapter at any reasonable time for the purpose of determining whether such place of business is complying with the provisions of the chapter. (Ord. 1192 § 1 (part), 1993)

5.04.055 Fire inspection certificates.

A. The owner of nonresidential, commercial, industrial, or multifamily residential structures on real property shall obtain an annual fire inspection certificate for each property from the Sedro-Woolley fire department ~~and fill out an informational form to the satisfaction of the city clerk~~.

B. For purposes of this chapter, multifamily residential rental property shall be defined as a building containing ~~four~~ three or more dwelling units or a single dwelling unit in a building used primarily for nonresidential purposes. Hotel, motel, and "bed and breakfast" facilities shall be considered commercial facilities.

C. The owner of the real property shall be primarily responsible for obtaining the fire inspection certificate; however, the tenant or lessee may obtain the fire inspection certificate for the owner, as the owner's agent. (Ord. 1422-02 § 3, 2002)

5.04.060 Penalties.

~~A.~~ Failure to renew the license on or before the expiration date established by the Business Licensing Services may result in the charge of a delinquent renewal penalty or the cancellation of the license. If a license is cancelled, filing of a new Master Business application, payment of all appropriate fees and reapproval by the City may be required in order to continue conducting business in the City. ~~It is unlawful for any person to wilfully make any false or misleading statement to the city clerk for the purpose of determining the amount of any license fee herein provided to be paid by any such person, or to fail or refuse to comply with any of the provisions of this chapter to be complied with, or to fail or refuse to pay before the same shall be delinquent any license fee or penalty hereby required to be paid by any such person.~~

~~B. In the event any person required to obtain a license shall fail or neglect to obtain the same before it shall become delinquent, the city clerk shall collect, upon payment therefor, in addition thereto, a penalty of ten percent of the fee therefor for each calendar month or fraction thereof that the same shall be delinquent.~~

~~C~~B. Nothing herein contained shall be taken or construed as vesting any right in any license as a contract obligation on the part of the city as to the amount of the fee hereunder. Other or additional taxes or fees and the fees herein provided for may be increased or decreased and additional or other fees provided for and levied in any and all instances at any time by the city.

~~D~~C. The conviction of any person for violation of any of the provisions of this chapter shall not operate to relieve such person from paying any fee or penalty thereupon for which such person shall be liable, nor shall the payment of any such fee be a bar to or prevent prosecution in the city court of any complaint for the violation of any of the provisions of this chapter.

~~E. Any person violating any of the provisions hereof shall, upon the conviction thereof, be punished by a fine not to exceed one thousand dollars, or by imprisonment for a term not exceeding one year or by both such fine and imprisonment. Each day any person shall conduct any business within the city for which a license or tax is hereby required without having paid the license fee shall constitute a separate offense.~~

~~F~~D. All persons, firms and corporations who perform labor, services and construction within the city (as provided in Rule II, WAC 458-20-145), shall report the city "Location Code Number 2908" on their sales/excise tax returns to the state of Washington, Department of Revenue. On any violation hereof, the amount of local sales and use taxes due the city shall be paid to the city by the violator, together with a penalty of one hundred percent in addition to all other penalties, fines and remedies provided in this chapter. (Ord. 1192 § 1 (part), 1993)

5.04.070 Additional remedies.

A. In addition to the penalties provided in this chapter and as separate and distinct remedies, the city may sue in any court of competent jurisdiction to obtain a judgment and enforce collection thereof by execution for any license fee or tax due under this chapter.

B. The city may seek an injunction prohibiting a person from engaging in any unlicensed business.

C. In any action or suit authorized by this section, the city, if it prevails, shall recover a reasonable attorney's fee to be set by the court, in addition to its costs and disbursements. (Ord. 1192 § 1 (part), 1993)

5.04.080 License—Compliance—Revocation.

Every license shall be taken and held subject to all of the ordinances and police regulations of the city existing at the time of the issuance thereof, and also subject to revocation by the city council at their discretion at any time upon refunding the price paid, proportionately for the unexpired term of such license; and upon conviction of any license for the violation of any ordinance regulating the licensed business, the city council shall have power to revoke the license without notice and without repayment of the unearned

portion of the license fee, whereupon the license shall be forfeited. The conditions contained in this section shall constitute a part of each license issued by the city. (Ord. 1192 § 1 (part), 1993)

5.04._____ Home Occupation Business

A business owner intending to conduct business from a residence located within the city must provide proof of residency within the city and obtain approval per SWMC 17.68. The proof of residency and home occupation permit application msut be filed directly with the City separate from the Master Business application submitted to the Business Licenses Services, and msut be received and approved by the City before the business license application can be approved.

5.04.090 License—Needed for defense.

Upon the trial of any action brought for the violation of any license ordinance of the city, the defendant shall be deemed not to have procured or have in force the required license unless he produces such license in court and proves that the same has been properly issued and the fee therefor paid, and in any such action the fact that the defendant has represented himself as engaging in any business or calling for which a license is required shall be conclusive evidence of the liability of the defendant to pay for such license and procure the issuance thereof. (Ord. 1192 § 1 (part), 1993)

~~**5.04.320 Public utilities.**~~

~~A. After the effective date of the ordinance codified in this section, no person, firm or corporation shall engage in or carry on any business, occupation, act or privilege for which a tax is imposed by subsection B of this section without first having obtained, and being the holder of, a license to do so, to be known as an occupation license. Each such person, firm or corporation shall promptly apply to the city clerk for such license upon such forms as the clerk prescribes, giving such information as the clerk deems reasonably necessary to enable said clerk's office to administer and enforce this section; and, upon acceptance of such application by the clerk, the clerk shall thereupon issue such license to the applicant. Such occupation license shall be personal and nontransferable and shall be valid as long as the licensee continues in said business and complies with this section.~~

~~B~~A. ~~From and after the effective of the ordinance codified in this section, there is levied upon, and shall be collected from, every person, firm or corporation engaged in carrying on the following business for hire or for sale of a commodity or a service within or partly within the corporate limits of the city, the tax for the privilege of so doing business as hereinafter defined:~~

~~1. Upon any cable television business, there shall be levied a tax equal to six and one half percent of the total gross subscriber revenues from business in the city.~~

~~2. There is levied a tax on the sale, delivery or distribution of electricity and electrical energy, and for the privilege of carrying on said business such tax shall be equal to six and one half percent of the total gross revenue derived from sales of such electricity to ultimate users within the city; provided, however, that there shall not be any tax levied for the installation charges of electrical units; and provided further, that the rate of tax shall be revised as follows:~~

~~Revised Date of Rate Revision~~	~~Revised Rate~~
~~October 31, 1982~~	~~6.4%~~
~~October 31, 1983~~	~~6.3%~~
~~October 31, 1984~~	~~6.2%~~

Revised Date of Rate Revision	Revised Rate
October 31, 1985	6.1%
October 31, 1986	6.0%

3. There is levied a tax on the sale, delivery, distribution or furnishing of natural gas for domestic, business or industrial consumption, and for the privilege of carrying on said business such tax shall be equal to six and one-half percent of the total gross income from such business in the city; provided, however, that there shall not be any tax levied for installation charges of gas energy units.; and provided further, that the rate of tax shall be revised as follows:

Effective Date of Rate Revision	Revised Rate
October 31, 1982	6.4%
October 31, 1983	6.3%
October 31, 1984	6.2%
October 31, 1985	6.1%
October 31, 1986	6.0%

B. The tax imposed by this section shall be due and payable in quarterly installments and remittance shall be made on or before the thirtieth day of the month next succeeding the end of the quarterly period in which the tax accrued, such quarterly periods being, as follows:

1. First quarter: January, February, March;
2. Second quarter: April, May, June;
3. Third quarter: July, August, September;
4. Fourth quarter: October, November, December.

This section shall be effective January 1, 1982, and the first payment made under this section shall be made on or before April 30, 1982, for the first quarter. On or before said due date, the taxpayer shall file with the city clerk a written return upon such form and setting forth such information as the clerk reasonably requires, together with payment of the amount of the tax.

D. In computing the tax, there shall be deducted from gross operating revenues, the following items:

1. The amount of credit losses and uncollectibles actually sustained by the taxpayer;
2. Amounts derived from transactions in interstate or foreign commerce or from any business which the city is prohibited from taxing under the Constitutions of the United States or the state.

E. Each taxpayer shall keep records reflecting the amount of his gross operating revenues, and such records shall be open at all reasonable times to the inspection of the city clerk or her duly authorized subordinates for verification of said tax returns or for the fixing of the tax of a taxpayer who fails to make such returns.

F. If any person, firm or corporation subject to this section fails to pay any tax required by this section within thirty days after the due date thereof, there shall be added to such tax a penalty of one percent per month of the amount of such tax, and any tax due under this section and unpaid and all penalties thereon shall constitute a debt to the city and may be collected by court proceedings, which remedy shall be in addition to all other remedies.

G. Any money paid to the city through error or not otherwise in payment of the tax imposed by this section or in excess of such tax, upon request of the taxpayer, shall be credited against any tax due or to become due from such taxpayer under this section or, upon the taxpayer ceasing to do business in the city, shall be refunded to the taxpayer.

~~H. Any person, firm or corporation subject to this section who fails or refuses to apply for an occupation license or to make the required tax returns or to pay the tax when due, or who makes any false statement or representation in or in connection with any such application for an occupation license or such tax return, or otherwise violates or refuses or fails to comply with this section, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not to exceed three hundred dollars or by imprisonment in the city or county jail for a term of not to exceed ninety days, or by both such fine and imprisonment. (Ord. 1192 § 1 (part), 1993)~~

~~5.04.330 Unpaid license fee.~~

~~Any license fee or tax which shall become due and owing to the city, whether imposed by this chapter or any other license ordinance, shall constitute and remain an indebtedness due and owing to the city until paid and the same may be collected in any civil action. (Ord. 1192 § 1 (part), 1993)~~

~~5.04.360 Exemptions.~~

~~Any person paying a business and occupation tax to the city under the terms of Ordinance No. 382, or under the terms of future ordinances of the city shall be exempt from the payment of any license or tax under this chapter during the year or years covered by such other ordinances. (Ord. 1192 § 1 (part), 1993)~~

~~5.04.380 Publishers.~~

~~Publishers of newspapers, periodicals or any other publications, may, in lieu of procuring any license provided for in this chapter, pay to the city a sum of money equal in amount of the appropriate license fee set forth in Section 5.04.030, and upon payment thereof, shall be exempt from the requirements of this chapter, such exemption to apply for one calendar year, and to be renewable from year to year upon additional payment of the sum. (Ord. 1367-00 § 1, 2000: Ord. 1192 § 1 (part), 1993)~~

~~5.04.420 Duties of the city clerk.~~

~~The city clerk shall keep full and accurate records of all funds received under the provisions of this chapter. Upon receipt of any license fee or penalties collected under the provisions of this chapter, he shall deposit the same with the city treasurer to the credit of the current expense fund.~~

~~It shall be the duty of the city clerk to require all parties engaging in any business activity to procure such license, and should there be any license fee not paid by any person, it shall be the duty of the city clerk to enforce collection thereof in the manner provided in this chapter. (Ord. 1192 § 1 (part), 1993)~~

Chapter 5.06

UTILITY TAX

Sections:

5.06.010	**Definitions.**
5.06.020	**Utility tax levied—Rate.**
5.06.025	**Cellular telephone utility tax levied—Rate.**
5.06.030	**License requirement.**
5.06.040	**Allocation of income—Cellular telephone service.**
5.06.050	**Remittance.**
5.06.060	**Taxpayer engaged in more than one business.**

5.06.070 Deductions.
5.06.080 Record retention requirements.
5.06.090 Tax delinquency—Unlawful acts.
5.06.100 Quitting, selling or transferring business.
5.06.110 Tax not exclusive.
5.06.120 Rate changes.
5.06.130 Appeal procedure.
5.06.140 Over or underpayment of tax.
5.06.150 Pass-through to customer.
5.06.155 Use of funds.

