



Legislation Passed October 20, 2009

The Tacoma City Council, at its regular City Council meeting of October 20, 2009, adopted the following resolutions and/or ordinances. The summary of the contents of said resolutions and/or ordinances are shown below. To view the full text of the document, click on the bookmark at the left of the page.

Purchase Resolution No. 37889

Awarding a contract to:

Goodyear Tire and Rubber, d.b.a. Wingfoot Commercial Tire Systems, LLC, in the amount of \$180,000, plus sales tax, for a cumulative total of \$380,000, budgeted from various departmental funds, to increase the contract for new tires on an as needed basis, for the current contract period through February 28, 2010, and the two remaining one-year renewal options ending February 28, 2012 – State of Washington Contract No. 00108.

Substitute Resolution No. 37890

Approving the sale of tax-exempt Water System Revenue Bonds 2009 Series A and taxable Build America Bonds Series B, in a principal amount not to exceed \$82,000,000, to provide funds to finance or refinance costs of capital improvements to the water system.

Amended Resolution No. 37891

Approving the 2010-2011 biennial Funding Priorities Statement for the Annual Action Plan of the City's Consolidated Plan for Housing and Community Development.

Resolution No. 37892

Authorizing the execution of an amendment to the Agreement for Improvements Within the ASARCO Tacoma Smelter Superfund Site Area Operable Unit 2 with Point Ruston, LLC, for certain improvements within the ASARCO Tacoma Smelter Superfund Site.

Resolution No. 37893

Authorizing the sale of the former pole and storage yard property located on South 74th Street, west of South Tacoma Way, to Michael Rigney.

Resolution No. 37894

Expressing support for the continuation of the Employee Wellness Program for City employees and their families.

Resolution No. 37895

Expressing support for retaining the domestic partnership law and urging Tacoma voters to vote "Approved" on Referendum 71 on the November 3, 2009, General Election ballot, which reads as follows:

REFERENDUM 71

The legislature passed Engrossed Second Substitute Senate Bill 5688 concerning rights and responsibilities of state registered domestic partners and voters have filed a sufficient referendum petition on this bill. This bill would expand the rights, responsibilities, and obligations accorded state-registered same-sex and senior domestic partners to be equivalent to those of married spouses, except that a domestic partnership is not a marriage. Should this bill be:

Approved ____

Rejected ____

Resolution No. 37896

Declaring the City Council's intent to include \$2.5 million in the 2009 Limited Tax General Obligation Bonds for Area 2B infrastructure for the Salishan Redevelopment Project.

Resolution No. 37897

Authorizing the execution of the Master Utilities License Agreement with Sound Transit relating to the City's use of Sound Transit property.

Amended Substitute Resolution No. 37898

Authorizing the execution of the Development Agreement with Sound Transit for the Lakewood to Tacoma commuter rail project.

Ordinance No. 27833

Authorizing the execution of a Right of Use Agreement with Sound Transit for its nonexclusive use of specific City rights-of-way in relation to the development of the Lakewood to Tacoma commuter rail project, located from East D Street to South M Street, within the Tacoma City limits. (First reading was on September 15, 2009)

Ordinance No. 27841

Amending Chapter 8.27 of the Municipal Code, relating to the Park Code, by prohibiting smoking in all city parks.

Ordinance No. 27842

Amending various chapters of Title 8 of the Municipal Code, relating to public safety and morals, by updating and prescribing penalties, and updating and reorganizing theft and theft related offenses, and offenses against property, to be consistent with state law.



RESOLUTION NO. 37889

1 A RESOLUTION related to the purchase of materials, supplies or equipment,
2 and the furnishing of services; authorizing the appropriate City officials to
3 enter into contracts and, where specified, waiving competitive bidding
4 requirements, authorizing sales of surplus property, or increasing or
5 extending existing agreements.

6 WHEREAS the City has complied with all applicable laws governing the
7 acquisition of those supplies, and/or the procurement of those services,
8 inclusive of public works, set forth in the attached Exhibit "A," which Exhibit is
9 incorporated herein as though fully set forth, and

10 WHEREAS the Board of Contracts and Awards has reviewed the
11 proposals and bids received by the City, and the Board has made its
12 recommendation as set forth in Exhibit "A," and

13 WHEREAS the Board of Contracts and Awards has also made its
14 recommendations as to entering into purchasing agreements with those
15 governmental entities identified in Exhibit "A"; Now, Therefore,

16 BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

17 That the Council of the City of Tacoma does hereby concur in the
18 findings and recommendations of the Board of Contracts and Awards set forth
19 in the attached Exhibit "A," and does hereby approve and authorize the:

20 (X) A. Procurement of those supplies, services, and public works
21 recommended for acceptance in the attached Exhibit "A";

22 () B. Rejection of those bids and/or proposals that are recommended
23 for rejection in the attached Exhibit "A";
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() C. Entry into the proposed purchasing agreement with those governmental entities identified in the attached Exhibit "A," which proposed agreement is on file in the office of the City Clerk;

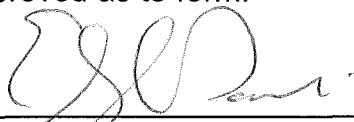
() D. Waiver of competitive bidding procedures in those instances, as set forth in Exhibit "A," in which it is impracticable to obtain supplies or public works improvements by competitive bid, or in those instances in which supplies and/or public works are available from a single source.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:


Deputy City Attorney



Tacoma

City of Tacoma
Public Works Department

EXHIBIT "A"

RESOLUTION NO.: 37889

ITEM NO.: 1

MEETING DATE: October 20, 2009

DATE: September 18, 2009

TO: Board of Contracts and Awards

SUBJECT: Increase Contracts for New Tires
Budgeted from Various Individual Department Funds
State of Washington Contract No. 00108 (formerly 14900)
SAP Contract 4600002624 Wingfoot

Recommendation: Public Works – Fleet Services requests approval to increase SAP Contract 4600002624 to **Goodyear Tire and Rubber/DBA-Wingfoot Commercial Tire Systems, LLC, Fife, WA**, by \$180,000, plus applicable sales tax, to furnish new tires, on an as-needed basis, for the current contract period ending February 28, 2010, and the two remaining one-year renewal options ending February 28, 2012,. This increase will bring the contract to a cumulative amount of \$380,000. Funding for the optional two one-year renewals are subject to budget availability and to Washington State contract renewal.

Explanation: The increases will continue to provide new Goodyear tires for police vehicles and provide tires for other City vehicles and equipment when needed to match existing tires or when Bridgestone/Firestone tires are not available under the Tire Distribution Systems, Inc. contract.

Competitive Bidding: This contract is based on State of Washington Contract No. 00108 and includes the tires to be purchased. In January 2008, Contract No. 00108 replaced the Washington State Contract No. 14900. Through an interlocal cooperative purchasing agreement, the City of Tacoma purchases will be at state contract prices, terms, and meet competitive bidding requirements.

Contract History: The Wingfoot Commercial Tire Systems contract was originated in May 2005 in the amount of \$40,000 through March 31, 2007. This increase will bring the contract to a cumulative amount of \$380,000, plus sales tax, for the period April 1, 2005 through February 28, 2012. This is the tenth amendment to the contract. This is the second of four renewals allowed under this contract. Between March and August 2007, the contract was administratively increased by a total of \$10,000 and extended through August 31, 2007. The contract was renewed through February 28, 2008, and increased by \$95,000 on Council Resolution 37320 of November 6, 2007. The contract was administratively renewed in February 2008 through February 28, 2009 and then increased by \$16,000 in July 2008 by Council Resolution 37522. The contract was increased by \$22,000 on Council Resolution 37643 of November 4, 2008 and administratively renewed and increased by \$17,000 in March of 2009.

Funding: Funds are available in the individual departments using the contracts. Funding beyond the current biennium is subject to future availability of funds.

Project Engineer/Coordinator: Mike Clother, Fleet Purchasing Administrator, 253-591-5866.

Richard E. McKinley
Public Works Director

CC: Jeffrey Jenkins/Angela Ballard, PW/Facilities
Michele Tuong, TPU/Utilities Accounting
Jayne McCartney, TPU/Purchasing
Percy Jones, HUB
Peter Guzman, LEAP
Fred Chun/Mike Clother/Mary Emery, Fleet Operations

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**SUBSTITUTE
RESOLUTION NO. 37890**

A RESOLUTION relating to Tacoma Water; approving the sale of Water System Revenue Bonds 2009 (Taxable Build America Bonds), in the amount of \$76,775,000.

