



Legislation Passed October 1, 2019

The Tacoma City Council, at its regular City Council meeting of October 1, 2019, 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.

Resolution No. 40436

A resolution setting Thursday, November 7, 2019, at 1:30 p.m., as the date for a hearing by the Hearing Examiner on the request to vacate the west 14 feet of North Pine Street, lying between the southerly line of North 29th Street and the eastern extension of the northerly line of North 28th Street Alley, to facilitate future development.

(John and Miyon Kautz; File No. 124.1398)

[Teague Pasco, Senior Real Estate Specialist; Kurtis D. Kingsolver, P.E., Director, Public Works]

Resolution No. 40437

A resolution renaming the 34th Street Bridge, spanning State Route 7 between East "B" Street and East "D" Street, to "Harold G. Moss Bridge," so that the lights on the bridge may stand as a shining monument to the ways that Tacoma is brighter today due to the leadership and countless contributions of Mayor Moss, and so that others may be inspired to lives of service and civic engagement.

[Mayor Woodards and Council Members Blocker and Ushka]

Resolution No. 40438

A resolution authorizing the execution of a Letter of Agreement with the Tacoma Fire Fighters Union, Local 31, regarding unused sick leave accruals upon retirement.

[Dylan Carlson, Senior Labor Relations Manager; Bill Fosbre, City Attorney]

Resolution No. 40439

A resolution authorizing the execution of a Letter of Agreement with District Lodge No. 160, on behalf of Local Lodge No. 297 of the International Association of Machinists and Aerospace Workers, General Unit, to provide developmental opportunity.

[Dylan Carlson, Senior Labor Relations Manager; Bill Fosbre, City Attorney]

Ordinance No. 28614

An ordinance amending Chapter 12.10 of the Municipal Code, relating to Water - Regulations and Rates, for wholesale rate adjustments, effective January 1, 2020; System Development Charge adjustments, effective January 1, 2020; and Fixed Fees adjustments, effective January 1, 2020, through December 31, 2024.

[Sean Senescall, Water Division Manager; Scott Dewhirst, Water Superintendent]

Amended Ordinance No. 28615

An ordinance amending Chapter 8.27 of the Municipal Code, relating to the Park Code, to address emerging public safety issues impacting the quality of life in Tacoma's parks.

[Anita Gallagher, Assistant to the City Manager; Elizabeth Pauli, City Manager]



RESOLUTION NO. 40436

1 A RESOLUTION relating to the vacation of City right-of-way; setting Thursday,
2 November 7, 2019, at 1:30 p.m., as the date for a hearing before the City
3 of Tacoma Hearing Examiner on the petition of John and Miyon Kautz, to
4 vacate the west 14 feet of North Pine Street, lying between the southerly
5 line of North 29th Street and the eastern extension of the northerly line of
6 North 28th Street Alley, to facilitate future development.

7 WHEREAS John and Miyon Kautz, having received the consent of the
8 owners of more than two-thirds of the properties abutting the west 14 feet of
9 North Pine Street, lying between the southerly line of North 29th Street and the
10 eastern extension of the northerly line of North 28th Street Alley, has petitioned
11 for the vacation of the following legally described right-of-way area:

12 A portion of the Southeast Quarter of the Southwest Quarter
13 of Section 30, Township 21 North, Range 3 East, Willamette
14 Meridian, Pierce County, Washington, more particularly
15 described as follows:

16 The Westerly 14 feet of North Pine Street abutting Lot 1,
17 Block 49 of Supplementary Map of Tacoma, Washington
18 Territory, according to the plat thereof recorded in Volume 1
19 of Plats, page 11, records of Pierce County, Washington,
20 lying between the southerly line of North 29th Street and the
21 eastern extension of the northerly line of said Block 49 Alley.