5.06.010 Definitions.

Unless the context clearly indicates otherwise, the words phrases and terms used in this chapter shall have the following meanings:

A. "Cellular telephone service" means a two-way voice and data telephone/telecommunications system based in whole or substantially in part on wireless radio communications which is not subject to regulation by the Washington State Utilities and Transportation Commission (WUTC). This includes cellular mobile service. The definition of cellular mobile service includes other wireless radio communications services such as specialized mobile radio (SMR), personal communications services (PCS), and any other evolving wireless radio communications technology which accomplishes a purpose similar to cellular mobile service. Cellular telephone service is included within the definition of "telephone business" for the purposes of this chapter.

B. "City clerk" means the city clerk of Sedro-Woolley and his or her designees or agents.

C. "Competitive telephone service" means the providing by any person of telecommunications equipment or apparatus, or service related to that equipment or apparatus such as repair or maintenance service, if the equipment or apparatus is of a type which can be provided by persons that are not subject to regulation as telephone companies under Title 80 RCW and for which a separate charge is made.

D. "Gross income" means the value proceeding or accruing from the sale of tangible property or service, and receipts (including all sums earned or charged, whether received or not) by reason of investment of capital in the business engaged in (including rentals, royalties, interest and other emoluments however designated excluding receipts or proceeds from the sale or use of real property or any interest therein and the proceeds from the sale of notes, bonds, mortgages, or other evidences of indebtedness, or stocks and the like and without any deduction on account of the cost of the property sold, cost of materials used, labor costs, interest or discount paid, or any expenses whatsoever, and without any deduction on account of losses. Further deductions and exceptions from gross income upon which the fee or tax described in this chapter is computed are set forth in Section 5.06.070 of this chapter.

E. "Person" or "persons" means persons of either sex, firms, copartnerships, corporations, limited liability companies, and other associations, whether acting by themselves or through servants, agents or employees, and shall include the city of Sedro-Woolley for purposes of imposition and collection of this tax.

F. "Taxpayer" means any person liable for the license fee or tax imposed by this chapter.

G. "Tax year" or "taxable year" means (1) the year commencing January 1st and ending on December 31st, of such year, or (2) the taxpayer's fiscal year when permission is obtained from the city clerk to use that period as the tax year, or (3) the year commencing December 15th and ending on December 14th of the following calendar year when permission is obtained from the city clerk to use that period as the tax year.

H. "Telephone business" means the business of providing access to a local telephone network, local telephone network switching service, toll service or coin telephone services or providing telephonic, video, data or similar communication or transmission for hire, via a local telephone network, toll line or channel cable, microwave, or similar communication or transmission system. The term includes cooperative or farmer line telephone companies or associations operating an exchange. Telephone business also includes cellular telephone service, provided, that the utility tax therefore shall be collected under Section 5.06.025 of this chapter. Telephone business does not include the providing of competitive telephone service, the providing of cable television service, nor the providing of broadcast services by radio and television stations. (Ord. 1514-05 § 1, 2005: Ord. 1499-05 § 1, 2005)

5.06.020 Utility tax levied—Rate.

On and after April 1, 2005, there is levied on and shall be collected from every person a tax for the act or privilege of engaging in certain business activities, measured by the application of the respective rates against gross income as follows:

A. Telephone Business. Upon every person engaged in or carrying on any telephone business (excluding cellular telephone service) within the city of Sedro-Woolley, a fee or tax equal to six percent of the total gross income from such business in the city of Sedro-Woolley. Tax liability imposed under this section shall not apply to that portion of gross income derived from charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services, or charges for network telephone service that is purchased for the purpose of resale.

B. Solid Waste. Upon every person engaged in or carrying on the business of collecting solid waste, recyclable materials or yard waste, a tax equal to two percent of the total gross income from such business in the city of Sedro-Woolley, but not including income from the ~~collection of recyclables from commercial and industrial customers, nor the~~ sale of recyclable materials or yard waste.

C. Sewer System. Upon every person engaged in or carrying on the business of operating a sanitary sewer system, a tax equal to two percent of the total gross income from such business in the city of Sedro-Woolley. (Ord. 1499-05 § 2, 2005)

5.06.025 Cellular telephone utility tax levied—Rate.

On and after January 1, 2006, there is levied on and shall be collected from every person a tax for the act or privilege of engaging in certain business activities, measured by the application of the respective rates against gross income as follows:

Cellular Telephone Business. Upon every person engaged in or carrying on any cellular telephone service business within the city of Sedro-Woolley a fee or tax equal to six percent of the total gross income from such business in the city of Sedro-Woolley. Tax liability imposed under this section shall not apply to that portion of gross income derived from charges to another telecommunications company, as defined in RCW 80.04.010, for connecting fees, switching charges, or carrier access charges relating to intrastate toll telephone services, or for access to, or charges for, interstate services, or charges for network telephone service that is purchased for the purpose of resale. (Ord. 1514-05 § 2, 2005)

new **Public utilities.**

A. There is levied upon, and shall be collected from, every person, firm or corporation engaged in carrying on the following business for hire or for sale of a commodity or a service within or partly within the corporate limits of the city, the tax for the privilege of so doing business as hereinafter defined:

1. Upon any cable television business, there shall be levied a tax equal to six and one half percent of the total gross subscriber revenues from business in the city.

2. There is levied a tax on the sale, delivery or distribution of electricity and electrical energy, and for the privilege of carrying on said business such tax shall be equal to six percent of the total gross revenue derived from sales of such electricity to ultimate users within the city; provided, however, that there shall not be any tax levied for the installation charges of electrical units.

3. There is levied a tax on the sale, delivery, distribution or furnishing of natural gas for domestic, business or industrial consumption, and for the privilege of carrying on said business such tax shall be equal to six percent of the total gross income from such business in the city; provided, however, that there shall not be any tax levied for installation charges of gas energy units. B. The tax imposed by this section shall be due and payable in quarterly installments and remittance shall be made on or before the thirtieth day of the month next succeeding the end of the quarterly period in which the tax accrued, such quarterly periods being, as follows:

1. First quarter: January, February, March;

2. Second quarter: April, May, June;

3. Third quarter: July, August, September;

4. Fourth quarter: October, November, December.

This section shall be effective January 1, 1982, and the first payment made under this section shall be made on or before April 30, 1982, for the first quarter. On or before said due date, the taxpayer shall file with the city clerk a written return upon such form and setting forth such information as the clerk reasonably requires, together with payment of the amount of the tax.

C. In computing the tax, there shall be deducted from gross operating revenues, the following items:

1. The amount of credit losses and uncollectibles actually sustained by the taxpayer;

2. Amounts derived from transactions in interstate or foreign commerce or from any business which the city is prohibited from taxing under the Constitutions of the United States or the state.

D. Each taxpayer shall keep records reflecting the amount of his gross operating revenues, and such records shall be open at all reasonable times to the inspection of the city clerk or her duly authorized subordinates for verification of said tax returns or for the fixing of the tax of a taxpayer who fails to make such returns.

E. If any person, firm or corporation subject to this section fails to pay any tax required by this section within thirty days after the due date thereof, there shall be added to such tax a penalty of one percent per month of the amount of such tax, and any tax due under this section and unpaid and all penalties thereon shall constitute a debt to the city and may be collected by court proceedings, which remedy shall be in addition to all other remedies.

F. Any money paid to the city through error or not otherwise in payment of the tax imposed by this section or in excess of such tax, upon request of the taxpayer, shall be credited against any tax due or to become due from such taxpayer under this section or, upon the taxpayer ceasing to do business in the city, shall be refunded to the taxpayer.

G. Any person, firm or corporation subject to this section who fails or refuses to make the required tax returns or to pay the tax when due, or who makes any false statement or representation in or in connection with any such tax return, or otherwise violates or refuses or fails to comply with this section, is guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not to exceed three hundred

dollars or by imprisonment in the city or county jail for a term of not to exceed ninety days, or by both such fine and imprisonment. (Ord. 1192 § 1 (part), 1993)

~~**5.06.030 License requirement.**~~

~~Any person subject to taxation under the provisions of this chapter is required to obtain an occupation license from the city of Sedro-Woolley. On and after April 1, 2005, no person subject to payment of the tax herein shall engage in any business, occupation, or activity in the city of Sedro-Woolley without first obtaining and holding a valid license to do so, which license shall be known as an "occupation license" for which the applicant will pay no charge. Such occupation license shall expire at the end of the calendar year in which it is issued and a new license shall be required for each calendar year, unless the taxpayer is transacting business on a fiscal year with the prior consent of the city clerk, obtains an occupation license for the period of its current fiscal year which shall be deemed the tax year for such taxpayer. In such case, the occupation license shall expire at the end of the taxpayer's tax year.~~

~~Application for an occupation license shall be made to the city of Sedro-Woolley's community services department which shall provide the forms therefor and shall issue the license.~~

~~Any person engaging in or carrying on more than one business, occupation, pursuit or privilege within the city of Sedro-Woolley that is subject to taxation under this chapter shall apply for and obtain an occupation license and shall pay the tax imposed on each of the same. Each occupation license shall be numbered, shall show the name, place and character of business of the taxpayer, and such other information on as the city clerk shall deem necessary, and shall be conspicuously posted in the place of business for which it is issued at all times. Such license shall be personal and nontransferable.~~

~~No person to whom an occupation license has been issued pursuant to this chapter shall suffer or allow any other person for whom a separate license is required to operate under or display that person's license, nor shall such other person operate under or display such license.~~

~~Any taxpayer who engages in or carries on any business subject to tax hereunder without obtaining and maintaining a valid occupation license to do so shall be guilty of a violation of this chapter for each day during which the business is so engaged in or carried on and the taxpayer who fails or refuses to pay the license fee or tax on any part thereof on or before the due date shall be deemed to be operating without having a license to do so. (Ord. 1499-05 § 3, 2005)~~

5.06.040 Allocation of income—Cellular telephone service.

A. Service Address. Payments by a customer for the telephone service from telephones without a fixed location shall be allocated among taxing jurisdictions to the location of the customer's principal service address during the period for which the tax applies.