WHEREAS the City Council (the “City Council”) of the City of Tacoma, Washington (the “City”), by Substitute Ordinance No. 27837, passed on October 13, 2009 (the “Bond Ordinance”), authorized the issuance and sale of the City’s Water System Revenue Bonds, 2009, in the principal amount of not to exceed \$82,000,000 (the “Bonds”), and

WHEREAS it is in the best interest of the City that the Bonds be sold to Citigroup Global Markets Inc. (the “Purchaser”) on the terms set forth in the Bond Ordinance and this resolution; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

Section 1. Definitions. Except as otherwise defined herein, capitalized terms used in this resolution have the meanings set forth in the Bond Ordinance.

Section 2. Terms of Bonds. The Bonds shall be issued in one series designated as Build America Bonds and shall be named the Water System Revenue Bonds, 2009 (Taxable Build America Bonds – Direct Payment) and issued in the aggregate principal amount of \$76,775,000 (the “Bonds”). The Bonds shall mature on the date and in the principal amount and at the interest rate as follows:

<u>Maturity Date</u> <u>(December 1)</u>	<u>Principal Amount</u>	<u>Interest Rate</u>
2039	\$ 76,775,000	5.751%

Interest on the Bonds shall be payable on June 1, 2010 and on each December 1 and June 1 thereafter. The Bonds shall conform in all other respects to the terms and conditions specified in the Bond Ordinance.

The Bonds are subject to optional redemption by the City prior to their stated maturity date, in whole or in part (and if in part, *pro rata*), on any business day, at the "Make-Whole Redemption Price," plus accrued and unpaid interest on the Bonds to be redeemed on the date fixed for redemption.

The "Make-Whole Redemption Price" is the greater of (i) 100% of the principal amount of the Bonds to be redeemed and (ii) the sum of the present value of the remaining scheduled payments of principal and interest on the Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which such Bonds are to be redeemed, discounted to the date on which the Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the "Treasury Rate" (defined below) plus 30 basis points.

"Treasury Rate" means, with respect to any redemption date for a particular Bond, the rate per annum, expressed as a percentage of the principal amount, equal to the semi-annual equivalent yield to maturity or interpolated maturity of the Comparable Treasury Issue, assuming that the Comparable

Treasury Issue is purchased on the redemption date for a price equal to the Comparable Treasury Price, as calculated by the Designated Investment Banker.

“Comparable Treasury Issue” means, with respect to any redemption date for a particular Bond, the United States Treasury security or securities selected by the Designated Investment Banker which has or have an actual or interpolated maturity comparable to the remaining average life of the Bond to be redeemed, and that would be utilized in accordance with customary financial practice in pricing new issues of debt securities of comparable maturity to the remaining average life of the Bond to be redeemed.

“Comparable Treasury Price” means, with respect to any redemption date for a particular Bond:

(1) the most recent yield data for the applicable U.S. Treasury maturity index from the Federal Reserve Statistical Release H.15 Daily Update (or any comparable or successor publication) reported, as of 11:00 a.m. New York City time, on the Valuation Date; or

(2) if the yield described in (1) above is not reported as of such time or the yield reported as of such time is not ascertainable, the average of four Reference Treasury Dealer Quotations for that redemption date, after excluding the highest and lowest of such Reference Treasury Dealer Quotations, or if the Designated Investment Banker obtains fewer than four Reference Treasury Dealer Quotations, the average of all quotations obtained by the Designated Investment Banker.

“Designated Investment Banker” means one of the Reference Treasury Dealers appointed by the City.

“Reference Treasury Dealer” means each of four firms, specified by the City from time to time, that are primary United States Government securities dealers in the City of New York (each, a “Primary Treasury Dealer”); provided, that if any of them ceases to be a Primary Treasury Dealer, the City will substitute another Primary Treasury Dealer.

“Reference Treasury Dealer Quotations” means, with respect to each Reference Treasury Dealer and any redemption date for a particular Bond, the average, as determined by the Designated Investment Banker, of the bid and asked prices for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Designated Investment Banker by such Reference Treasury Dealer at 3:30 p.m., New York City time, on the Valuation Date.

“Valuation Date” means the third business day preceding the redemption date.

The Bonds are subject to redemption prior to their stated maturity date at the option of the City, in whole or in part (and if in part, *pro rata*) upon the occurrence of an Extraordinary Event (defined below), at a redemption price (the “Extraordinary Redemption Price”) equal to the greater of: (i) the issue price set forth on the cover page of the Official Statement (but not less than 100%) of the principal amount of such Bonds to be redeemed; or (ii) the sum of the present value of the remaining scheduled payments of principal and interest

to the maturity date of such Bonds to be redeemed, not including any portion of those payments of interest accrued and unpaid as of the date on which such Bonds are to be redeemed, discounted to the date on which such Bonds are to be redeemed on a semi-annual basis, assuming a 360-day year consisting of twelve 30-day months, at the Treasury Rate (described above) plus 100 basis points; plus, in each case, accrued interest on such Bonds to be redeemed to the redemption date.

An “Extraordinary Event” will have occurred if a material adverse change has occurred to Section 54AA or 6431 of the Internal Revenue Code of 1986, as amended (the “Code”) (as such Sections were added by Section 1531 of the Recovery Act, pertaining to “Build America Bonds”) pursuant to which the City’s 35% cash subsidy payment from the United States Treasury relating to the Bonds is reduced or eliminated.

The Bonds are Term Bonds and, if not optionally redeemed, purchased or defeased in accordance with the Bond Ordinance, are subject to mandatory redemption at a redemption price equal to 100% of the principal amount thereof, plus accrued interest to the date fixed for redemption, and without premium, on December 1 in the years and principal amounts as follows:

Term Bonds

<u>Year</u>	<u>Principal Amount</u>
2033	\$ 9,800,000
2034	10,165,000
2035	10,545,000
2036	10,940,000
2037	11,345,000
2038	11,770,000
2039*	12,210,000

* Final Maturity.

If the City optionally redeems, purchases or defeases Term Bonds, the par amount of the Term Bonds so redeemed, purchased or defeased shall be credited against the scheduled mandatory redemption amounts *pro rata* for those Term Bonds.

Section 3. Approval of Documents. The City hereby approves the Official Statement for the Bonds that has been presented to the City and ratifies its use in connection with the offering of the Bonds. The City further hereby approves the sale of the Bonds to the Purchaser on the terms set forth in this resolution and in its contract dated the date of this Resolution. The Finance Director is hereby authorized to sign the bond purchase contract relating to the Bonds.

Section 4. Application of Bond Proceeds. The proceeds of the sale of the Bonds remaining after the deposit to the Reserve Account of the amount necessary to fund the Reserve Account Requirement shall be deposited into the

construction fund or funds as determined by the Director of Finance to be used for the purpose of paying part of the costs of carrying out the Plan of Additions and to pay costs of issuance of the Bonds.

The City officials, their agents, and representatives are hereby authorized and directed to do everything necessary for the prompt issuance and delivery of the Bonds and for the proper use and application of the proceeds of the sale of the Bonds, including taking such actions as are necessary or appropriate for the City to receive from the United States Treasury the applicable federal credit payments in respect of the Bonds, including but not limited to the timely filing with the Internal Revenue Service of Form 8038-CP – “Return for Credit Payments to Issuers of Qualified Bonds.” The City hereby approves the Calculation Agency Agreement with The Bank of New York Mellon relating to the Bonds, and authorizes the Finance Director to sign such agreement.

Section 5. Severability. The covenants contained in this resolution shall constitute a contract between the City and the owners of each Bond. If any one or more of the covenants or agreements provided in this resolution to be performed on the part of the City shall be declared by any court of competent jurisdiction to be contrary to law, then such covenant or covenants, agreement or agreements, shall be null and void and shall be deemed separable from the remaining covenants and agreements of this resolution and shall in no way affect the validity of the other provisions of this resolution or of the Bonds.

Section 6. Effective Date. This resolution shall be effective after its passage as provided by law.

Adopted October 20, 2009

Mayor

Attest:

City Clerk

Approved as to form and legality:

FOSTER PEPPER PLLC
Bond Counsel to the City of Tacoma

By _____

CERTIFICATE

I, the undersigned, Clerk of the City of Tacoma, Washington (the "City"),
DO HEREBY CERTIFY:

1. That the attached Resolution No. _____ (the "Resolution"), is a true and correct copy of a resolution of the City, as finally adopted at a meeting of the City Council of the City (the "City") held on the 20th day of October, 2009, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a quorum of the Council was present throughout the meeting and a legally sufficient number of members of the Council voted in the proper manner for the adoption of the Resolution; that all other requirements and proceedings incident to the proper adoption of the Resolution have been duly fulfilled, carried out and otherwise observed; and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of
October, 2009.