22 Situate in the City of Tacoma, County of Pierce, State of
23 Washington.

24 Now, Therefore,

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

26 Section 1. That Thursday, November 7, 2019, at 1:30 p.m., is hereby
fixed as the date and time, and the Council Chambers on the first floor of the
Tacoma Municipal Building, 747 Market Street, in the City of Tacoma, as the
place when and where said request will be heard by the Hearing Examiner and



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his recommendations thereafter transmitted to the Council of the City of Tacoma.

Section 2. That the Clerk of the City of Tacoma shall give proper notice of the time and place of said hearing.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney

Property description approved:

Chief Surveyor
Public Works Department

Location: West 14 feet of North Pine Street, lying between the southerly line of North 29th Street and the eastern extension of the northerly line of North 28th Street Alley.

Petitioner: John and Miyon Kautz

File No.: 124.1398



RESOLUTION NO. 40437

1 BY REQUEST OF MAYOR WOODARDS AND COUNCIL MEMBERS BLOCKER
2 AND USHKA

3 A RESOLUTION renaming the 34th Street Bridge, spanning State Route 7
4 between East B Street and East D Street, to "Harold G. Moss Bridge."

5 WHEREAS in 2014 the City Council adopted an Equity and Empowerment
6 framework which made equity a guiding principal across the organization, and
7 committed the City to changing practices which created or sustained inequities,
8 and

9 WHEREAS the City Council adopted Resolution No. 40408 on August 20,
10 2019, which amended the City's policy on place names and name changes, with
11 one of the primary recommendations for updating this policy being to align it with
12 guiding City principals by including the concepts of equity, diversity, and inclusion
13 when considering place names and name changes throughout the City, and

14 WHEREAS this policy amendment provided the Mayor and City Council with
15 the authority to make naming proposals, and

16 WHEREAS Mayor Emeritus Harold G. Moss ("Mayor Moss") became the
17 first African-American City Council member when he was appointed in 1971, and

18 WHEREAS Mayor Moss was subsequently re-elected three times, and
19 served over a decade as a dedicated member of the City Council, and

20 WHEREAS Mayor Moss became the first African-American Mayor to hold
21 office in the City when he was appointed on January 25, 1994, and

22 WHEREAS during his tenure with the City, Mayor Moss served in a broad
23 range of leadership roles, including: the Association of Washington Cities
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1 Executive Board; the Law Enforcement Support Agency Board; the National
2 League of Cities; the Pierce Transit Board of Commissioners; the Public Safety
3 Committee; the Tacoma-Pierce County Board of Health; the SR509 Executive
4 Committee; the Puyallup Indian Settlement Implementation Assistance Committee;
5 the Tacoma-Pierce County Commission on Children, Youth, and their Families;
6 and the U.S. Conference of Mayors, and
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8 WHEREAS Mayor Moss also made history in his lifetime of service by being
9 the first African-American member of the Pierce County Council, and
10

11 WHEREAS Mayor Moss has made countless contributions to the
12 community, and in all his roles, he provided mentorship and support to a number of
13 developing leaders across the region, and continues to engage and inspire a living
14 legacy of those dedicated to public service, civic engagement, and volunteering,
15 and
16

17 WHEREAS in congruence with the City's naming policy, and the Equity and
18 Empowerment framework, it is recommended that the 34th Street Bridge, spanning
19 SR7 between East B Street and East D Street, be named "Harold G. Moss Bridge,"
20 so that the lights on the bridge may stand as a shining monument to the ways that
21 Tacoma is brighter today due to the leadership and countless contributions of
22 Mayor Moss, and so that others may be inspired to lives of service and civic
23 engagement;
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25 Now, Therefore,
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BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the 34th Street Bridge, spanning SR7 between East B Street and East D Street (Structure ID Number 08512700), be renamed "Harold G. Moss Bridge," consistent with the guidelines set forth in the City Council Policy on Place Names and Name Changes.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



RESOLUTION NO. 40438

1 A RESOLUTION relating to collective bargaining; authorizing the execution of a
2 Letter of Agreement with the Tacoma Fire Fighters Union, Local 31, to
3 amend Article 13, Section 13.9, regarding unused sick leave accruals upon
retirement.