B. Presumption. There is a presumption that the service address a customer supplies to the taxpayer is current and accurate, unless the taxpayer has actual knowledge to the contrary.

C. Roaming Phones. When the service is provided while a subscriber is roaming outside the subscriber's normal cellular network area, the gross income shall be assigned consistent with the taxpayer's accounting system to the location of the originating cell site of the call, or to the location of the main cellular switching office that switched the call.

D. Dispute Resolution. If there is a dispute between or among the city of Sedro-Woolley and one or more other cities, as to the service address of a customer who is receiving cellular telephone services and the dispute is not resolved by negotiation among the parties, then the dispute shall be resolved by the city of Sedro-Woolley and the other city or cities by submitting the issue for settlement to the Association of

Washington Cities (AWC). Once the taxes on the disputed revenues have been paid to one of the contesting cities, the cellular telephone service company shall have no further liability with respect to additional taxes on the disputed revenues so long as it changes its billing records for future revenues to comport with the settlement facilitated by AWC. (Ord. 1514-05 § 3, 2005)

5.06.050 Remittance.

A. Monthly Remittance. The tax imposed by this chapter shall be reported and remitted to the city of Sedro-Woolley monthly on or before the last day of the subsequent month. If a taxpayer commences to engage in business at any time other than the first day of the month, then the taxpayer's first return and tax payment shall be based upon and cover the portion of the month during which the taxpayer engaged in business.

B. Returns. The remittance shall be in legal tender and shall be accompanied by a return on a form to be provided and prescribed by the city clerk. The taxpayer shall be required to swear or affirm in writing on the return that the information therein given is full and true and that the taxpayer knows it to be so. If the total tax for which any person is liable under this chapter is not reasonably expected to exceed one hundred dollars in any month, the taxpayer may file a written request with the city clerk to file and pay taxes due under this chapter annually. Such requests are subject to approval by the city clerk. (Ord. 1499-05 § 4, 2005)

5.06.060 Taxpayer engaged in more than one business.

Any person engaged in, or carrying on more than one activity or business subject to the tax imposed by this chapter, shall pay the tax so imposed on each such business or activity. (Ord. 1499-05 § 5, 2005)

5.06.070 Deductions.

In computing the tax imposed by this chapter, the following may be deducted from the measure of the tax:

A. Adjustments made to a billing or to a customer account or to a telecommunications company accrual account in order to reverse a billing or charge that had been made as a result of third-party fraud or other crime and was properly a debt of a customer and for which the taxpayer can provide documentation to the city of Sedro-Woolley.

B. All cash discounts allowed and actually granted to customers of the taxpayer during the tax year and for which the taxpayer can provide documentation to the city of Sedro-Woolley.

C. Amounts derived from transactions in interstate or foreign commerce, or from business done for the government of the United States, its officers or agents in their official capacity, and any amount paid by the taxpayer to the United States or the state of Washington, as excise taxes.

D. The amount of credit losses actually sustained by taxpayers whose regular books are kept on an accrual basis.

E. Amounts derived from business which the city of Sedro-Woolley is prohibited from taxing under the Constitution or the laws of this state or the United States.

F. Amounts derived from collection of recyclables from commercial and industrial customers. (Ord. 1499-05 § 6, 2005)

5.06.080 Record retention requirements.

It shall be the duty of every person required to obtain an occupation license and liable for payment of any tax imposed by this chapter to keep and preserve for a period of five years such books and records as will accurately reflect the amount of gross income from the business, and from which can be determined the amount of any tax for which the person may be liable under the provisions of this chapter. The term "books

and records" as used in this section includes but is not limited to copies of the taxpayer's federal income tax returns, federal excise tax returns, state of Washington excise tax returns, and copies of income tax and excise tax audits made by the United States or the state of Washington and furnished to such person. The taxpayer's books and records shall be available for examination at all reasonable times by the city clerk and his or her duly authorized.

In the case of any taxpayer who does not keep the necessary books and records within the city of Sedro-Woolley for examination, it shall be sufficient if such person produce the same within the city of Sedro-Woolley as instructed or required by the city clerk.

Any taxpayer who fails, neglects, or refuses to produce such books and records in accordance with this chapter, or fails to file a return, in addition to being subject to other civil and criminal penalties provided by this chapter, is subject to a tax assessment in an amount determined by the city clerk in accordance with the provisions of this chapter, which tax assessment shall be deemed prima facie correct and shall be the amount of fee or tax owing to the city of Sedro-Woolley by the taxpayer unless the person can prove otherwise by competent evidence. The taxpayer shall be notified by mail by the city clerk of the amount of tax assessment imposed pursuant to this section, together with any penalty and/or interest due, and the total of such amounts shall thereupon become immediately due and payable. (Ord. 1499-05 § 7, 2005)

5.06.090 Tax delinquency—Unlawful acts.

A. Penalties and Interest. For each payment due, if such payment is not made by the due date thereof, there shall be added penalty and interest as follows:

1. If paid one to ten days late, there shall be a penalty of ten percent added to the amount of tax due.
2. If paid eleven to twenty days late, there shall be a penalty of fifteen percent added to the amount of tax due.
3. If paid twenty-one to thirty days late, there shall be a penalty of twenty percent added to the amount of tax due.
4. If paid thirty-one to sixty days late, there shall be a penalty of twenty-five percent added to the amount of tax due.
5. In addition to the above penalty, the city of Sedro-Woolley shall charge the taxpayer interest on all taxes due at the rate of one percent per month or portion thereof that such amounts are past due.
6. The tax imposed by this chapter and all penalties and interest thereon shall constitute a debt to the city of Sedro-Woolley and may be collected by court proceedings in the same manner as any other debt which remedy shall be in addition to all other available remedies. Any judgment entered in favor of the city of Sedro-Woolley may include an award to the city of Sedro-Woolley of all court and collection costs including attorneys' fees to the extent permitted by law. Amounts delinquent more than sixty days may be assigned to a third party for collection in which case the amount of any collection charges shall be in addition to all other amounts owed. Amounts due shall not be considered paid until the city of Sedro-Woolley has received payment for the full amount due or has discharged the amount due and not paid.

B. Unlawful Acts. It is unlawful for any person liable for the tax imposed by this chapter to fail to pay the tax when due or for any person, firm, or corporation to make any false or fraudulent return or any false statement in connection with the return.

C. Criminal Penalties. Any person who intentionally violates any provision of this chapter shall be guilty of a misdemeanor and upon conviction thereof punished pursuant to state law or city ordinance. (Ord. 1499-05 § 8, 2005)

5.06.100 Quitting, selling or transferring business.

Whenever any taxpayer quits business, or sells out, exchanges, or otherwise disposes of such business, any tax payable under this chapter shall become immediately due and payable, and such taxpayer shall, within ten days thereafter, make a return and pay the tax due; and any person who becomes a successor shall become liable for the full amount of any unpaid tax, interest, and penalties and shall withhold from the purchase price an amount sufficient to pay any tax due from the taxpayer until such time as the taxpayer shall produce a receipt from the city of Sedro-Woolley showing payment in full of any tax due or a certificate that no tax is due. If such tax, interest or penalty has not been paid by the taxpayer within ten days from the date of such sale, exchange, or disposal, the successor shall become liable for the payment of the full amount of tax, interest and penalties. The successor's liability shall be limited to the purchase price or fair market value of the business purchased if no cash transaction took place. No successor shall be liable for any tax due from the taxpayer from whom the successor has acquired a business or stock of goods if the successor gives written notice to the city clerk of such acquisition and no assessment is issued by the city clerk within six months of receipt of such notice against the former operator of the business. Taxpayer's account will remain on an active status and be subject to all taxes, penalties and interest until such time as the city clerk is notified in writing that the taxpayer has discontinued business activity within the city of Sedro-Woolley. Nothing in this chapter is intended nor shall it be construed to prohibit the successor from engaging in business in the city of Sedro-Woolley pending resolution of the successor's tax liability. (Ord. 1499-05 § 9, 2005)

5.06.110 Tax not exclusive.

The tax levied herein shall be additional to any license fee or tax imposed or levied under any other law or under any other ordinance of the city of Sedro-Woolley. (Ord. 1499-05 § 10, 2005)

5.06.120 Rate changes.

No change in the rate of tax upon persons engaging in the telephone business, including cellular telephone service, shall apply to business activities occurring before the effective date of the change. Furthermore, except for a change in the tax rate authorized by RCW 35.21.870, no change in the rate of the tax on the telephone business may take effect sooner than sixty days following the enactment of the ordinance codified in this chapter establishing the change. The city of Sedro-Woolley shall send to each cellular telephone service company at the address on its occupation license, a copy of any ordinance changing the rate of tax upon cellular telephone service promptly upon its enactment. (Ord. 1514 § 4, 2005: Ord. 1499-05 § 11, 2005)

5.06.130 Appeal procedure.

Any taxpayer aggrieved by the amount of the fee or tax found by the city clerk to be required under the provisions of this chapter may, upon full payment of the amount assessed, appeal from such finding by filing a written notice of appeal with the city clerk within fourteen days from the date such taxpayer was given notified in writing of such amount. The clerk shall, as soon as practicable, fix a time and place for the hearing of such appeal before the city council, which time shall be not more than sixty days after the filing of the notice of appeal, and shall cause a notice of the time and place thereof to be delivered or mailed to the appellant. At such hearing before the city council, the taxpayer shall be entitled to be heard and to introduce evidence in his or her own behalf. The city council shall render a decision, together with findings of fact and conclusions of law, based upon the evidence presented at the time of the hearing and all material on file in the case. The city council's decisions shall indicate the correct amount of the fee or tax owing. The city

council's decision shall be final. The appellant or the city of Sedro-Woolley may appeal the decision of the city council to the Superior Court of Washington in and for Skagit County within thirty days after the date of the city council's decision. The city council, through the mayor may, by subpoena, require the attendance of any person, and may also require him or her to produce any pertinent books and records. Any person served with such subpoena shall appear at the time and place therein stated and produce the books and records required, if any, and shall testify truthfully under oath administered by the mayor as to any matter required of him or her pertinent to the appeal, and it is unlawful for him or her to fail or refuse to do so. (Ord. 1499-05 § 12, 2005)