City Clerk

RESOLUTION NO. 37891

A RESOLUTION related to the Consolidated Plan for Housing and Community Development; authorizing approval of the 2010-2011 biennial Funding Priorities Statement for the Annual Action Plan of the City's Consolidated Plan for Housing and Community Development.

WHEREAS the City Council biennially approves the Funding Priorities Statement to provide direction to the Tacoma Community Redevelopment Authority ("TCRA") and the Human Services Commission for recommending/awarding federal funds prior to starting the application process for the Consolidated Plan Annual Action Plan, and

WHEREAS the purpose of establishing funding priorities is to provide direction for the selection of housing and community development projects and programs, and

WHEREAS all programs and projects must be consistent with the Community Development Block Grant ("CDBG"), the HOME Investment Partnership ("HOME"), the Emergency Shelter Grant ("ESG") programs, or any other funding source regulations, as applicable, and

WHEREAS CDBG projects and programs must meet one of the three major criteria: (1) benefiting lower-income persons, (2) removing blight, or (3) meeting an urgent need, and

WHEREAS HOME projects must provide housing or assist in housing for low-income persons, and ESG projects must provide a service or shelter to benefit homeless persons, and

WHEREAS the City Council has reviewed the City's Funding Priorities Statement; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the City Council does hereby approve the City's 2010-2011 biennial Funding Priorities Statement for the Annual Action Plan of the City's Consolidated Plan for Housing and Community Development, attached hereto as Exhibit "A," said document to be substantially in the form of the proposed biennial Funding Priorities Statement on file in the office of the City Clerk.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney

EXHIBIT "A"

Funding Priorities Statement (2010 - 2011)

The Tacoma City Council approves a biennial Funding Priorities Statement ("Statement") document every two years. The purpose of the Statement document is to provide direction for the selection of housing, community and economic development activities, and human services. All programs and projects must be consistent with the Community Development Block Grant ("CDBG"), HOME Investment Partnership Program ("HOME"), Emergency Shelter Grant Program ("ESG"), or any other funding source regulations, as applicable. CDBG projects must meet one of the three major criteria: (1) benefiting lower income persons, (2) removing blight, or (3) meeting an urgent need. HOME projects must provide housing or assist in housing for low-income persons. ESG projects must provide a service or shelter to benefit homeless persons.

1. Funding Set-Asides

The following housing and community development activities are designated for specific set-asides from CDBG funding:

- a minimum of 50 percent of each grant will be set aside for housing development programs, including rehabilitation;
- five percent of each grant will be set aside to support implementation of comprehensive neighborhood improvement projects developed by the Neighborhood Councils (e.g. housing activities, street and sidewalk improvements, street-lighting, and code enforcement);
- a minimum of \$80,000 of each grant will be set aside for payment of LID assessments for street and street-related improvements (e.g. streets, sidewalks, curbs and gutters, alleys, streetlights, underground wiring, etc.);
- a maximum of 10 percent of each grant will be set aside in the contingency category for unanticipated capital project cost overruns during the program year;
- fifteen percent of each grant will be set aside to fund human service projects;

- funds will be set aside annually, if needed, to prevent a default in repayment of any outstanding Section 108 loans guaranteed by the CDBG program; and
- funds for the TCRA housing programs will be maintained at the following levels: NPP housing rehabilitation program at \$500,000, EMHR home repair program at 150,000, and DPA down payment assistance program at \$250,000 with CDBG and HOME funds. The level of funds shall be reviewed biannually for appropriateness by the Neighborhoods and Housing Committee of the City Council.

2. General Priorities

Priority consideration will be given to projects and programs that:

- are consistent with the Consolidated Plan, key elements of the City's Comprehensive Plan (e.g. Housing Plan, Land Use Element, Capital Facilities Plan and Program) and the Human Services Strategic Plan;
- use federal CDBG, HOME, or ESG funds to leverage funds from other sources;
- can be implemented and/or completed within 12 months;
- demonstrate substantial and good faith collaboration and cooperation with community residents and other community organizations that will improve service delivery and/or cost effectiveness;
- support the goals of the comprehensive Neighborhood Action Strategies approved by the City Council; and
- do not require General Fund allocations for continuing operation and maintenance of capital projects. However, a project may be funded if there is a prior commitment of General Fund moneys or other funding for operation and maintenance costs.

The Tacoma Community Redevelopment Authority ("TCRA") will conduct reviews and make decisions for the programming and reprogramming of CDBG, HOME, and other funds allocated to them; and the Human Services Commission ("HSC") will make recommendations to City Council regarding applicable CDBG and ESG funding.

- the HSC will review funding proposals for human services and will recommend these projects and programs for CDBG and ESG funding to the City Council. The TCRA will review applications and make funding decisions on housing development projects, housing rehabilitation and repair programs/capital projects, and make recommendations to the City Council regarding funding for other housing related programs, public/community facilities, economic development, and tenant based rental assistance;
- the TCRA will develop lending criteria and annual funding strategies for housing development programs and will determine CDBG and HOME funding allocations in the Annual Action Plan of the Consolidated Plan for consideration by the City Council;
- the TCRA will review funding proposals for individual housing development projects and make funding decisions based on projects meeting lending criteria developed by TCRA and approved by the City Council; and
- the TCRA will review funding proposals and make funding decisions for Community Housing Development Organizations (“CHDO”) general operating assistance.

3. Housing Priorities

The CDBG, HOME, and ESG funding priorities for housing are to improve neighborhoods by expanding opportunities for decent housing for lower income persons and by removing or rehabilitating blighted housing. Special consideration will be given to housing projects which develop and/or replace affordable rental units, provide permanent supportive housing for homeless and/or special needs populations, and support neighborhood enhancement through the geographic expansion of new affordable housing opportunities, along with the provision of quality on-site property management. All affordability covenants established in conjunction with housing projects shall continue for the life of the covenant unless modified by the City Council.

Within the overall priorities, additional consideration will be given to housing development projects that:

- serve a priority need identified in the Consolidated Plan;
- have completed a predevelopment process (consistent with required City policy);
- will be ready for construction within six months;
- are cost-effective and leverage other funds;

- are developed by housing developers with a capacity to complete the project;
- demonstrate the capacity for good property management;
- help nonprofit developers achieve self-sufficiency plans and goals; and
- support the opportunity for all housing developers to participate.

Priority consideration will be given to the following actions that address the strategy to increase or retain affordable housing for both small and large families and elderly renters:

- use of CDBG or HOME funds to provide support to retain privately owned project-based Section 8 housing, as well as to provide needed relocation assistance for at-risk tenants;
- projects that add to the supply of affordable housing through increased production of residential structures or rehabilitation of vacant dwelling units. (Note: while HOME funds can be used for construction of affordable housing, CDBG funds cannot be generally used for new construction);
- projects that support the development of replacement of affordable rental units as lower income housing stock is lost due to conversion to market rate housing and/or conversion to nonresidential or commercial uses;
- projects that improve rental properties to insure decent housing for lower income renters; and
- projects that provide tenant-based rental assistance to help lower income families and individuals to become more self-sufficient.

Priority consideration will be given to the following actions that address the strategy to assist households to become homeowners and to assist existing owners to maintain their homeownership:

- continuation of citywide major and minor home improvement programs, including the Neighborhood Preservation Program (“NPP”), the Major Home Repair Program, the Minor Home Repair Program, and the Emergency Minor Home Repair Program. If funds are not sufficient to meet the demand, priority will be on a first-come, first-served basis;
- projects and programs that help families, especially first-time homebuyers, purchase a home (e.g. construction, counseling, self-help, etc.); and

- projects that conserve existing housing by making repairs or through rehabilitating properties to meet minimum housing codes, including weatherization and other energy-efficiency improvements

Priority consideration will be given to the following actions that address the strategy to assist homeless families and individuals and nonhomeless persons with special needs (e.g. mentally/physically disabled):

- CDBG projects that provide support for the development or improvement of emergency and transitional shelters, as well as special needs housing;
- CDBG or HOME funded projects that develop permanent supportive long term housing throughout the community for homeless and special needs populations in conjunction with needed support services, such as case management, life skills training, employment, and education;
- HOME projects that provide tenant-based rental assistance to assist homeless persons to secure housing ; and
- ESG projects that fund improvement of a facility, the primary purpose of which is to provide emergency or transitional shelter for homeless persons.