4 WHEREAS the City has negotiated a Letter of Agreement (“LOA”) with the
5 Tacoma Fire Fighters Union, Local 31 (“Union”) to amend Section 13.9 of the
6 2015-2020 Collective Bargaining Agreement (“CBA”), and

7 WHEREAS there are currently 369 full-time, budgeted positions within the
8 bargaining unit, and

9 WHEREAS the LOA provides that the Union will notify the City annually
10 whether contributions of unused sick leave for retiring employees should be made
11 to a qualified Health Reimbursement Arrangement (“HRA”), or as a sick leave cash
12 out under Tacoma Municipal Code 1.12.230 D.1., and

13 WHEREAS, if the annual election is made for a contribution to an HRA,
14 employees, upon individual request, will have the option to contribute the value of
15 eligible sick leave accruals to the WSCFF Employee Benefit Trust, or into an
16 individual Voluntary Employee Benefit Association (“VEBA”) plan, and

17 WHEREAS the City will direct the contributions to the WSCFF Employee
18 Benefit Trust by default if no individual request is made; Now, Therefore,
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BE IT RESOLVED BY THE COUNCIL OF THE CITY OF TACOMA:

That the proper officers of the City are hereby authorized to execute the Letter of Agreement negotiated between the City and the Tacoma Fire Fighters Union, Local 31, said document to be substantially in the form of the document on file in the office of the City Clerk.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



RESOLUTION NO. 40439

1 A RESOLUTION relating to collective bargaining; authorizing the execution of a
2 Letter of Agreement negotiated between the City of Tacoma and the
3 International Association of Machinists and Aerospace Workers, District
Lodge #160, on behalf of Local Lodge #297, General Unit.

4 WHEREAS the City has, for years, adopted the policy of collective
5 bargaining between the various labor organizations representing employees and
6 the administration, and

7
8 WHEREAS Resolution No. 39691, effective January 1, 2017, authorized the
9 execution of the three-year Collective Bargaining Agreement (“CBA”) between the
10 City of Tacoma and the International Association of Machinists and Aerospace
11 Workers, District Lodge #160, on behalf of Local Lodge #297, General Unit
12 (“Union”), on behalf of the employees represented by said Union, and

13
14 WHEREAS the City and Union have negotiated a Letter of Agreement
15 (“LOA”) to the CBA which provides for the following: (1) a promotional opportunity
16 for certain employees in the classification of WWTP Assistant (CSC 5099), to
17 promote into a new classification of WWTP Maintenance Technician (CSC 5111);
18 and (2) a process for employees to be eligible to successfully promote into this
19 developmental opportunity and gain exposure and experience in Wastewater
20 Treatment Plant Maintenance to allow for a more logical career progression into the
21 WWTP Machinist classification, and

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23 WHEREAS it appears in the best interest of the City that the LOA negotiated
24 by said Union and the City be approved; Now, Therefore,

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

That the proper officers of the City are hereby authorized to execute the Letter of Agreement negotiated between the City of Tacoma and the International Association of Machinists and Aerospace Workers, District Lodge #160, on behalf of Local Lodge #297, General Unit, said document to be substantially in the form of the document on file in the office of the City Clerk.

Adopted _____

Mayor

Attest:

City Clerk

Approved as to form:

Deputy City Attorney



ORDINANCE NO. 28614

1 AN ORDINANCE relating to the Department of Public Utilities, Water Division,
2 (d.b.a. Tacoma Water); amending Chapter 12.10 of the Tacoma Municipal
3 Code, relating to Water - Regulations and Rates, to provide for wholesale
4 rate adjustments, effective January 1, 2020; System Development Charge
5 adjustments, effective January 1, 2020; and Fixed Fees adjustments,
6 effective each January 1st, from 2020 through 2024.