5.06.140 Over or underpayment of tax.

In the event that any person makes an overpayment and within two years of the date of such overpayment makes application for a refund or credit, the person's claims shall be allowed and a refund made by the city of Sedro-Woolley upon determination by the city clerk that no other sums are owed by the person to the city of Sedro-Woolley. If a person determines that the tax has been underpaid and without notice by any party pays the amount due to the city of Sedro-Woolley, such amount shall not be subject to penalty. (Ord. 1499-05 § 13, 2005)

5.06.150 Pass-through to customer.

The taxpayer may pass any tax in this chapter on to a customer, client, or purchaser, showing the additional amount on the billing for or invoice. However, doing so shall not cause the customer, client, or purchaser to become a "taxpayer" for purposes of this chapter. (Ord. 1499-05 § 14, 2005)

5.06.155 Use of funds.

All monies collected from the tax upon cellular telephone services shall be deposited into the ~~Cumulative Reserve Fund (Fund 302)~~ Facilities Maintenance Reserve Fund (Fund 303) and used only for construction of, acquisition of real estate for, or repairs to city municipal buildings, including fixtures and appliances. (Ord. 1514-05 § 6, 2005)

~~Chapter 5.08~~

~~AMUSEMENT DEVICES, VENDING MACHINES, MUSIC MACHINES~~

~~**Sections:**~~

~~**5.08.010 Definitions.**~~
~~**5.08.020 Master license—Music machines.**~~
~~**5.08.030 Amusement devices.**~~
~~**5.08.040 Food and beverage machines.**~~
~~**5.08.050 Cigarette and tobacco vending machines.**~~
~~**5.08.060 Machines in owner's place of business.**~~
~~**5.08.070 Assignment of license.**~~
~~**5.08.080 License—Application.**~~
~~**5.08.090 License—Issuance.**~~
~~**5.08.100 Seizure of unlicensed machine.**~~
~~**5.08.110 Minors operating.**~~
~~**5.08.120 Allowing minors to operate.**~~
~~**5.08.130 Limit on number of machines.**~~
~~**5.08.140 Permitting unlicensed machine on premises.**~~
~~**5.08.150 License fee a civil debt.**~~
~~**5.08.160 License—Revocation.**~~
~~**5.08.170 Revocation for violations.**~~
~~**5.08.180 License revocation—Hearing.**~~
~~**5.08.190 Gambling not permitted.**~~
~~**5.08.200 Moving machines.**~~
~~**5.08.210 Penalties.**~~
~~**5.08.220 Financial statement to accompany license application.**~~

~~5.08.010 Definitions.~~

~~"Distributor" as used herein means any person, firm or corporation who leases, rents to, or places with others within this city any machine or device operated by a coin or coins, or other valuable consideration, for playing music or other records, amusement devices, cigarette and tobacco vending machines, and candy or other merchandise vending machines.~~

~~"Operator" as used herein, means any person, firm or corporation who in this city possesses, exhibits for use, play, or operation any machine or device mentioned in this chapter, not owned by such person, firm or corporation.~~

~~"Owner and operator," means use, play, or operation, any such machine or devices owned by him. (Ord. 568 §§ 1, 2, 1956)~~

~~5.08.020 Master license—Music machines.~~

~~No distributor of any machine operated by coin or payment of money for playing music, reproducing voices or sound, or reproducing pictures or visual objects, shall lease or place any such machine or device with any operator in any building or place in this city, or operate the same himself, without first securing a master license therefor from the city clerk at a cost of one hundred fifty dollars per calendar year, or the calendar year remaining from the day the license is~~

~~secured. Such master license shall allow the distributor to place not to exceed ten machines in the city under the master license, but for all machines over ten he shall pay fifteen dollars each. (Ord. 568 § 3, 1956)~~

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~~5.08.030 Amusement devices.~~

~~No distributor of any machine or device operated by coin or payment of money for providing amusement, including machines or devices for playing bingo, in-line, or pinball machines, iron claw machines, cranes, shuffleboards, miniature bowling games and shooting galleries or other similar type machines or devices, shall lease or place the same with any operator, or in any building or place in this city, or operate the same himself, without first securing from the city clerk a master license therefor at a cost of two hundred fifty dollars per calendar year, or the calendar year remaining from the day the license is secured, which shall entitle the distributor to place not to exceed ten machines or devices within the city. The distributor shall also pay the sum of two hundred fifty dollars per year for each ten or fractional part of ten machines over the initial ten machines covered by the master license. (Ord. 568 § 4, 1956)~~

5.08.040 Food and beverage machines.

No distributor of any machine or device operated by coin or payment of money for vending candy, beverages, nuts, fruit or other similar type merchandise, not including tobacco or tobacco products, shall lease or place the same in this city, or operate the same himself, without first securing a master license there for from the city clerk at a cost of twenty-five dollars per calendar year, or the calendar year remaining from the day the license is secured. In addition the distributor shall pay to the city clerk the sum of two dollars per machine for all machines over fifteen permitted under the master license. (Ord. 568 § 5, 1956)

5.08.050 Cigarette and tobacco vending machines.

No distributor of any machine operated by coin or the payment of money for vending cigarettes, cigars, cigarillos, snuff, or other tobacco products, shall lease or place the same to any operator within this city without first securing from the city clerk a master license therefor at a cost of twenty-five dollars per calendar year, or the calendar year remaining from the day the license is secured. In addition the distributor shall pay to the city clerk the sum of five dollars for each machine over the fifteen permitted under the master license. (Ord. 568 § 6, 1956)

5.08.060 Machines in owner's place of business.

Any individual who owns and operates machines and devices in a place of business owned by him or under his control, shall not be required to procure the master licenses herein provided for, but he shall pay, for each machine or device owned and operated by him, an annual license fee, as follows:

A. Music machines, fifteen dollars each;

B. Amusement devices, twenty-five dollars each;

C. Candy, merchandise, and beverage machines, two dollars;

D. Cigarette and tobacco vending machines, five dollars each. (Ord. 571 § 1, 1956: Ord. 568 § 7, 1956)

5.08.070 Assignment of license.

No licenses issued under this chapter shall be transferred or assigned to any third party, but the sale of a building or business in which licensed machines are in operation shall not require payment anew for licensed machines. (Ord. 568 § 8, 1956)

5.08.080 License—Application.

Applications for licenses shall be made to the city clerk on forms required by him, giving information as to the name, place of business, and other information about the applicant which may be required. (Ord. 568 § 9, 1956)

5.08.090 License—Issuance.

Individual licenses for each licensed machine shall be furnished to distributors by the city clerk, and all machines in operation must at all times have a duly authorized and issued license attached to them in a conspicuous place. Such individual licenses shall be numbered, bear the name of the distributor, date of issue, expiration date, and other pertinent information. (Ord. 568 § 10, 1956)

5.08.100 Seizure of unlicensed machine.

Any machine or device herein mentioned not bearing an individual machine license, found in operation, or found in any place of business or other place in this city, open to the public, or portions of the public, is hereby declared to be contraband, and shall be seized by any police officer of this city, and sold or destroyed. Nothing contained in this chapter shall apply to machines held in a warehouse or storage pending distribution, and not being operated, or to a machine in transit to a place of operation, or to machines being demonstrated by distributors to prospective lessees in the usual course of business. (Ord. 568 § 11, 1956)

5.08.110 Minors operating.

No person under the age of eighteen years shall operate any amusement device mentioned in Section 5.08.030, or cigarette and tobacco vending machine mentioned in Section 5.08.050. (Ord. 809 § 15 (part), 1975: Ord. 568 § 12, 1956)

5.08.120 Allowing minors to operate.

No operator, owner and operator, distributor, or other person having any amusement device mentioned in Section 5.08.030 or cigarette and tobacco vending machine mentioned in Section 5.08.050 in his possession, in his place of business or amusement, or under his control, shall permit any person under the age of eighteen years to operate the same. (Ord. 809 § 15 (part), 1973: Ord. 568 § 13, 1956)

5.08.130 Limit on number of machines.

Not to exceed three machines of types authorized under any master license may be placed or operated in any one place of business or amusement. (Ord. 568 § 14, 1956)

5.08.140 Permitting unlicensed machine on premises.

No owner and operator, or operator, shall permit any unlicensed machine or device herein mentioned to be placed or operated in his place of business. (Ord. 568 § 15, 1956)

5.08.150 License fee a civil debt.

The license fees provided in this chapter shall be a civil debt to the city, owed by the person or persons liable under the provisions of this chapter, and may be collected by civil action as a remedy in addition to other remedies and penalties provided in this chapter. (Ord. 568 § 16, 1956)

5.08.160 License—Revocation.

Any master or individual license issued under this chapter may be revoked by the city council without cause and without notice, at any time, in which case the licensee may secure a refund of license fees paid in, prorated according to the expired and unexpired portions of the calendar year in which revocation is made. (Ord. 568 § 17, 1956)

5.08.170 Revocation for violations.

Any master or individual license issued under this chapter may be revoked by the city council for violation of any of the provisions of this chapter by any operator, owner and operator, or distributor, in which case refund or unexpired term of the license shall not be made. (Ord. 568 § 18, 1956)

~~5.08.180 License revocation—Hearing.~~

~~When complaint is made against a distributor or operator for violations of this chapter justifying a revocation of license for cause, a hearing shall be held by the city council at a regular or special meeting upon the complaint, and at such hearing the distributor or operator against whom the complaint is made shall have the right to appear in his own defense. He shall be given at least five days' notice of the hearing by writing addressed to him and mailed to him at least five days prior to the day of hearing, at his address given upon his application for license. (Ord. 568 § 19, 1956)~~

~~5.08.190 Gambling not permitted.~~

~~Nothing contained in this chapter shall be deemed to permit the distribution or operation of any gambling machine or device as defined by the laws of the state of Washington. (Ord. 568 § 20, 1956)~~

~~5.08.200 Moving machines.~~

~~Licenses placed upon individual machines or devices shall be for a given location to be specified upon the license, and machines or devices licensed for one location may not be removed to or operated at another location within the city under such license. (Ord. 568 § 21, 1956)~~

~~5.08.210 Penalties.~~

~~Any person, firm or corporation violating any of the provisions of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed three hundred dollars, or by imprisonment in the city jail for not to exceed ninety days, or by both such fine and imprisonment, and such fine and imprisonment may be in addition to penalty of revocation of licenses and destruction of contraband machines, when justified hereunder. (Ord. 568 § 24, 1956)~~