Priority consideration will be given to the following actions that address the strategy to support neighborhood enhancement and/or that increase opportunities for affordable housing throughout the City:

- projects that target housing resources to areas with comprehensive neighborhood strategies (e.g. Neighborhood Action Strategies, Renewal Community);
- projects that support the development of new and/or rehabilitated housing that will, upon completion, be certified under the Crime Free Housing Program (“CFHP”) for the life of the housing investment (Note: full certification shall be based on a three phase approach that includes security requirements for renter safety, a tenant crime prevention meeting and a 16 hour seminar by experts in police, code enforcement, fire, human rights, legal and Crime Prevention Through Environmental Design (CPTED));

- projects that are sited within a residential area that does not currently have a concentration of low-income subsidized housing impacting the larger neighborhood;
- projects that remove dangerous housing and provide opportunities and incentives for in-fill housing; and
- projects that conserve the architectural and historic character of houses and residential districts to revitalize neighborhoods.

4. Community Development Priorities (CDBG only)

The funding priorities for community facilities/public improvements are to support neighborhood revitalization or to improve living conditions for lower income persons by the construction or improvement of community facilities or public improvements. Priority consideration will be given to projects that include:

- payment of LID assessments for lower income homeowners;
- construction or improvement of streets, sidewalks, alleys, lighting, or related public improvements in lower income neighborhoods where the improvements are part of a comprehensive Neighborhood Action Strategy and which cannot be funded by other City resources; and
- construction or rehabilitation of privately owned, community service facilities that will provide a public service. Priority will be given to facilities that support approved Neighborhood Action Strategies.

5. Commercial and Economic Development (CDBG only)

The economic development policy for the City of Tacoma is to develop and maintain a dynamic and diversified economy capable of providing increasing employment and business opportunities. All approved economic development activities are to be consistent with the City's Economic Development Plan.

Priority consideration will be given to projects and programs that include:

- projects and programs that assist in the revitalization of either blighted or lower income business districts, including revitalization through historic preservation and conservation activities, as well as actions that support the economic development goals of approved comprehensive Neighborhood Action Strategies.

- projects and programs that support the objectives of the Tax Incentive Utilization Plan (“TIUP”) that replaced the Enterprise Community Strategic Plan when the City of Tacoma received the Renewal Community designation in 2002.
- projects and programs that will create or retain employment opportunities for lower income persons (e.g. small business incubators, small business loans, and grants).
- projects and programs that will encourage the development of business services (such as convenience shopping, medical services, professional services, etc.) in a lower income neighborhood or to a lower income group where services are inadequate to meet the demand.
- projects and programs which provide financial and technical assistance to socially and economically disadvantaged persons who own or are starting businesses.

6. Human Services

The priorities for human services supported with CDBG or ESG funds are identified below. Funded programs must be able to show significant impact of their services on lower income populations through acceptable Outcome Based Evaluation (“OBE”) systems. Programs must participate in efforts toward improving the systems serving persons who are experiencing homelessness or who are at risk of homelessness.

CDBG

CDBG funds will only be used for services which target lower income Tacoma residents, provide housing stabilization services, and address one of the Funding Priorities listed below. The three Funding Priorities are of equal importance.

- emergency shelter and/or transitional housing for persons experiencing homelessness, which includes tailored services that will lead residents toward more stable housing;
- early intervention and prevention services, which are designed to have a substantial impact on preventing individuals or families from becoming homeless;

- Services that have a direct connection to increasing the economic stability of lower income Tacoma residents, including increased economic opportunity (e.g. through pre-employment training or job placement).

ESG

ESG funds can be used for homelessness prevention, operation, and maintenance of homeless or transitional shelters, as well as essential services. No more than 30 percent of the ESG grant can be used for essential services.

Program must participate in efforts toward improving the systems serving persons who are experiencing homelessness or who are at risk of homelessness.

Downtown Emergency Service Providers

The Tacoma City Council has requested that steps be taken to ensure a coordinated approach to downtown emergency human services. The following are some of those steps which will apply to downtown emergency human services applicants for both CDBG and ESG funding.

- a funding floor of 85 percent of the funding awarded to downtown emergency human services in the last CDBG-funding cycle will be reserved as a competitive allocation for priority downtown emergency human services in the current allocation cycle.
- a funding floor of 85 percent of the funding awarded to downtown emergency human services in the last ESG-funding cycle will be reserved as a competitive allocation for priority downtown emergency human services in the current allocation cycle.
- longer term financial commitments (e.g. four years instead of two years) will be provided for partnership applications that address integrated service provision among downtown emergency human services (e.g. 24/7 shelter coverage), if funding is available and performance warrants.

RESOLUTION NO. 37892

A RESOLUTION relating to community development; authorizing the execution of an amendment to the Agreement for Improvements Within the ASARCO Tacoma Smelter Superfund Site Area Operable Unit 2 with Point Ruston, LLC, for certain improvements within the ASARCO Tacoma Smelter Superfund site.

WHEREAS, on March 10, 2009, the City Council adopted Amended Resolution No. 37747, authorizing the execution of an agreement with Point Ruston, LLC (“Point Ruston”), for construction of approximately \$11 million in infrastructure improvements in the City and the Town of Ruston (“Ruston”), which is within the ASARCO Tacoma Smelter Superfund site, and

WHEREAS Point Ruston is required to secure construction financing to complete the project improvements, and

WHEREAS the improvements will be completed and financed under a Local Improvement District (“LID”), subject to the City and Ruston’s requirements, and

WHEREAS the completed project improvements will be transferred to the City and Ruston, and

WHEREAS the City will issue LID bonds, and the proceeds of the bond sale will be used to reimburse Point Ruston for its costs to construct the project, and

WHEREAS, since entering into the existing agreement, project costs have increased, and Point Ruston has had difficulty securing project construction financing, and

WHEREAS, as a result, Point Ruston has requested that the agreement be amended as follows: (1) the LID be increased from \$11 million to

\$15 million, (2) the LID be segregated into two phases to reduce the amount of funds needed for each phase of construction financing, and (3) the map and LID description be adjusted to include power and water improvements identified during the design phase and to describe in more detail the LID segments and improvements within each project phase; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the proper officers of the City are hereby authorized to execute an amendment to the Agreement for Improvements Within the ASARCO Tacoma Smelter Superfund Site Area Operable Unit 2 with Point Ruston, LLC, for certain improvements within the ASARCO Tacoma Smelter Superfund site with Point Ruston, LLC, for certain improvements within the ASARCO Tacoma Smelter Superfund site, said document to be substantially in the form of the proposed amendment on file in the office of the City Clerk.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

City Attorney

RESOLUTION NO. 37893

A RESOLUTION relating to the sale of Tacoma Power surplus property; authorizing the sale of the former pole and storage yard property, located on South 74th Street, west of South Tacoma Way, to Michael Rigney.

WHEREAS the City of Tacoma, Department of Public Utilities, Light Division (d.b.a. "Tacoma Power"), and the City of Tacoma, Department of Public Works, own approximately a 7,430-square-foot tract of land located on South 74th Street, west of South Tacoma Way ("Property"), and

WHEREAS the Public Utility Board previously approved the Property being declared surplus to the needs of the City per Resolution U-10262 and confirmed by City Council Resolution No. 37696, and

WHEREAS, on July 14, 2009, the City Council approved a settlement agreement whereby Tacoma Power and the City agreed to sell the Property to Michael Rigney in exchange for \$10,000, dismissal of the lawsuit, and Mr. Rigney's agreement to release all claims involving the Property and the City, said settlement was also approved by the Public Utility Board on September 9, 2009, and

WHEREAS the Property was originally acquired by Tacoma Power and the City in the 1920s for the purpose of street improvements and storage of electrical poles and contains a Tacoma Water groundwater monitoring well in the northwest corner, which will be decommissioned prior to the sale of the Property, and

WHEREAS, on September 29, 2009, as required by state law, a public hearing was conducted; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the proper officers of the City are hereby authorized to sell the former pole and storage yard property, located on South 74th Street, west of South Tacoma Way, to Michael Rigney, according to the terms of the settlement.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

City Attorney

Requested by Public Utility Board
Resolution No. U-10318

RESOLUTION NO. 37893

A RESOLUTION relating to the sale of Tacoma Power surplus property; authorizing the sale of the former pole and storage yard property, located on South 74th Street, west of South Tacoma Way, to Michael Rigney.