7 WHEREAS the City of Tacoma, through its Department of Public Utilities,
8 Water Division (d.b.a. "Tacoma Water"), provides water service to 15 wholesale
9 customers in the region through wholesale contracts, and

10 WHEREAS these wholesale contracts obligate Tacoma Water to provide
11 approximately 18 million gallons per day ("MGD") of supply to these wholesale
12 customers, however, these customers currently only consume 2.5 MGD annually,
13 and

14 WHEREAS wholesale water revenues and demand have been declining
15 over the years, while the ongoing costs associated with maintaining the supply
16 obligation under the contracts remains, and

17 WHEREAS Tacoma Water is proposing a new revenue-neutral wholesale
18 rate designed to remedy the problem of declining demand and ongoing costs by
19 increasing the fixed rate while decreasing the variable rate, and

20 WHEREAS, without changes to the wholesale rate and ratemaking policy,
21 Tacoma Water could experience a potential loss of up to \$3.6 million annually in
22 opportunity costs, and

23 WHEREAS Tacoma Water assesses System Development
24 Charges ("SDC") in three situations: a one-time charge for connection to the
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1 water system, a service upgrade that requires a larger meter, or an existing
2 service for larger meters that exceeds certain usage thresholds, and

3 WHEREAS the SDC is typically charged to new development, commercial
4 and wholesale customers, and the average annual SDC revenue is \$2.9 million,
5 and

6 WHEREAS changes have occurred in the water system capacity, plant
7 assets, capital projects, debt, and demand since the SDCs were last updated in
8 2004, and

9 WHEREAS a change in the SDCs will provide an updated schedule to
10 ensure generational equity within the water system, and although a reduction of
11 this charge could result in a decline in SDC revenue, since Tacoma Water is a cost
12 of service utility, this reduction aligns with core ratemaking principles, and

13 WHEREAS Tacoma Water also assesses fixed charges/fees ("Fixed Fees")
14 for water service installations, which are one-time charges for water service
15 installations in schools, shopping centers, restaurants, residential homes, and
16 apartments, and

17 WHEREAS, if Fixed Fees are not adequate to cover actual costs, charges
18 are then based upon actual costs incurred by the City, known as Time &
19 Materials ("T&M"), and

20 WHEREAS, from June 2017 through May 2019, Fixed Fees and T&M
21 generated approximately \$2 million in revenue, and

22 WHEREAS the actual cost of service has become misaligned with Fixed
23 Fees since Fixed Fees were last updated in 2009, and from June 2017 through
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1 May 2019, Tacoma Water under-collected approximately \$385,000 in Fixed Fees,
2 and

3 WHEREAS the proposed change to Fixed Fees will allow Tacoma Water to
4 align Fixed Fees with actual expenses, reduce staff time, and shorten the time of
5 quote delivery to customers, and

6 WHEREAS Tacoma Water's proposed rate adjustments are attached hereto
7 as Exhibit "A," and

8 WHEREAS the proposed changes to the regulations in Tacoma Municipal
9 Code ("TMC") Chapter 12.10 include an amendment to TMC 12.10.250, which
10 removes references to "Automated Meter Reading (AMR)" and changes the
11 installation of 3/4 inch service and 5/8 inch meters for residential domestic service
12 from a requirement to a standard; an amendment to TMC 12.10.310, which
13 removes references to "four-day maximum"; and an amendment to
14 TMC 12.10.400, adding that the standard charge for wholesale shall consist of a
15 monthly ready to serve charge based on contracted peak capacity, together with a
16 rate for the quantity of water used, and
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19 WHEREAS Tacoma Water has sought input from wholesale customers,
20 developers, builders, and members of the public through various meetings and
21 public information sessions in preparation for these amendments, and
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23 WHEREAS the Public Utility Board approved the proposed revisions to the
24 rates and regulations on September 11, 2019, and
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WHEREAS, pursuant to Tacoma City Charter Section 4.11, revisions to Tacoma Water rates and regulations and the Water Rate and Financial Policy require approval by the Public Utility Board and City Council; Now, Therefore,

BE IT ORDAINED BY THE CITY OF TACOMA:

Section 1. That Chapter 12.10 of the Tacoma Municipal Code is hereby amended as set forth in the attached Exhibit "A."