~~5.08.220 Financial statement to accompany license application.~~

~~No license shall be granted under this chapter to any person not of good moral character and all applicants for licenses shall submit with their applications a financial statement showing financial condition and giving references of good character. Before any licenses are issued, the license committee shall first find that the applicants are of good moral character and of financial stability. In the event the license committee desires, it has the right to require of the applicants further evidence of their financial positions and moral character and the finance committee shall have the right to deny an application to any applicant lacking in the foregoing matters. (Ord. 571 § 2, 1956: Ord. 568 § 26, 1956)~~

Chapter 5.12

PAWNBROKERS ~~AND SECONDHAND DEALERS~~

Sections:

5.12.010 Definitions.
5.12.020 Exclusions.
5.12.030 Record of transactions.
5.12.040 Report to police chief.
5.12.050 Lost or stolen property.
5.12.060 Hold on stolen property.
5.12.070 Inspection of goods.
5.12.080 Inspection of premises.
5.12.090 Hold on pawned or pledged property.
5.12.100 Rates of interest—State statute adopted by reference.
5.12.110 Prohibited acts—Violation—Penalty.
~~**5.12.120 License—Fees.**~~
~~**5.12.130 License—Requirements.**~~
~~**5.12.140 License—Application—Investigation—Expiration.**~~
~~**5.12.150 License—Application—Applicant fingerprints.**~~

5.12.010 Definitions.

For the purposes of this chapter:

A. "Pawnbroker" means every person engaged, in whole or in part, in the business of loaning money on the security of pledges, or received by way of pledge or pawn, goods, wares, or merchandise of any kind of personal property thereon, or to loan money or deposit of personal property, shall be deemed to be a pawnbroker.

~~B. "Secondhand dealer" means every person engaged in whole or in part in the business of buying, selling, trading, or bartering or selling on consignment, secondhand personal property including precious metals in any form, including gold, silver, copper, or brass shall be deemed to be a secondhand dealer.~~ (Ord. 1065 § 1, 1989)

~~5.12.020 Exclusions.~~

~~The following businesses shall be excluded from coverage of this chapter:~~

~~A. Any business engaged solely in the sales of new furniture or major appliances who may take use furniture or major appliances on trade for new items;~~

~~B. Any business engaged solely in the sales or services of motor vehicles;~~

~~C. Any nonprofit organization engaged solely in the sales of donated items of merchandise;~~

~~D. Any bank, credit union, or saving and loan or any other state or federally chartered lending institution.~~ (Ord. 1065 § 2, 1989)

5.12.030 Record of transactions.

It shall be the duty of every pawnbroker ~~and secondhand dealer~~ doing business in the city, to at all times keep and maintain in his place of business, a book or other permanent record in which

shall be legibly written in the English language, at the time of each loan, purchase of used or secondhand goods, a record thereof, containing:

A. The date of transaction;

B. The name of the person or employee conducting said transaction on behalf of the pawnbroker or secondhand dealer;

C. The name, date of birth, street and house number, city, state, telephone number, and identification number of the person with whom the transaction is conducted. The identification number shall be obtained from a valid Washington State driver's license or identification card, or similar license or card from another jurisdiction. No other form of identification than those listed therein above may be used, and the person or employee conducting the transaction shall have the duty of examining the identification and obtaining the identification and obtaining the identification number for each such transaction;

D. The name, age, street, and house number of the owner of the property bought or received in pledge, pawn, trade, barter, or consignment;

E. Description of the property bought or received in pledge, in trade or consignment. The description shall include any model number, serial number, brand name, letters or marks inscribed thereon, as well as any distinctive characteristics of the property; provided, that when the article bought or received is furniture, or the contents of any house or room, actually inspected on the premises, a general record of the transaction shall be sufficient;

F. The price paid or the amount loaned;

G. The number of any pawn ticket issued therefor;

H. The signature of the person with whom the transaction is conducted. (Ord. 1065 § 3, 1989)

5.12.040 Report to police chief.

It shall be the duty of every pawnbroker ~~and secondhand dealer~~ to have ready for the police chief's inspection by twelve noon of every business day, a blank form to be furnished by the Sedro-Woolley police department filled in with the true and correct description of the record of all transactions had on the preceding day, as set forth in Section 5.12.030. A copy of such records shall be forwarded at the conclusion of each business week to the city police department. (Ord. 1065 § 4, 1989)

5.12.050 Lost or stolen property.

Any pawnbroker ~~or secondhand dealer~~ having good cause to believe that any property in his possession has been previously lost or stolen, shall immediately report such fact to the city police department, together with the name of the owner, if known, and the date when and the name of the person from whom the property was received. (Ord. 1065 § 5, 1989)

5.12.060 Hold on stolen property.

Following notification from a law enforcement agency that an item of property has been reported as stolen the pawnbroker ~~or secondhand dealer~~ shall hold that property intact and safe from alteration, damage, or commingling. The pawnbroker ~~or secondhand dealer~~ shall place an identifying tag or other suitable identification upon the property so held. Property held shall not be released for one hundred twenty days from the date of police notification unless released by written consent of the applicable law enforcement agency or by order of a court of competent jurisdiction. The pawnbroker ~~or secondhand dealer~~ shall give ten days written notice before the

expiration of the one hundred twenty-day holding period to the applicable law enforcement agency about the stolen property. If notice is not given within the required ten-day period, then the hold on the property shall continue for an additional one hundred twenty days. The applicable law enforcement agency may renew the holding period for additional one hundred twenty-day periods as necessary. (Ord. 1076 § 1, 1989)

5.12.070 Inspection of goods.

Such record, and all goods received, shall at all times during the ordinary hours of business be open to the inspection of the prosecuting attorney or any peace officer. (Ord. 1065 § 6, 1989)

5.12.080 Inspection of premises.

Any peace officer or the prosecuting attorney may enter any business licensed as a pawnshop ~~or secondhand store~~ in the city, or any premises in any way connected physically or otherwise with the pawnshop ~~or secondhand store~~, including vehicles used in connection therewith, at any time during normal business hours. Such peace officers or prosecuting attorney is authorized to make such inspection and take such action as may be required to enforce the provisions of any business licensed under this chapter. (Ord. 1065 § 7, 1989)

5.12.090 Hold on pawned or pledged property.

No property bought or received in pawn or pledge by any pawnbroker ~~or secondhand dealer~~ shall be removed from his place of business, except when redeemed by the owner thereof, for a period of four days after the receipt thereof in writing to the city police chief as required in Section 5.12.030, unless previously inspected by the city police chief and released in writing. (Ord. 1065 § 8, 1989)

5.12.100 Rates of interest—State statute adopted by reference.

RCW Section 19.60.060, a statute of the state, is adopted by reference. (Ord. 1065 § 9, 1989)

5.12.110 Prohibited acts—Violation—Penalty.

Every pawnbroker ~~or secondhand dealer~~ and every clerk, agent or employee of such pawnbroker ~~or secondhand dealer~~, who shall:

A. Fail to make an entry of any material matter in his book or record kept as required in Section 5.12.030;

B. Make any false entry therein;

C. Falsely obliterate, destroy or remove from his place of business such book or record;

D. Refuse to allow inspections as required in Section 5.12.070;

E. Fail to make available the record of transactions as regulated in Section 5.12.030;

F. Fail to report to the police chief any property received that he believes or has reason to believe, to be lost or stolen as required in Section 5.12.050;

G. Remove any property from his place of business within four days except as provided in Section 5.12.090;

H. Receive any property from any person under the age of eighteen years, any common drunkard, any habitual user of narcotic drugs, any habitual criminal, any person in an intoxicated condition, any known thief or receiver of stolen property, whether such person be acting on his own behalf or as the agent of another.

Any person in violation of the foregoing prohibited acts shall be guilty of a gross misdemeanor punishable by a fine of not to exceed five thousand dollars, imprisonment not to exceed one year, or both. (Ord. 1368-00 § 1, 2000: Ord. 1065 § 10, 1989)

~~5.12.120 License Fees.~~

~~The license fee for pawnbrokers and secondhand dealers is fixed in the sum of twenty-five dollars per year. (Ord. 1065 § 11, 1989)~~

~~5.12.130 License Requirements.~~

~~No person shall be issued a pawnbroker or secondhand dealer's license unless he possesses the following qualifications:~~

~~A. Is at least twenty-one years of age;~~

~~B. Is a resident of the state of Washington for at least six months prior to filing application;~~

~~C. Has not been convicted of any offense involving moral turpitude or intent to defraud or any property crime, within three years prior to the time of application. (Ord. 1065 § 12, 1989)~~

~~5.12.140 License Application Investigation Expiration.~~

~~A. When an application for a pawnbroker's or secondhand dealer's license, duly signed and notarized, and accompanied by required information, has been received by the police chief, he shall investigate the statements contained therein and may obtain such other information concerning the applicant's character, integrity, personal habits, past conduct and general suitability to maintain a pawnshop or secondhand shop within the city.~~

~~B. All applications shall become null and void after sixty days from the date of filing if the application for any reason is denied or is not obtained by the applicant. (Ord. 1065 § 13, 1989)~~

~~5.12.150 License Application Applicant fingerprints.~~

~~Each application for a pawnbroker's or secondhand dealer's license shall be accompanied by a complete set of fingerprints of the applicant, utilizing a fingerprint form provided by the city police department. (Ord. 1065 § 14, 1989)~~

~~Chapter 5.16~~

~~POOL, BILLIARDS, AND CARDROOMS~~

~~**Sections:**~~

~~**5.16.010 Poolroom.**~~
~~**5.16.020 Penalty.**~~

~~5.16.010 Poolroom.~~

~~Every proprietor, manager, or person in charge of any poolroom or place where billiards, pool, cards, or other games are played within the city limits shall close his place of business at one a.m. and keep the same closed until six a.m. of each and every day, during which time the doors of his place of business shall be securely locked, and all screens and curtains shall be removed from the doors and windows so as to disclose a clear view of the interior from the outside of such places of business, and no person or persons shall be permitted to enter or remain therein except the proprietor and the persons employed therein. All rooms connected with any such poolroom and under the same control shall be considered a part of such poolroom. (Ord. 238 § 1, 1920)~~

~~5.16.020 Penalty.~~

~~Any person or persons violating any of the provisions of this chapter shall be punished, upon a conviction thereof, by a fine of not more than three hundred dollars. (Ord. 809 § 7, 1975: Ord. 238 § 2, 1920)~~

~~Chapter 5.20~~

~~PUBLIC DANCES AND DANCE HALLS~~

~~**Sections:**~~

~~**5.20.010 Definitions.**~~
~~**5.20.020 License required.**~~
~~**5.20.030 License fees.**~~
~~**5.20.040 Lighting.**~~
~~**5.20.050 Hours.**~~
~~**5.20.060 Minors attending.**~~
~~**5.20.070 License—Revocation—Transfer.**~~
~~**5.20.080 Penalty for violations.**~~