WHEREAS the City of Tacoma, Department of Public Utilities, Light Division (d.b.a. "Tacoma Power"), and the City of Tacoma, Department of Public Works, own approximately a 7,430-square-foot tract of land located on South 74th Street, west of South Tacoma Way ("Property"), and

WHEREAS the Public Utility Board previously approved the Property being declared surplus to the needs of the City per Resolution U-10262 and confirmed by City Council Resolution No. 37696, and

WHEREAS, on July 14, 2009, the City Council approved a settlement agreement whereby Tacoma Power and the City agreed to sell the Property to Michael Rigney in exchange for \$10,000, dismissal of the lawsuit, and Mr. Rigney's agreement to release all claims involving the Property and the City, said settlement was also approved by the Public Utility Board on September 9, 2009, and

WHEREAS the Property was originally acquired by Tacoma Power and the City in the 1920s for the purpose of street improvements and storage of electrical poles and contains a Tacoma Water groundwater monitoring well in the northwest corner, which will be decommissioned prior to the sale of the Property, and

WHEREAS, on September 29, 2009, as required by state law, a public hearing was conducted; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the proper officers of the City are hereby authorized to sell the former pole and storage yard property, located on South 74th Street, west of South Tacoma Way, to Michael Rigney, according to the terms of the settlement.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

City Attorney

Requested by Public Utility Board
Resolution No. U-10318

RESOLUTION NO. 37894

BY REQUEST OF MAYOR BAARSMA

A RESOLUTION relating to human resources; expressing support for the continuation of the Employee Wellness Program for City employees and their families.

WHEREAS the City recognizes that employee health is affected by lifestyle decisions, and many illnesses and/or injuries can be reduced or prevented by positive individual health practices, and

WHEREAS the City recognizes that its employees are a valuable resource and are crucial to the attainment of the goals and mission of the City, and

WHEREAS the City further recognizes that improvements to employee health, achievable through active workplace health promotion programs, activities, and incentives, can result in better morale, reduced absenteeism, and enhanced productivity and performance, and

WHEREAS the City wishes to commit to the continuous implementation of a citywide Employee Wellness Program aimed at contributing to the physical, emotional, and psychological well-being of City employees, retirees, and their families, decreasing the incidence of workplace injuries, reducing sick leave usage, and improving employee morale and well-being, and

WHEREAS the City hereby pledges the following:

1. To support the continuation of an Employee Wellness Program with the overall goal of building a culture of health that will result in lower healthcare costs for the City and happier and healthier City employees, retirees, and their families.

2. To support the Employee Wellness Program in order to contribute to the health and well-being of City employees and the following core principles:

- Employees should be afforded more opportunities to actively manage their health;
- Employees should be challenged to actively manage their lifestyle choices to improve their health;
- Employees should have access to educational programs that are also linked to specific behavioral changes that will improve their quality of life; and
- Employees should be offered ways to monitor the effects of their behaviors on both their short-term and long-term well-being; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That support for the continuation of the Employee Wellness Program for City employees and their families is hereby expressed.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney

RESOLUTION NO. 37895

BY REQUEST OF MAYOR BAARSMA AND COUNCIL MEMBERS LADENBURG AND TALBERT

A RESOLUTION urging Tacoma voters to vote “Approved” on Referendum 71, which bill would expand the rights, responsibilities, and obligations accorded state-registered, same-sex, and senior domestic partners to be equivalent to those of married spouses.

WHEREAS the City embraces legal equality and fair treatment for all residents and values the contributions and personal dignity of all, and

WHEREAS the City has legally protected its citizens from discrimination on the basis of sexual orientation and gender identity since 2002, and

WHEREAS, since 2008, the City has provided its employees with health benefit coverage for City-registered domestic partners, and

WHEREAS the Washington State Legislature passed, and Governor Chris Gregoire signed, Engrossed Second Substitute Senate Bill 5688 into law, ensuring that state-registered domestic partners will have the same rights, responsibilities, and protections under Washington State (“State”) law as spouses, and

WHEREAS opponents of domestic partnerships gathered signatures to put the law on the ballot on November 3 in an effort to keep it from going into effect, and

WHEREAS a vote of “Approved” will retain the law, and

WHEREAS a vote of “Rejected” would repeal the law, and

WHEREAS the Domestic Partnership Law ensures all Washington families have the same protections, rights, and responsibilities as their neighbors, and

WHEREAS, since 2007, more than 5,000 couples have registered as domestic partners, living in every county of the State. Some are seniors, where one or both partners are over the age of 62, who can't marry without sacrificing hard-earned social security, military, and pension benefits. Others are gay and lesbian couples, many with children, who are not allowed to get married, and

WHEREAS the Domestic Partnership Law allows Washington families to protect their loved ones and guarantees that they will be treated fairly in times of crisis, providing essential protections to those who would otherwise live without a safety net, and

WHEREAS some of the protections and rights in the law include:

(1) death benefits for partners of police and firefighters killed in the line of duty; (2) the right to use sick leave to care for a seriously ill partner; (3) pension benefits for partners of teachers and other public employees; (4) victims' rights; (5) right to Workers' Compensation benefits if a partner is killed in the course of employment; and (5) business succession rights, and

WHEREAS Washingtonians want to treat their neighbors with fairness;
Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the City of Tacoma supports retaining the domestic partnership law and urges Tacoma voters to vote "Approved" on Referendum 71, on the

November 2009 ballot, thereby protecting thousands of families throughout Washington State ("State") and treating all families equally under the laws of our State in the form of the ballot title as follows:

REFERENDUM 71

The legislature passed Engrossed Second Substitute Senate Bill 5688 concerning rights and responsibilities of state-registered domestic partners and voters have filed a sufficient referendum petition on this bill. This bill would expand the rights, responsibilities, and obligations accorded state-registered same-sex and senior domestic partners to be equivalent to those of married spouses, except that a domestic partnership is not a marriage. Should this bill be:

Approved ____
Rejected ____

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney

RESOLUTION NO. 37896

A RESOLUTION relating to the Salishan Redevelopment Project; stating the intent of the City to include \$2.5 million in the 2009 Limited Tax General Obligation Bonds for Area 2B infrastructure for the Salishan Redevelopment Project.

WHEREAS the City and the Tacoma Housing Authority ("THA") are parties to the Housing Cooperation Law Development Agreement, pursuant to Ordinance No. 27142, passed by the City Council on September 16, 2003, and

WHEREAS the THA is planning for the \$2.5 million in bond financing for the Area 2B infrastructure for the Salishan Redevelopment Project ("Project"), and

WHEREAS the City is considering including \$2.5 million in the 2009 Limited Tax General Obligation Bonds (which would be dedicated to the Area 2B infrastructure) currently scheduled to be sold on December 1, 2009, with closing scheduled to occur on December 15, 2009; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the City Council hereby states its intent to include \$2.5 million in the 2009 Limited Tax General Obligation Bonds currently scheduled to be sold on December 1, 2009, for the Area 2B infrastructure for the Salishan Redevelopment Project.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney

RESOLUTION NO. 37897

A RESOLUTION relating to commuter rail service; authorizing the execution of the Master Utilities License Agreement with Central Puget Sound Regional Transit Authority (“Sound Transit”) relating to the City’s use of Sound Transit property.

WHEREAS the Central Puget Sound Regional Transit Authority (“Sound Transit”) wishes to extend its current commuter rail service, which now ends at the Tacoma Dome station at Freighthouse Square, to the city of Lakewood (“Project”), and

WHEREAS, in exchange for the City entering into both a Development Agreement for construction of the extension of the Project and a Right of Use Agreement to occupy City rights-of-way, Sound Transit will agree to enter into a Master Utilities License Agreement (“MULA”) with the City, and

WHEREAS the MULA establishes the City’s rights and obligations related to its use of Sound Transit’s property located within the City limits of Tacoma and throughout the service area of Tacoma Public Utilities, and

WHEREAS the MULA grants permission to the City to construct, operate, maintain, repair, replace, and remove various electric lines, communication lines, sewer and water lines, pipelines, fiber-optic lines, cable television lines, and information transmission lines, as the case may be, and related facilities, over, under, and across certain portions of Sound Transit’s rail corridor or property, and

WHEREAS the terms of the MULA are reciprocal to the terms found in the City’s Right of Use Agreement, and

WHEREAS the MULA, Development Agreement, and Sound Transit's Right of Use Agreement to use City rights-of-way have been approved by the Public Utility Board and will be presented for approval to the City Council after the public hearing; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the proper officers of the City are hereby authorized to execute a Master Utilities License Agreement ("MULA") with Central Puget Sound Regional Transit Authority ("Sound Transit") relating to the City's use of Sound Transit property, said document to be substantially in the form of the proposed MULA on file in the office of the City Clerk.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

Chief Deputy City Attorney

Requested by Public Utility Board
Resolution No. U-10323

**SUBSTITUTE
RESOLUTION NO. 37898**

A RESOLUTION relating to commuter rail service; authorizing the execution of the Development Agreement with Central Puget Sound Regional Transit Authority relating to the development of the Lakewood to Tacoma commuter rail project.