Section 2. That the wholesale rate adjustments are effective January 1, 2020. That the System Development Charge adjustments are effective January 1, 2020. That the Fixed Fees adjustments are effective January 1, 2020; January 1, 2021; January 1, 2022; January 1, 2023; and January 1, 2024.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

Chief Deputy City Attorney

EXHIBIT "A"

Chapter 12.10

WATER - REGULATIONS AND RATES

Sections:

- 12.10.010 Rules established.
- 12.10.020 Definitions.
- 12.10.030 Water service inside/outside City limits.
- 12.10.035 Ability to supply water within City limits.
- 12.10.040 Application for service.
- 12.10.045 Services and meters.
- 12.10.050 Establishment of service account and request for turn-on.
- 12.10.060 Billing.
- 12.10.110 Turn-on and/or - Unauthorized use.
- 12.10.115 Turn-off, turn-on - Responsibility and liability.
- 12.10.120 Turn-off, turn-on - Condemned buildings.
- 12.10.125 Damage of water service installation.
- 12.10.130 Termination of service.
- 12.10.150 Interruption of service.
- 12.10.170 Ownership of water mains and appurtenances.
- 12.10.180 Operation of private water systems.
- 12.10.200 Private contract charges.
- 12.10.220 Cross connections.
- 12.10.250 Water service construction charges.
- 12.10.275 Property-side (private) in public rights-of-way.
- 12.10.300 Fire hydrant installation and relocation.
- 12.10.301 Fire hydrant services fee (inside City of Tacoma).
- 12.10.302 System capacity flow testing.
- 12.10.303 Franchise hydrant service fee (outside City of Tacoma).
- 12.10.305 Fire hydrant use (non-fire fighting).
- 12.10.310 System development charge ("SDC").
- 12.10.315 Water main charge.
- 12.10.350 Premises not abutting a permanent water main.
- 12.10.400 Rates - Inside and outside City limits.
- 12.10.485 City not liable for damages.
- 12.10.490 Protection of public health.
- 12.10.495 South Tacoma Groundwater Protection.
- 12.10.500 Waivers - By Superintendent.
- 12.10.505 Customer service policies - Additional rules and regulations.
- 12.10.515 Violations - Penalties - Enforcement.
- 12.10.520 Severability.
- 12.10.525 Interference with and/or damage to City water system.

12.10.010 Rules established.

This chapter is established for the regulation of water utility service by the municipal water supply system of the City of Tacoma.

(Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.020 Definitions.

For purposes of this chapter, the following words or phrases shall have the meaning set forth herein below:

"Actual cost" or "cost" of any work performed for any person or other agency or City department by the Division includes the direct cost of all labor plus fringe benefits, the direct cost of all materials plus materials overhead, the direct cost of equipment used in connection with the work, all other direct costs incurred in connection with the work, plus administrative and supervisory cost.

"Accessory dwelling unit" refers to a second subordinate dwelling added to a single-family dwelling on a single parcel of property with provisions for independent cooking, living, sanitation, and sleeping.

"Assessable unit of frontage" is defined as set forth in Chapter 35.44 of the Revised Code of Washington (or as amended).

“Authorized deposit waiver” means an approved option for residential and commercial customers to waive paying a deposit, which is normally required for electric, water, and/or commercial solid waste customers who do not meet the established criteria, as defined in the Tacoma Public Utilities Customer Service Policies. Waiver options are available for home or property owners; customers who are purchasing the property and/or home; and customers who are renting, leasing, or leasing with an option to purchase the property.