~~5.20.010 Definitions.~~

~~As used in this chapter, the term "public dance" means any dance or ball to which the public generally may gain admission with or without the payment of an admission fee. The term "dance hall" means any room, hall, pavilion, building or other structure kept for the purpose of conducting therein public dances or dancing. (Ord. 357 § 1, 1933)~~

~~5.20.020 License required.~~

~~No person, copartnership or corporation shall hold any public dance or conduct or maintain any dance hall within the city limits, without having first procured from the city clerk a license to do so. Licenses for dance halls shall be issued by the year or by the quarter, as requested by the applicant. A license for a single public dance shall entitle the holder thereof to conduct such dance only on the day and at the place specified in the license. No license shall be granted to any corporation, but if any dance hall be conducted by a corporation the license shall issue to the manager or other directing head thereof. (Ord. 357 § 2, 1933)~~

~~5.20.030 License fees.~~

~~The fees to be charged for licenses granted under this chapter shall be fifty dollars for a yearly license, fifteen dollars for a quarterly license, and three dollars for a license for a single dance. The city council may issue a permit without charge for patriotic, fraternal or community dances. (Ord. 357 § 3, 1933)~~

~~5.20.040 Lighting.~~

~~All buildings, halls, rooms, pavilions or other places in which public dances are carried on, as well as all halls, corridors and rooms leading thereto or connected therewith shall at all times while open to the public, be well lighted. (Ord. 1369-00 § 1, 2000: Ord. 357 § 4 (part), 1933)~~

~~5.20.050 Hours.~~

~~No public dance shall be conducted nor dance hall be kept open between the hours of one a.m. and six a.m., unless a special permit is obtained from the city council. (Ord. 357 § 4 (part), 1933)~~

~~**5.20.060 Minors attending.**~~

~~No person under the age of eighteen years shall be permitted to attend any public dance without the escort of his or her parent or guardian. Any person under the age of eighteen years who shall by affirmative misrepresentation of age obtain admission to or permission to remain in any public dance shall be guilty of a misdemeanor. (Ord. 357 § 4 (part), 1933)~~

~~**5.20.070 License—Revocation—Transfer.**~~

~~Any license granted under this chapter to conduct a dance hall may be revoked by the city council after a hearing held upon not less than ten days' written notice to licensee, and the action of the city council in revoking any such license shall be final and conclusive. Every licensee accepting a license under this chapter shall be deemed to have consented to the provisions of this section with respect to the cancellation of the license. No license granted under this chapter shall be transferable except by a formal order of the city council, nor shall any dance hall or public dance be conducted at any place other than that specified in the license therefor. (Ord. 357 § 5, 1933)~~

~~**5.20.080 Penalty for violations.**~~

~~Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one hundred dollars or by imprisonment in the city jail for a term not exceeding thirty days or both such fine and imprisonment. (Ord. 357 § 6, 1933)~~

Chapter 5.24

TAXICABS

Sections:

~~**5.24.010 License required.**~~
~~**5.24.020 License fee.**~~
5.24.030 Safety inspection.
~~**5.24.040 Driver's permit.**~~
~~**5.24.050 Persons ineligible.**~~
~~**5.24.060 Violation of alcoholic beverage laws.**~~
5.24.070 Insurance required.
~~**5.24.080 Effect on operators from other cities.**~~
5.24.090 Penalty for violations.
5.24.100 Obedience to law required.

~~**5.24.010 License required.**~~

~~No taxicab shall be operated on the streets or public ways within the city unless the owner shall first procure and have in subsistence a valid unexpired license to operate the same issued by the city clerk. (Ord. 567 § 1, 1956)~~

~~**5.24.020 License fee.**~~

~~The license fee for each taxicab owner or operator shall be as provided in Section 5.04.030, and the payment of such license fee shall permit the owner or operator to operate as many taxicabs under one license as he may desire. (Ord. 1370-00 § 1, 2000: Ord. 795 § 1, 1975: Ord. 567 § 2, 1956)~~

5.24.030 Safety inspection.

No taxicab or temporary vehicle may be used as a taxicab which is not in a good state of repair and in a safe condition, or which does not meet the specifications of the State Motor Vehicle Code, or the ordinances of the city, and the police chief, or other officer or person designated by him may require as a condition of the operation of any vehicle that it is inspected periodically as he may direct, or that it be inspected at any time. After any inspection no vehicle may be operated until any defective conditions found are corrected to the satisfaction of the inspecting officer or person. (Ord. 567 § 3, 1956)

~~**5.24.040 Driver's permit.**~~

~~An owner having a motor vehicle operator's license from the state of Washington may operate a taxicab in this city under his taxicab license, but he may not permit any other person to operate any taxicab or taxicabs owned by him in this city unless such person has in subsistence a valid unrevoked taxicab driver's permit secured by him from the city clerk. (Ord. 567 § 4, 1956)~~

~~**5.24.050 Persons ineligible.**~~

~~A. No taxicab license or driver's permit shall be issued to any person who:~~

~~1. Has been convicted of an offense of such a nature to indicate that he is unfit to hold a license or a permit;~~

~~2. Is guilty of committing two or more offenses for which mandatory revocation of driver's license is provided by law;~~

~~3. Has been convicted of manslaughter resulting from the operation of a motor vehicle or convicted of negligent homicide;~~

~~4. Is intemperate or addicted to the use of narcotics.~~

~~B. Any license or permit issued may be revoked if the holder is found guilty of the above mentioned disabilities or physically or mentally unfit upon complaint of the police chief or a committee of the city council designated for that purpose by the council as a whole, at which hearing the holder or licensee may appear and be heard on his own behalf. (Ord. 795 § 2, 1975: Ord. 567 § 5, 1956)~~

~~**5.24.060 Violation of alcoholic beverage laws.**~~

~~No person may be issued a taxicab license or driver's permit within one year after his conviction in any local, state, or federal court or authority, of the violation of any ordinance or law pertaining to the sale or possession of alcoholic beverages, and any license or permit issued shall be revoked for one year upon the conviction of the holder of a violation of local, state, or federal ordinances, laws, or regulations pertaining to the sale or possession of alcoholic beverages. (Ord. 567 § 6, 1956)~~

5.24.070 Insurance required.

No taxicab may be operated in this city unless the owner first procures and has in subsistence automobile liability insurance in such form and amount as is now, or may hereafter be required, by state law applicable to liability insurance upon taxicabs operated outside incorporated cities and towns. (Ord. 567 § 7, 1956)

~~**5.24.080 Effect on operators from other cities.**~~

~~Nothing herein contained shall prevent the operator of a taxicab licensed to operate in another city or town, or within this or other county, from entering and leaving the city for picking up or depositing passengers in the usual course of business. (Ord. 567 § 8, 1956)~~

5.24.090 Penalty for violations.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and subject to a fine of not to exceed ~~three hundred~~ one thousand dollars, or imprisonment in the city jail for not to exceed ninety days, or to both such fine and imprisonment, and in addition his taxicab license ~~or driver's permit~~ shall be revoked for one year for a violation of the provisions of Section 5.24.060, and may be revoked or suspended for not to exceed ninety days for other violations hereof. (Ord. 567 § 9, 1956)

5.24.100 Obedience to law required.

Taxicab operators shall abide by all rules of the road and obey all laws, rules and regulations pertaining to the operation of motor vehicles in public places under the laws of the state of Washington and the ordinances of the city of Sedro Woolley. (Ord. 567 § 12, 1956)

~~Chapter 5.28~~

~~TAVERNS~~

~~Sections:~~

~~5.28.010 License required for music or dancing.~~
~~5.28.020 Music license—Fee.~~
~~5.28.030 Music and dancing license—Fee.~~
~~5.28.040 Entertainment permit.~~
~~5.28.050 License or permit—Application.~~
~~5.28.060 License or permit—State approval.~~
~~5.28.070 Inspections.~~
~~5.28.080 Investigation of complaint.~~
5~~.28.090 Music and dancing license—Expiration.~~
~~5.28.100 License or permit—Nontransferable.~~
~~5.28.110 Penalty for violations.~~

~~5.28.010 License required for music or dancing.~~

~~It is unlawful for the holder of any retail license or the operator of any tavern operating under license or authority of the Washington State Liquor Control Board within the city limits, as now constituted or hereafter extended, to permit any music, dancing or entertainment, whatsoever, in any licensed premises, without first procuring and having in subsistence a license or permit to do so, issued by the city clerk, under the terms and conditions hereinafter set forth; provided however, that the words "music and entertainment," as used in this chapter, shall not apply to radios, television sets or mechanical musical devices. (Ord. 586 § 1, 1957)~~

~~5.28.020 Music license—Fee.~~

~~Any operator desiring to have music in his premises without dancing, shall first procure a music license at a cost of fifty dollars per year. (Ord. 587 § 1 (part), 1957: Ord. 586 § 2, 1957)~~

~~5.28.030 Music and dancing license—Fee.~~

~~Any tavern operator wishing to conduct dancing in his premises shall first secure a combination music and dancing license at a cost of one hundred dollars per year. (Ord. 587 § 1 (part), 1957: Ord. 586 § 3, 1957)~~

~~5.28.040 Entertainment permit.~~

~~Any tavern operator desiring to put on any entertainment for his patrons in the nature of a magic show, athletic exhibition, comedy team or the like, shall first procure a permit to do so at a cost of ten dollars for each day such entertainment is to be given; providing, no permit shall be issued for any immoral, obscene, or improper dance, show, or exhibition. (Ord. 587 § 1 (part), 1957: Ord. 586 § 4, 1957)~~

~~5.28.050 License or permit—Application.~~

~~Before any license or permit provided for in this chapter shall be issued, the tavern operator shall first make application therefor to the city clerk, and he shall accompany his application with~~

~~a sketch of the floor arrangement of his premises, setting forth the place in his premises, where music, dancing or the entertainment is to be given, and no application shall be approved unless the sketch shows that the music, dancing, or entertainment shall be held in a portion of the premises open to the view of the remainder of the premises, and in a well-lighted and suitable area. Before issuing a license or permit, the city clerk shall require an inspection and approval of the premises by the police chief. (Ord. 586 § 5, 1957)~~

~~5.28.060 License or permit—State approval.~~

~~Any license or permit issued under this chapter shall be subject to the approval of the Washington State Liquor Control Board or authorized agent. (Ord. 586 § 6, 1957)~~