WHEREAS Central Puget Sound Regional Transit Authority ("Sound Transit") wishes to extend its current commuter rail service, which now ends at the Tacoma Dome station at Freighthouse Square, to the city of Lakewood, and

WHEREAS the proposed Development Agreement concerns the development of the Lakewood to Tacoma commuter rail project, an approximately 1.4-mile section from East "D" Street to South "M" Street, within the City limits ("Project"), and

WHEREAS Sound Transit will be required to obtain the applicable design submittal, land use, and permit approval from the City in order to develop the Project within the City, and

WHEREAS the parties wish to enter into the Development Agreement ("Agreement") in order to (1) establish development standards for the Project; (2) establish a partnership, consistent with applicable law, for coordinating and expediting Project approval; (3) establish a method of reimbursement for City services utilized for the Project; and (4) establish additional rights and responsibilities between the parties with respect to the development of the Project, and

WHEREAS the Agreement currently does not address the City's concerns regarding (1) the aesthetic design of the overhead rail crossing of

Pacific Avenue, (2) the habitat improvements for the “B” Street gulch, (3) the design of landscape improvements for the Project, and (4) the maintenance of said habitat and landscape improvements, and

WHEREAS, furthermore, the parties will contemporaneously enter into separate agreements with respect to Sound Transit’s use of City rights-of-way and the City’s use of Sound Transit property relative to this Project, and

WHEREAS the Development Agreement, Sound Transit’s Right of Use Agreement to use City rights-of-way, and the Master Utilities License Agreement have been approved by the Public Utility Board and will be presented for approval to the City Council after the public hearing; Now, Therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

Section 1. That the proposed Development Agreement between the City and Central Puget Sound Regional Transit Authority (“Sound Transit”), relating to the development of the Lakewood to Tacoma commuter rail project (“Project”), is approved with the following amendments: (a) Sound Transit shall submit aesthetic options regarding the Pacific Avenue bridge crossing to the City for review prior to the building permit issuance; (b) the City and Sound Transit shall jointly contract with appropriate firms to do the following: (i) design the habitat improvements for the “B” Street gulch,

(ii) design the landscape improvements for the Project, and (iii) maintain said habitat and landscape improvements; and (c) elimination of the words “as illustrated in the 30% Design Submittal” of Section III E.8.

Section 2. That the proper officers of the City are hereby authorized to execute the Agreement with Sound Transit, said document to be substantially in the form of the proposed Development Agreement on file in the office of the City Clerk, as amended by Section 1 above.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

City Attorney

Requested by Public Utility Board
Resolution No. U-10323

ORDINANCE NO. 27833

AN ORDINANCE relating to Sound Transit; authorizing a Right of Use Agreement (“Agreement”) with Sound Transit for its nonexclusive use of specific City public rights-of-way in relation to the development of the Lakewood to Tacoma commuter rail project within the Tacoma City limits.

WHEREAS Sound Transit wishes to extend its commuter rail service, which currently ends at the Tacoma Dome Station between South “M” Street and the Freighthouse Square, to the City of Lakewood, and

WHEREAS Sound Transit’s proposed extension is a 1.4-mile section running from East “D” Street to South “M” Street (“Project”) within the Tacoma City limits, and

WHEREAS, as part of the Project, Sound Transit desires the nonexclusive use of City rights-of-way, including the use of portions of East “D” Street, East “C” Street, East “B” Street (unimproved), “A” Street, Commerce Street, South “C” Street, South 25th Street, South 26th Street, South 27th Street, Delin Street, Pacific Avenue, South Tacoma Way, and Center Street, all located within the City of Tacoma, and

WHEREAS Sound Transit desires to enter into a Right of Use Agreement (“Agreement”) with the City establishing Sound Transit’s rights and responsibilities regarding Sound Transit’s design, construction, operation, maintenance, and improvement of its infrastructure within the above-mentioned City rights-of-way, and

WHEREAS Sound Transit's use of the City's rights-of-way under the Agreement shall be perpetual except to the extent that Sound Transit removes or abandons its facilities or if Sound Transit violates the other terms of the Agreement, and

WHEREAS Sound Transit will not be charged an occupancy fee for use of the City's rights-of-way under the Agreement in exchange for Sound Transit not charging the City's utilities an occupancy fee for use of Sound Transit's property, and

WHEREAS Sound Transit has agreed to enter into such Agreement and the City is willing to execute such Agreement with Sound Transit, conditioned upon the acceptance by Sound Transit of the terms and conditions and execution of a reciprocal Master Utilities License Agreement that allows City utilities to occupy Sound Transit's rail corridor and upon a Development Agreement, as authorized by RCW 36.70B.170-210, and

WHEREAS Tacoma City Charter Section 8.1 indicates that "[e]very grant, renewal, extension, or amendment of a franchise, right or privilege, shall be by ordinance, become effective...thirty days after publication....," and

WHEREAS it is in the best interests of the public that the City Council authorize such use of the City's rights-of-way in support of Sound Transit's commuter rail service through the execution of the proposed Agreement; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That the proper officers of the City are authorized to enter into a Right of Use Agreement with Sound Transit for its use of specific City rights-of-way in relation to the development of the Lakewood to Tacoma commuter rail project within the Tacoma City limits, said document to be substantially in the form of the proposed Right of Use Agreement on file in the office of the City Clerk

Section 2. That, pursuant to Tacoma City Charter Section 8.1, this ordinance shall become effective 30 days after publication.

Passed _____

Mayor

Attest:

City Clerk

Approved as to Form:

Chief Deputy City Attorney

ORDINANCE NO. 27841

BY REQUEST OF COUNCIL MEMBERS LADENBURG, STRICKLAND, AND TALBERT

AN ORDINANCE relating to the park code; amending Chapter 8.27 of the Tacoma Municipal Code, prohibiting smoking in all City parks.

WHEREAS the City's parks are intended for the healthy enjoyment of all citizens, including children and youth, and

WHEREAS Metro Parks Tacoma staff has reported that smoking and tobacco use in parks has resulted in litter of cigarette butts, cigar butts, and other tobacco-related waste, which studies have shown can cause environmental degradation and pose a health risk to children and animals, and

WHEREAS the City Council, through its Public Safety, Human Services and Education Committee, received testimony from representatives of the Tacoma-Pierce County Health Department that smoking and tobacco use, including secondhand smoke, has been linked with the development of lung cancer, heart attack, low birth weight, bronchitis, pneumonia, asthma, chronic respiratory problems, and eye and nasal irritation, and

WHEREAS studies have shown that children and youth exposed to smoking and tobacco use are more likely to smoke when they get older, and

WHEREAS many parks in the City contain brush and trees, which can be combustible, particularly in the dry summer months, and the parks do not contain facilities for disposing of tobacco products and tobacco products that are not completely extinguished pose an increased risk of fire, and

WHEREAS, in spring 2009, Metro Parks Tacoma, along with Tacoma-Pierce County Public Health, requested that the Public Safety, Human Services and Education Committee (“Committee”) examine the issue of a citywide ban of smoking in all public parks within the City limits of Tacoma in order to promote public health and safety, and

WHEREAS, on June 25, 2009, and August 13, 2009, the Committee discussed the item and deliberated on the policy objectives and the scope of the policy before deciding upon the policy goals of public health, litter concerns, and fire dangers in the ordinance, and

WHEREAS the Committee gave a “do pass” recommendation for the all-encompassing smoking ban in City parks,

WHEREAS, if implemented, the proposed ordinance will require “No Smoking” signage to be in place in order to be effective, and

WHEREAS the City will be responsible for all municipally owned park signage; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That Chapter 8.27 of the Tacoma Municipal Code is amended,
as set forth in the attached Exhibit "A."

Passed _____

Attest:

Mayor

City Clerk

Approved as to Form:

Deputy City Attorney

EXHIBIT "A"

8.27.085 Smoking in parks prohibited.

It is unlawful for any person to smoke or light cigars, cigarettes, tobacco, or other smoking material within a park. The Director or City Manager shall post signs in appropriate locations, prohibiting smoking in parks.

For the purposes of this section, "smoke" or "smoking" means the carrying, holding, or smoking of any kind of lighted pipe, cigar, cigarette, or any other lighted smoking equipment.

A violation of this section is a class 4 civil infraction \$25, not including statutory assessments. Such penalty is in addition to any other remedies or penalties provided by law.

ORDINANCE NO. 27842

AN ORDINANCE relating to public safety and morals; amending Chapters 8.01, 8.12, 8.37, and 8.44 of the Tacoma Municipal Code by updating penalties to be consistent with Washington State (“State”) law, updating and reorganizing theft and theft-related offenses to be consistent with State law, updating and reorganizing offenses against property to be consistent with State law, and prescribing penalties.