~~5.28.070 Inspections.~~

~~The police chief or policeman on duty shall make inspection of all dances or entertainments held in any tavern under a license issued under this chapter, and see that the same are carried on with all due propriety and order. (Ord. 586 § 7, 1957)~~

~~5.28.080 Investigation of complaint.~~

~~Upon complaint of any police officer, or any citizen, or upon its own motion, the city council shall investigate any rowdyism or improper conduct alleged to be carried on at any dance or entertainment and issue such corrective orders as may be necessary, or revoke any license or permit granted, if in its judgment, the dancing or entertainment carried on is not carried on in a proper and seemly manner. (Ord. 586 § 8, 1957)~~

~~5.28.090 Music and dancing license—Expiration.~~

~~Music and dancing licenses provided for in this chapter shall expire on the first of January, following their issuance, and the license fees shall not be prorated for the fractional part of a year. Any license or permit shall be issued for a cost of one half the annual fee, if issued after July 1st, during any such calendar year. (Ord. 586 § 9, 1957)~~

~~5.28.100 License or permit—Nontransferable.~~

~~Licenses and permits issued under this chapter will not be transferable and any licensee who retires from or sells his business shall forfeit any licenses or permits issued under this chapter. (Ord. 586 § 10, 1957)~~

~~5.28.110 Penalty for violations.~~

~~Any person violating any of the provisions of this chapter shall be termed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not to exceed three hundred dollars or be imprisoned in the city jail for not to exceed ninety days, or by both such fine and imprisonment, and for a first conviction all licenses issued to him under this chapter may be revoked, and for a second conviction shall be revoked. (Ord. 586 § 12, 1957)~~

Chapter 5.32

LIQUOR

Sections:

5.32.010 Liquor defined.
5.32.020 Hours.
5.32.030 Unlawful to sell without license.
5.32.040 Possession—Intent to sell.
5.32.050 Penalty for violations.

5.32.010 Liquor defined.

"Liquor" includes the four varieties of liquor herein defined (alcohol, spirits, wine and beer), and all fermented, spirituous, vinous or malt liquor, or combinations thereof; and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquid or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures capable of human consumption, and any liquid, semisolid, solid or other substance, which contains more than one percent of alcohol by weight shall be conclusively deemed to be intoxicating. Liquor does not include confections or food products that contain one percent or less of alcohol by weight. (Ord. 1371-00 § 1, 2000: Ord. 583 § 2, 1957: Ord. 471 § 2, 1948)

5.32.020 Hours.

The closing hours and/or the hours of liquor establishments to be open within the city limits of Sedro Woolley shall be set in accordance with the existing state laws and/or the current rules and regulations of the Washington State Liquor Control Board as promulgated from time to time. (Ord. 832 (part), 1976: Ord. 809 § 12, 1975: Ord. 583 § 1, 1957)

5.32.030 Unlawful to sell without license.

It is unlawful for any person to keep or possess liquor on premises conducted or maintained by him as principal or agent within the city limits, with intent to sell the same, without a valid license issued to him under the provisions of the Washington State Liquor Act to sell liquor. (Ord. 471 § 1, 1948)

5.32.040 Possession—Intent to sell.

The possession of liquor by such principal or agent on premises conducted or maintained by him, under federal authority, as a retail dealer in liquors, shall be prima facie evidence of the intent to sell liquor. (Ord. 471 § 3, 1948)

5.32.050 Penalty for violations.

Any person who violates any provision of this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not to exceed ~~three hundred~~ one thousand dollars, or by confinement in the city jail for not to exceed ninety days, or by both such fine and imprisonment. (Ord. 583 § 4, 1957: Ord. 471 § 4, 1948)

Chapter 5.36

FRANCHISES

Sections:

5.36.010 ~~Permit~~ Agreement **required for construction or excavations.**
5.36.020 ~~Permit~~ Agreement**—Granting.**
5.36.030 **Poles—Size and setting.**
5.36.040 **Number of poles at intersection.**
5.36.050 **Nuisance.**
5.36.060 **Penalty for violations.**
5.36.070 **Repairs and extensions.**

5.36.010 ~~Permit~~ Agreement required for construction or excavations.

No person, ~~or~~ corporation or public utility district shall build or construct or extend any railroad of any kind, or any street railway, telegraph line, telephone line, ~~or~~ electric light line, cable, water line or fiber optic line , in any street or alley of the city without first obtaining a ~~permit~~ franchise agreement therefor from the city council. No person or corporation shall make excavations of any kind, or place any pole, or deposit any material or anything in any street or alley of the city, for the purpose or with the intention of building, constructing or extending any such railroad, street railway, telegraph line, telephone line, ~~or~~ electric light line, cable, water line or fiber optic line without first obtaining such ~~permit~~ franchise agreement from the city council. (Ord. 15 § 1, 1905)

5.36.020 ~~Permit~~Agreement—Granting.

If a person or corporation applying to the city council for any such permit, shall have a valid and existing franchise or permission for the structure desired under any valid ordinance of the city, it shall be the duty of the council to grant such ~~permit~~ agreement, if necessary, to the proper exercise of such franchise; provided that, the work is done under the supervision of the ~~superintendent of streets~~ City Engineer / Public Works Director or other designated officer or employee of the city. The city council, in granting any such permit, so regulates and defers the granting thereof, that the sufficient portion of such street, alley or public place shall, as far as possible, be open for public use for the purpose of traffic, and in all cases any work of the city or its contractors or employees, shall have precedence over all other work of every kind. (Ord. 15 § 2, 1905)

5.36.030 Poles—Size and setting.

All persons, companies or corporations whatsoever, now occupying or which shall hereafter occupy the streets or the alleys of the city by means of poles and wires for the transmission of electricity, or any other purpose are hereby— from placing their poles save and except as hereinafter designated: All poles shall be not less than fifteen inches at the butt and taper to not less than nine inches at the small end, and shall be thirty-five feet from the top of walk grade to the top of the pole. All poles shall be set so that the side of the pole facing the street shall be twelve inches from the centerline or face of the curb. At street intersections poles must be set at each corner of the street. All poles shall be shaved and painted any uniform color. (Ord. 15 § 3, 1905)

5.36.040 Number of poles at intersection.

At each street corner within the city there shall be but one pole for carrying the wires running along both north and south, and east and west intersecting streets so that at street intersections there shall not be more than one pole on each of the four corners. (Ord. 15 § 4, 1905)

5.36.050 Nuisance.

All railroads, street railways, telegraph lines and electric light lines, posts, wires, poles and other structures, or other apparatus, constructed, maintained or placed in any street or alley of the city, in violation of this chapter, shall be deemed a public nuisance, and shall be abated with or without action, and such other proceedings shall be taken thereof as are authorized by law for the prevention, abatement or punishment of nuisance. (Ord. 15 § 5, 1905)

5.36.060 Penalty for violations.

Any person or corporation who shall violate this chapter, or aid any violation thereof shall be deemed guilty of causing a public nuisance, and on conviction thereof shall be punished with a fine of ~~not less than five dollars, nor more than one hundred~~ one thousand dollars, or by imprisonment in the city jail for a term not to exceed ~~thirty~~ ninety days. (Ord. 15 § 6, 1905)

5.36.070 Repairs and extensions.

It shall be no defense to any prosecution or proceeding under this chapter, that the franchise to build or construct such railroad, railway, telegraph line, telephone line, ~~or~~ electric light line, cable, water line or fiber optic line has been granted by an ordinance of the city, but this chapter shall not be so construed as to require a permit for the making of any ordinary repair, to any structure, when such repairs are made in good faith, and not for the purpose of making any extension to any such structure. It is expressly understood that the replacing of any pole in any street of the city with another pole is an extension of the system, and not a repair within this chapter. (Ord. 15 § 7, 1905)

Chapter 5.40

GAMBLING

Sections:

5.40.010 Definitions.
5.40.020 Tax levied on certain activities—Rates.
5.40.030 Tax—Quarterly computation—Exceptions.
5.40.040 Tax—Administration and collection—Forms.
5.40.050 Tax—Method of payment.
5.40.060 Tax—Failure to pay—Penalty.
5.40.070 Tax—Declaration of intent required.
5.40.080 Tax—Recordkeeping.
5.40.090 Tax—Overpayment or underpayment.
5.40.100 Tax—Failure to make return.
5.40.110 Tax—Additional to other fees.
5.40.120 City treasurer—Rulemaking authority.
5.40.130 Unpaid taxes deemed debt to city.
5.40.140 Right to recovery.
5.40.150 Violation—Penalty.

5.40.010 Definitions.

For the purposes of this chapter the words and terms used shall have the same meaning as each has under Chapter 218, Laws of 1973, 1st Ex. Sess. and Chapter 9.46 RCW, each as amended, and under the rules of the Washington State Gambling Commission, Chapter 230 WAC, unless otherwise specifically provided or the context in which they are used in this chapter clearly indicates that they be given some other meaning. (Ord. 869 § 1, 1977)

5.40.020 Tax levied on certain activities—Rates.

There is levied upon all persons, associations and organizations conducting or operating within this jurisdiction any of the activities listed below a tax in the following amounts to be paid to the city:

A. Bingo and raffles in the amount of five percent of the gross receipts of a bingo game or raffle less the amount awarded as cash or merchandise prizes.

B. Amusement games in the amount of two percent of the gross receipts less the amount awarded as prizes. Taxation of amusement games shall only be in an amount sufficient to pay the actual cost of enforcement of the provisions of RCW Chapter 9.46.

C. No tax shall be imposed under the authority of this section on bingo or amusement games when such activities or any combination thereof are conducted by any bona fide charity or nonprofit organization as defined in RCW Chapter 9.46. which organization has no paid operating or management personnel and has gross receipts from bingo or amusement game, or a combination thereof, not exceeding five thousand dollars per year, less the amount awarded as cash or merchandise prizes. No tax shall be imposed on the first ten thousand dollars of gross

receipts less the amount awarded as cash or merchandise prizes from raffles conducted by any bona fide charitable or nonprofit organization as defined in RCW Chapter 9.46.

D. Any punchboards or pull tabs for for-profit or commercial stimulant operations, in the amount of five percent of the gross receipts directly from the operation of the punchboards or pull tabs themselves.

E. Any punchboards or pull tabs for bona fide charitable or nonprofit organizations as defined by RCW Chapter 9.46 in the amount of five percent of the gross receipts directly from the operation of the game less the amount awarded as cash or merchandise prizes.

F. Card playing, in the amount of ten percent of the gross receipts received as fees charged persons for the privilege of playing in card games.

G. Other gambling activities not above specified shall be ten percent of the gross receipts.

H. Taxes imposed under this section become a lien upon personal and real property used in the gambling activity in the same manner as provided for under RCW 84.60.010. The lien shall attach the date the tax becomes due, and shall relate back and have priority against real and personal property to the same extend as ad valorum taxes.