WHEREAS, when Title 8 of the Tacoma Municipal Code (“TMC”) was originally written, it was consistent with Washington State (“State”) law at the time and did not distinguish between misdemeanors and gross misdemeanors, and

WHEREAS, since that time, changes have been made to the Revised Code of Washington (“RCW”) to differentiate between misdemeanors and gross misdemeanors, including penalties, and

WHEREAS this proposed ordinance will state the current applicable penalty for both misdemeanor and gross misdemeanors, and

WHEREAS the Washington State Legislature recently amended RCW sections pertaining to theft-related offenses, including changes in jurisdictional limits, and

WHEREAS the TMC currently contains several different theft provisions, and

WHEREAS the proposed ordinance repeals unnecessary specific thefts and adopts current State law, and

WHEREAS the TMC currently does not include the crime of malicious mischief, and

WHEREAS the proposed ordinance adopts the State statute for malicious mischief, including definitions; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That Chapters 8.01, 8.12, 8.37, and 8.44 of the Tacoma Municipal Code are amended, as set forth in the attached Exhibit "A."

Section 2. Severability. If any part, provision, or section of these chapters is held to be void or unconstitutional, all other parts not expressly so held shall continue in full force and effect.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

City Attorney

EXHIBIT "A"

8.01.010 Penalty provision.

A. The maximum penalty for any criminal offense under the Tacoma Municipal Code shall be the same as the maximum penalty provided in Washington State law for the same or similar offense, and where the maximum penalty provided under the Tacoma Municipal Code is inconsistent with the maximum penalty as provided pursuant to State law, such maximum penalty as provided under State law shall prevail.

B. Any person convicted of a violation of any domestic violence crime described in Section 8.105.020.B hereof shall, at the discretion of the prosecuting authority, be subject to a supplemental proceeding before the court to determine such person's status as a domestic violence repeat offender. A person shall be adjudged a domestic violence repeat offender when convicted of an offense described in Subsection 8.105.020.B hereof and such offense is found to have been committed within a two-year period of the commission of two or more prior domestic violence offenses described in Section 8.105.020.B hereof for which there is a valid conviction, and when such prior offenses do not arise from the same facts and circumstances; provided that the prosecuting authority must establish guidelines for a determination as to when the prosecuting authority, in its discretion, will seek to establish such person's status as a domestic violence repeat offender, and must give notice to the accused upon conviction of the prosecuting authority's intent to seek domestic violence repeat offender status. The court shall thereupon, after notice, set a hearing to determine such person's status as a domestic violence repeat offender.

C. A person adjudged to be a domestic violence repeat offender shall be sentenced to the maximum jail term allowable if the maximum penalty does not exceed 90 days in jail, and shall be sentenced to a minimum of 180 days in jail otherwise, and such mandatory minimum penalty shall not be suspended except as provided for pursuant to RCW 3.66.068, as now enacted or as hereafter amended, and Section 8.70.020 of the Tacoma Municipal Code as now enacted or as hereafter amended.

D. Every person convicted of a gross misdemeanor for which no punishment is prescribed in any statute or ordinance in force at the time of conviction and sentence shall be punished by imprisonment for a maximum term fixed by the court of not more than one year or by a fine in an amount fixed by the court of not more than \$5,000, or by both such imprisonment and fine.

E. Every person convicted of a misdemeanor for which no punishment is prescribed by any statute or ordinance in force at the time of conviction and sentence shall be punished by imprisonment for a maximum term fixed by the court of not more than 90 days or by a fine in an amount fixed by the court of not more than \$1,000, or both such imprisonment and fine.

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8.12.010 Disorderly persons defined and enumerated.

The following persons are hereby declared to be disorderly persons:

1. Any person fighting or quarreling or inciting or encouraging others to fight in any public place in the City of Tacoma.
2. Any person who shall intentionally prevent or attempt to prevent a police officer or peace officer of the City of Tacoma from lawfully arresting him or her, or who shall aid or assist any person in the custody of any police officer or peace officer to escape or attempt to escape from such custody.
3. Any person who shall interfere with any police officer or any peace officer of the City, or who shall refuse when called upon to assist him or her in the discharge of his or her duty.
4. Any person who shall be guilty of fast or immoderate driving or riding of horses on any of the streets, highways, or alleys of the City, or who shall ride or drive upon any sidewalk except a proper street crossing, or who shall obstruct any sidewalk, street, highway, or alley in said City in any manner.
5. Any person who, for the purpose of annoyance or mischief, shall place in any doorway or on any sidewalk, street, or alley in the City any box or other thing, or who shall tear down, destroy, or mutilate any notice or handbill lawfully posted in the City.
6. Any person, except the police officers of the City, engaged in the lawful discharge of their duty, and persons practicing at target shooting in a duly licensed shooting gallery who shall fire off or discharge any bomb, gun, pistol, or firearm of any kind within the City limits.
7. Any person who shall place any object which is not securely fastened upon any window sill or other outside portion of a building in such a position as to be above or near to a street or sidewalk, or who shall permit any such object to remain in such position upon any such building or part of a building of which he or she shall be in possession.
8. ~~Repealed.~~
9. Any person who shall have in his or her possession or shall permit to be placed or kept in a building, room, or place owned, leased, or occupied by him or her in the City, any table, slot machine, or other article, device, or apparatus of a kind commonly used for gambling or operated for the losing or winning of money or property, or any representative of either, upon any chance, uncertain, or contingent event, which is not authorized by Chapter 9.46 RCW and the Official Code of the City of Tacoma.
10. Any person or persons in the City who shall play at any game of chance for profit not specifically authorized by the State of Washington, pursuant to Chapter 9.46 RCW, as now or hereafter amended, or who is knowingly in the actual or constructive presence of unlawful gambling. Unlawful gambling is defined as gambling not authorized by the State of Washington pursuant to Chapter 9.46 RCW as now or hereafter amended.
11. ~~Repealed.~~
12. ~~Repealed.~~
13. ~~Repealed.~~
14. Any person who, by act or omission, encourages, causes, or contributes to the dependency or delinquency of a minor under 18 years of age.
15. ~~Repealed.~~
16. ~~Repealed.~~

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- Deleted: property or services of another, the same being of a
- Deleted: value of \$250 or less.
- Deleted: Any person or persons in the City engaged in
- Deleted: buncoing or in the operation of a swindling game or
- Deleted: device for the purpose of swindling or defrauding
- Deleted: others.
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8.12.120 Destruction of property.

A. Any person who intentionally and without legal authority causes physical damage to any property of another in willful disregard of the owner's rights in the property is guilty of destruction of property.

B. "Property" means anything of value, whether tangible or intangible, real or personal.

C. Any person convicted of destruction of property shall be guilty of a gross misdemeanor and shall be punished by a fine not exceeding \$5,000 or by imprisonment for a period of not more than one year, or by both such fine and imprisonment.

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8.37.010 Definitions. RCW 9A.56.010, as now enacted or hereinafter amended, is hereby adopted by reference as though fully set forth herein.

8.37.020 Theft—Definition, defense. RCW 9A.56.020, as now enacted or hereinafter amended, is hereby adopted by reference as though fully set forth herein.

8.37.030 Theft in the Third Degree. RCW 9A.56.050, as now enacted or hereinafter amended, is hereby adopted by reference as though fully set forth herein, including penalties; except that conduct constituting a felony, as determined by the prosecutor, is excluded.

8.37.040 Unlawful issuance of checks or drafts. RCW 9A.56.060, as now enacted or hereinafter amended, is hereby adopted by reference as though fully set forth herein, including penalties; except that conduct constituting a felony, as determined by the prosecutor, is excluded.

8.37.050 Theft of rental, leased, lease-purchased, or loaned property. RCW 9A.56.096, as now enacted or hereinafter amended, is hereby adopted by reference as though fully set forth herein, including penalties; except that conduct constituting a felony, as determined by the prosecutor, is excluded.

8.37.060 Possessing stolen property in the Third Degree. RCW 9A.56.170, as now enacted or hereinafter amended, is hereby adopted by reference as though fully set forth herein, including penalties; except that conduct constituting a felony, as determined by the prosecutor, is excluded.

8.37.070 Obscuring the identity of a machine. RCW 9A.56.180, as now enacted or hereinafter amended, is hereby adopted by reference as though fully set forth herein, including penalties.

8.37.080 Theft of subscription television services. RCW 9A.56.220, as now enacted or hereinafter amended, is hereby adopted by reference as though fully set forth herein, including penalties.

8.37.090 Shopping cart theft. RCW 9A.56.270, as now enacted or hereinafter amended, is hereby adopted by reference as though fully set forth herein, including penalties.

8.37.100 Credit, debit cards, checks, etc.—Definitions. RCW 9A.56.280, as now enacted or hereinafter amended, is hereby adopted by reference as though fully set forth herein, including penalties; except that conduct constituting a felony, as determined by the prosecutor, is excluded.

8.37.110 Possession of another's identification. RCW 9A.56.330, as now enacted or hereinafter amended, is hereby adopted by reference as though fully set forth herein, including penalties.

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8.44.010 Expectoration in public places.

No person shall expectorate on the floor of any motor bus or other public conveyance or public building, or on any sidewalk in the City of Tacoma. Violation is a misdemeanor.

8.44.020 Reckless burning.

RCW 9A.48.050 and RCW 9A.48.060, as now enacted or hereinafter amended, are hereby adopted by reference as if fully set forth herein, including penalties; except that conduct constituting a felony, as determined by the prosecutor, is excluded.

8.44.030 Library – Defacing, or failing to return, books.

It shall be unlawful to fail to return any book, newspaper, magazine, pamphlet, manuscript, or other property belonging in or to any public library or any branch, reading room, deposit station, museum, or institution operated in connection therewith, for a period exceeding 30 days after the mailing to the borrower's address, on file with said library, of a notice in writing to return the same, given after the expiration of the time which, by the rules of such institution, such article or other property may be kept; which notice so mailed shall bear on its face a copy of this section. Violation is a misdemeanor.

8.44.040 Library – Taking books without permission.

It shall be unlawful to take: without the permission of the librarian or an assistant; by making use of a borrower's card belonging to another without the permission of the owner thereof and the librarian or an assistant, or by color or aid of any fraud or false representation, impersonation or pretense, or by any false token, or writing, or by any device or trick, from any public library, or any branch, reading room, deposit station, museum or institution operated in connection therewith, any property belonging therein or thereto. Violation is a misdemeanor.

8.44.056 Throwing of rocks – Damage or injury.

It shall be unlawful for any person to throw, place, or cause to be thrown or placed, or to aid and abet the throwing or placing in, into, over or onto any public place, rocks, broken glass, bottles, containers, tacks, nails, garbage, rubbish, offal, discarded matter or any other article, object or thing that damages or may damage or tend to damage any property, building, vehicle or other thing of value belonging to or under the control and care of the City of Tacoma, County of Pierce, Metropolitan Park District or other political subdivision of the State of Washington, or that injures or may injure or tend to injure any person, animal or living thing upon said property. Violation is a gross misdemeanor.

8.44.060 Monuments and survey markers.

It shall be unlawful for any person or persons within the city limits of the City of Tacoma to remove, change, pull up or destroy, or in any manner interfere with any monument, stake, post or peg established or set by the City Engineer of the City of Tacoma, or by any of his assistants in the performance of his or their duties as such engineer or assistant; provided, however, that this section shall not apply to any contractor who may be obliged to remove such monument, stake, post, or peg in the performance of his contract, provided said contractor shall first notify the City Engineer of the necessity for such removal and obtain permission from him so to do. Violation is a misdemeanor.

8.44.065 Trespassing on posted public property.

Any person who shall go upon the premises or land owned by, under the control and care of, or in the possession of, the City of Tacoma, County of Pierce, Metropolitan Park District or other political subdivision of the State of Washington, with intent to vex the owner or occupant thereof or to commit any unlawful act, or shall willfully go on or remain in or upon said premises or land after having been warned by the owner or occupant thereof, occupant's agent, or a security or peace officer not to enter therein or not to remain thereon, shall be guilty of a misdemeanor. The City, County, Metropolitan Park District or other political subdivision of the State of Washington shall be deemed to have given sufficient

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warning against trespassing within the meaning of this section, after having posted in a conspicuous manner upon or near the boundary of each side of any unenclosed lot or parcel of land, or near the entrance to any building, dwelling house or premises, a sign or signs legibly printed or painted in the English language, substantially as follows: "WARNING – PUBLIC PROPERTY – NO TRESPASSING."

8.44.070 Official signs and notices.

It shall be unlawful for any person to efface, destroy or remove any official sign or notice which has been posted by authority of the City of Tacoma in any public place or upon any building or other structure within the City by its officers or agents while the warning of such signs and notices shall be in force; provided that this chapter shall not apply to any sign or notice posted under any health or quarantine ordinance or regulation. Violation is a misdemeanor.

8.44.075 Political signs and notices.

It shall be unlawful for any person to efface, destroy or remove any bona fide political sign from its location within the City of Tacoma during the period preceding a political election; provided, however, this shall not impair the right of a person or owner in lawful occupancy of real property from removing any political sign placed without his or her consent upon his or her property or upon property over which he or she asserts dominion and control. Violation is a misdemeanor.

8.44.090 Railroad tracks – Obstructing.

It shall be unlawful for any person or persons to willfully place or cause to be placed upon or adjacent to the track or between the rails of any street railway company or any railroad company operating street cars or railroad trains in the City of Tacoma any obstacle whatever. Violation is a misdemeanor.

8.44.100 Utilities property – Light plant.

It is unlawful for any person to, in any manner, injure, mutilate, destroy, remove, disconnect, or in any wise interfere, or tamper with, any of the machinery, poles, wires, meters, lamps, or other appliances belonging to, or in any manner connected with, the Light and Power Plant of the City of Tacoma. Violation is a gross misdemeanor.

8.44.110 Utilities property – Reward.

The Director of Utilities is hereby authorized to offer, and the proper officers of the City are authorized to pay, a reward of \$10.00 out of the Light Fund to any person who shall furnish information to the Director which shall result in the conviction of any person for the violation of Section 8.44.100; provided, that not more than one reward shall be paid in any one case.

8.44.120 Utilities property – Water main bridges.

It is unlawful for any person to walk upon or use as a passageway any bridge or structure erected for the maintenance of sewer or water pipes in the City of Tacoma, or to molest, destroy, or in any manner interfere with, any gate or barrier connected thereto. Violation is a misdemeanor.

8.44.130 Malicious mischief in the Third Degree. RCW 9A.48.090, as now enacted or hereinafter amended, is hereby adopted by reference as if fully set forth herein, including penalties; except that conduct constituting a felony, as determined by the prosecutor, is excluded.

8.44.140 Malicious mischief—“Physical damage” defined. RCW 9A.48.100, as now enacted or hereinafter amended, is hereby adopted by reference as if fully set forth herein.

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obtain any food, lodging, or accommodation in any	
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hotel, apartment house, restaurant, cafe, boarding or	
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lodging house without paying therefor.	
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Any person who, without the consent of the	
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seller, willfully takes possession of any goods, wares,	
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or merchandise of the value of less than \$250 (such	
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being the property of another) offered for sale by any	
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wholesale or retail store or other mercantile	
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establishment with the intention of converting such	
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goods, wares, or merchandise to his or her own use	
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without having paid the purchase price thereof.	
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Any person who, with the intent to defraud the	
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owner or operator thereof, obtains transportation	
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from a taxicab or City bus without paying therefor.	
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Fraud in obtaining cable	
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television services.	
It is unlawful for any person to intentionally and	
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knowingly obtain broadcast signals from a cable	
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antenna television system by making any connection	

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by wire to the cable, except from the wall outlet to

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the set, and to make the connection without the

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consent of the operator of the system in order to

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avoid payment to the operator.

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Any person violating any of the provisions of this

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chapter shall be guilty of a misdemeanor and, upon

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conviction thereof, shall be punished by a fine not

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exceeding \$500.00, or by imprisonment in the Pierce

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County Jail for a period not exceeding six months, or

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by both such fine and imprisonment.

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belonging to or deposited in any public library, or

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any branch, reading room, deposit station, museum,

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or institution operated in connection therewith.

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8.44.050 Library – Penalty for violation of Sections 8.44.020 - 8.44.040.

Any person convicted of a violation of any of the

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provisions of Sections 8.44.020 through 8.44.040

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hereof shall be punished by a fine of not more than

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\$300.00, or by imprisonment in the county jail for a

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period of not more than 90 days, or by both such fine

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It is unlawful for any person to wilfully or

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maliciously remove, damage, or destroy any public

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building, or building used for educational, scientific,

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charitable or religious purposes, or any useful or

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ornamental thing located therein.

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8.44.150 Violation – Penalties.

Any person or persons violating the provisions of this

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chapter shall be deemed guilty of a misdemeanor

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and, upon conviction thereof, shall be punished by a

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fine of not more than \$500.00, or imprisonment in

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the Pierce County Jail for a period of not more than

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six months, or by both such fine and imprisonment