I. The revenue from the tax imposed by this section shall be used primarily for the purpose of the enforcement of RCW Chapter 9.46 by the city of Sedro-Woolley. (Ord. 1405-01 § 1, 2001: Ord. 1395-00 § 1, 2000: 1385-00 § 1, 2000: Ord. 1346-99 § 1, 1999: Ord. 906, 1979; Ord. 883, 1978: Ord. 869 § 2, 1977)

5.40.030 Tax—Quarterly computation—Exceptions.

Each of the various taxes imposed by this chapter shall be computed on the basis of activity during each calendar quarter year, shall be due and payable in quarterly installments and remittance therefor, together with return forms, shall be made to the city on or before the last day of the month next succeeding the quarterly period in which the tax accrued, that is, on January 31st, April 30th, July 31st, and October 31st of each year: provided, that the following exceptions to this payment schedule shall be allowed or required:

A. Except as provided in subsection B of this section, whenever any person, association or organization taxable under the provisions of this chapter conducting or operating a taxable activity on a regular basis discontinues operation of that taxable activity for a period of more than five consecutive weeks, or quits business, sells out or otherwise disposes of its business, or terminates the business, any tax due under the provisions of this chapter shall become due and payable, and such taxpayer shall, within ten days thereafter, make a return and pay the tax due.

B. It is recognized that some bona fide charitable or bona fide nonprofit organization taxpayers will be conducting or operating taxable activities only upon an occasional and random basis. Except as provided in subsection C of this section, when such a taxpayer conducts only one taxable activity during any calendar quarter, the duration of each such activity does not exceed one consecutive calendar day, and the gross receipts therefrom do not exceed one hundred dollars per quarter, that taxpayer need not remit the tax due with a return therefor until on or before January 31st of the year following that year in which the activity took place. Such returns shall be made upon a special form to be supplied by the city treasurer. ~~First payment and returns under this subsection shall be made on or before January 1, 1978.~~

C. Whenever it appears to the city treasurer that the collection of taxes from any person, association or organization may be in jeopardy, the city treasurer, after not less than ten days' notice to the taxpayer, is authorized to require that taxpayer to remit taxes and returns at such

shorter intervals than quarterly or annually, as the city treasurer shall deem appropriate under the circumstances. (Ord. 869 § 3, 1977)

5.40.040 Tax—Administration and collection—Forms.

A. Administration and collection of the various taxes imposed by this chapter shall be the responsibility of the city treasurer. Remittance of the amount due shall be accompanied by a completed return form prescribed and provided by the city treasurer. The taxpayer shall be required to swear and affirm that the information given in the return is true, accurate and complete.

B. The city treasurer is authorized, but not required, to mail to taxpayers forms for returns. Failure of the taxpayer to receive such a form shall not excuse a taxpayer from making the return and timely paying all taxes due. The city treasurer shall make forms available to the public in reasonable numbers in the city treasurer's office during regular business hours.

C. In addition to the return form, a copy of the taxpayer's ~~quarterly~~ semi-annual report to the Washington State Gambling Commission, required by WAC 230-08, for the period in which the tax accrued, shall accompany remittance of the tax amount due. (Ord. 869 § 4, 1977)

5.40.050 Tax—Method of payment.

Taxes payable under the provisions of this chapter shall be remitted to the city treasurer, on or before the time required, by bank draft, certified check, cashier's check, personal check, money order or in cash. If payment is made by draft or check, the tax shall not be deemed paid until the draft or check is honored in the usual course of business, nor shall the acceptance of any sum by the city treasurer be an acquittance or discharge of the tax unless the amount paid is the full amount due. The return, and copy of ~~quarterly~~ semi-annual report to the Washington State Gambling Commission, shall be filed in the office of the city treasurer after notation by that office upon the return of the amount actually received from the taxpayer. (Ord. 869 § 5, 1977)

5.40.060 Tax—Failure to pay—Penalty.

A. If full payment of any tax or fee due under the provisions of this chapter is not received by the city treasurer on or before the date due, there shall be added to the amount due a penalty fee as follows:

1—10 days late, 5% of tax due

11—20 days late, 10% of tax due

21—31 days late, 10% of tax due

32—60 days late, 20% of tax due.

B. In no event shall the penalty amount be less than ten dollars. In addition to this penalty, the city treasurer may charge the taxpayer interest of ten percent of all taxes and fees due for each thirty-day period, or portion thereof, that such amounts are past due.

C. Failure to make payment in full of all tax amounts and penalties within sixty days following the day the tax amount initially became due shall be both a civil and a criminal violation of this section. (Ord. 869 § 6, 1977)

5.40.070 Tax—Declaration of intent required.

In order that the city may identify those persons who are subject to taxation under the provisions of this chapter, each person, association or organization shall file with the city treasurer a sworn declaration of intent to conduct an activity taxable under the provisions of this

chapter upon a form to be prescribed by the city treasurer together with a copy of the license issued therefor by the Washington State Gambling Commission. The filing shall be made not later than thirty days prior to conducting or operating the taxable activity. No fee shall be charged for such filing, which is not for the purpose of regulation of this activity, but for the purposes of administration of this chapter only.

Failure to timely file shall not excuse any person, association or organization from any tax liability. (Ord. 869 § 7, 1977)

5.40.080 Tax—Recordkeeping.

A. Each person, association or organization engaging in an activity taxable under this chapter shall maintain records respecting that activity which truly, completely and accurately disclose all information necessary to determine the taxpayer's tax liability under the provisions of this chapter during each base tax period. Such records shall be kept and maintained for a period of not less than three years. In addition, all information and items required by the Washington State Gambling Commission, under WAC 230-08, and the United States Internal Revenue Service respecting taxation, shall be kept and maintained for the periods required by those agencies.

B. All books, records and other items required to he kept and maintained under the provisions of this section shall be subject to, and immediately made available for, inspection and audit at any time, with or without notice, at the place where such records are kept, upon demand by the city treasurer or his designees, for the purpose of enforcing the provisions of this chapter.

C. Where a taxpayer does not keep all of the books, records or items required to be kept or maintained under this section in this jurisdiction so that the city treasurer may examine them conveniently, the taxpayer shall either:

1. Produce all of the required books, records or items within this jurisdiction for such inspection within ten days following a request of the local official that he do so; or

2. Bear the actual cost of inspection by the city treasurer or his designee, at the location at which such books, records or items are located; provided, that a taxpayer choosing to bear these costs shall pay in advance to the city treasurer the estimated cost thereof, including but not limited to, round trip fare by the most rapid means, lodging, meals and incidental expenses. The actual amount due, or to be refunded, for expenses shall be determined following such examination of the records.

D. A taxpayer who fails, neglects or refuses to produce such books and records either within or without this jurisdiction, in addition to being subject to other civil and criminal penalties provided by this chapter, shall be subject to a jeopardy fee or tax assessment by the city treasurer.

E. This penalty fee or jeopardy assessment shall be deemed prima facie correct and shall be the amount of fee or tax owing the city treasurer by the taxpayer unless he can prove otherwise by competent evidence. The taxpayer shall be notified by mail by the city treasurer of the amount of tax so determined by jeopardy assessment, together with any penalty and/or interest, and the total of such amounts shall thereupon become immediately due and payable. (Ord. 869 § 8, 1977)

5.40.090 Tax—Overpayment or underpayment.

If, upon application by a taxpayer for a refund or for an audit of his records, or upon any examination of the returns or records of any taxpayer, it is determined by the city treasurer that within three years immediately preceding receipt by the city treasurer of the application by the taxpayer for a refund or an audit, or, in the absence of such an application, within the three years immediately preceding the commencement by the city treasurer of such examination:

A. A tax or other fee has been paid in excess of that properly due, the total excess paid over all amounts due to the city within such period of three years shall be credited to the taxpayer's account or shall be credited to the taxpayer at the taxpayer's option. No refund or credit shall be allowed with respect to the city treasurer more than three years before the date of such application or examination.

B. A tax or other fee has been paid which is less than that properly due, or no tax or other fee has been paid, the city treasurer shall mail a statement to the taxpayer showing the balance due, including the tax amount or penalty assessments and fees, and it shall be a separate, additional violation of this chapter, both civil and criminal, if the taxpayer fails to make payment in full within ten calendar days of such mailing. (Ord. 869 § 9, 1977)

5.40.100 Tax—Failure to make return.

If any taxpayer fails, neglects or refuses to make and file his return as and when required under the provisions of this chapter, the city treasurer is authorized to determine the amount of tax payable, together with any penalty and/or interest assessed under the provisions of this chapter, and notify such taxpayer by mail of the amount so determined, which amount shall thereupon become the tax and penalty and/or interest, and shall become immediately due and payable. (Ord. 869 § 10, 1977)

5.40.110 Tax—Additional to other fees.

The tax levied in this chapter shall be additional to any license fee or tax imposed or levied under any law or any other ordinance of Sedro Woolley, except as otherwise expressly provided in this chapter. (Ord. 869 § 11, 1977)

5.40.120 City treasurer—Rulemaking authority.

The city treasurer shall have the power, and it shall be his duty, from time to time, to adopt, publish and enforce rules and regulations not inconsistent with this chapter or with superior law, for the purpose of carrying out the provisions of this chapter, and it shall be unlawful to violate or fail to comply with any such rule or regulation. (Ord. 869 § 12, 1977)

5.40.130 Unpaid taxes deemed debt to city.

Any tax due and unpaid under the provisions of this chapter and all penalties or fees shall constitute a debt to the city, a municipal corporation, and may be collected by court proceedings the same as any other debt in like amount which shall be in addition to all other existing remedies. (Ord. 869 § 13, 1977)

5.40.140 Right to recovery.

The right of recovery by the city from the taxpayer for any tax provided under the provisions of this chapter shall be outlawed after the expiration of three calendar years from the date such tax became due. The right of recovery against the city because of overpayment of tax by any taxpayer shall be outlawed after the expiration of three calendar years from the date such payment was made. (Ord. 869 § 14, 1977)

5.40.150 Violation—Penalty.

Any person violating or failing to comply with any of the provisions of this chapter or any lawful rule or regulation adopted by the city treasurer pursuant thereto, upon conviction thereof,

shall be punished by a fine in any sum not to exceed ~~three hundred~~ one thousand dollars, or by imprisonment for a term not exceeding ninety days, or by both such fine and imprisonment.

Any taxpayer who engages in, or carries on, any gambling activity subject to a tax under the provisions of this chapter without having complied with the provisions of this chapter shall be guilty of aviolation of this chapter for each day during which the gambling activity is carried on. (Ord. 869 § 15, 1977)