“Board” means the Public Utility Board of the Department of Public Utilities of the City of Tacoma.

“CCF” means 100 cubic feet of water (one unit or approximately 748 gallons).

“City” means the City of Tacoma.

“Commercial service” means water service to a business or businesses engaged in the manufacture and/or sale of a commodity or commodities, or the rendering of a service, including hotels, motels, hospitals, and schools.

“Contract business partner” refers to the person or persons who have sole financial responsibility with the City.

“Council” means the City Council of the City of Tacoma.

“County” means the county in which service is being provided.

“Cross connection” is any actual or potential physical connection between a public water system or the consumer’s water system and any source of non-potable liquid, solid, or gas that could contaminate the potable water supply by backflow.

“Customer” means all persons obtaining water service from the Division.

“Customer Service Policies” means the Customer Service Policies for the Division, as may be amended.

“Director” means the Director of the Department of Public Utilities of the City of Tacoma.

“Division” means the Water Division of the Department of Public Utilities of the City of Tacoma, and may also include the Department of Public Utilities.

“Fraud” means any act to deceive or defraud the Division including, but not limited to, false identity, failure to provide verifiable identification or obtaining water service and not making appropriate payments for said service.

“Frontage” refers to “frontage of property served” and shall mean the front footage of property to be served, or the short buildable side (50 LF minimum) abutting the water main. For properties not abutting the main, it shall mean the shortest buildable side (50 LF minimum).

“Industrial service” means water service to a business enterprise engaged in the manufacture of products, materials, equipment, machinery, and supplies on a substantial or major scale.

“Multiple dwelling units” means residential duplexes, triplexes, fourplexes, apartment buildings, condominiums, mobile home parks, trailer courts, or similar types of multiple dwelling unit arrangements on one parcel of land.

“Parks and irrigation service” means water service to a public park or irrigation customer with seasonal use for recreational, landscaping, and horticultural purposes or other similar uses. Irrigation shall include outdoor residential and commercial sprinkler services.

“Person” means all persons and all private and public entities, including districts, cities, towns, counties, and political subdivisions of the state, Native American tribes, partnerships, and corporations, whether acting by themselves or by a servant, agent, or employee. The singular number shall be held and construed to include the plural and the masculine pronoun to include the feminine.

“Premises” means public or private property, home, building, apartment house, condominium, trailer court, mobile home park, a group of adjacent buildings utilized under one ownership on one parcel of property and under a single control with respect to use of water and responsibility for payment therefor.

“Regular working hours” means 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding City holidays.

“Residential service” means water service to a single-family or multi-family dwelling using water for domestic use, or a single-family dwelling permitted to operate a business on the same premises.

“Service installation” means all piping and fittings from the main to and including the water meter assembly. All piping beyond the meter assembly is the customer’s responsibility and is not considered a part of the service installation.

“Superintendent” means the Superintendent of the Water Division of the Department of Public Utilities of the City of Tacoma.

EXHIBIT "A"

"System" means all water source, supply, and quality facilities, transmission pipelines and storage facilities, pumping plants, distribution mains and appurtenances, vehicles, and materials storage facilities.

"Tampering" means to alter, hinder, or obstruct the operation or maintenance of any water facility(ies) and/or their appurtenance(s), or failure to take reasonable care when operating any water facility(ies) and/or their appurtenance(s).

"Temporary water service" means water service obtained from a water main not abutting the parcel served or from a transmission or supply pipeline, or any main 2" or less in diameter.

"Treasurer" means the City Treasurer of the City of Tacoma.

(Ord. 27570 § 1; passed Dec. 19, 2006; Ord. 27522 § 1; passed Aug. 29, 2006; Ord. 27299 § 1; passed Dec. 7, 2004; Ord. 26800 § 1; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.030 Water service inside/outside City limits.

These regulations are applicable to the Division and its customers both inside and outside the City limits, except as provided in Section 12.10.400 (Rates - Inside and outside City limits), or as otherwise specifically delineated.

(Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.035 Ability to supply water within City limits.

All persons wishing to construct any residential premises within the City limits shall be supplied with residential service by the Division subject to the provisions of this chapter and pursuant to RCW 19.27.097.

(Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.040 Application for service.

Applications for water service, hydrant permits, and work to be performed by the Division's staff shall be made at the Division's Permit Counter in the Public Utilities Administration Building or at such other place or places as the Superintendent may designate, by the owner or authorized agent. The application, when approved by the Division, shall constitute a contract whereby the applicant agrees as a condition of water service to comply with this chapter and the rules and regulations of the Division referred to in this chapter or as the same may be revised or amended by the Division from time to time.

(Ord. 27522 § 2; passed Aug. 29, 2006; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.045 Services and meters.

Each premises shall be served water by a Division-installed, separate water service and meter.

The Superintendent shall have the right to refuse or discontinue water service in any situation where it is discovered that applicable codes or City standards have not been satisfied.

Each new water service connection shall require payment of the water service construction charge in accordance with Section 12.10.250 and system development charge in accordance with Section 12.10.310. Premises that have not contributed to the cost of a permanent distribution water main shall also pay the applicable water main charge in accordance with Section 12.10.315 or 12.10.350.

(Ord. 26800 § 2; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.050 Establishment of service account and request for turn-on.

A turn-on charge, as set forth in Chapter 12.01 of this code, will establish a service account.

The customer shall be responsible for all charges on the account. The account shall remain active and accrue charges until the customer notifies the Department's Customer Service Section to close or turn off the meter or account, unless the account is delinquent. Water surcharge accounts and fire service accounts cannot be closed without Water Division authorization.

The person establishing a water service account shall be required to make a cash deposit or meet one of the authorized deposit waiver options with the City Treasurer as set under Utility Board resolution. Such deposit may be applied upon delinquent bills owed the City Division and shall be applied to that portion first incurred. A change in the amount of the deposit or security may be required of any customer who changes his or her status of service. The acceptance of a cash deposit or security by the City shall not constitute a bar to the enforcement of the City's lien or termination rights.

(Ord. 27522 § 3; passed Aug. 29, 2006; Ord. 26800 § 3; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.060 Billing.

The Director shall cause a bill to be rendered to each customer for water services rendered during the preceding period. The utility bill shall become due and payable at the City Treasurer's office or at such other places designated by the Director, within 15 days from the date an invoice is issued per TMC 12.01.030 and shall become delinquent thereafter. The Water Division shall compute any amounts due under TMC 12.10 by carrying the computation to the third decimal place and rounding to a whole cent using a method that rounds up to the next cent whenever the third decimal place is greater than four. Any invoice that becomes delinquent shall be subject to a late payment fee as set forth in TMC 12.01.030.

(Ord. 28160 Ex. A; passed July 9, 2013; Ord. 28133 Ex. A; passed Feb. 26, 2013; Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27522 § 4; passed Aug. 29, 2006; Ord. 26800 § 4; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.110 Turn-on and/or Unauthorized use.

A. If water service, with an established service account, is turned off by the Division for cause and later the water service to said premises is turned on without Division approval, upon discovery, a penalty of \$100 shall be assessed and said water service may be disconnected by the Division at the water main in the street.

B. Unauthorized use and/or tampering with any division appurtenance (except for fire hydrants which are covered in Section 12.10.305) may result in, a penalty of \$500 being assessed. If unauthorized use or tampering involves a water service and/or meter then said service may be disconnected by the Division at the water main in the street. Penalty is in addition to any fees for repair of damages as noted in Section 12.10.125.

Water service will not be reconnected in either subsection A or subsection B above until: (1) payment for all water consumed to date and the monthly meter charges as established or estimated by the division are made to the City; (2) the Division costs incurred related to disconnecting and reconnecting the service pipe are paid; and (3) the Division costs incurred related to repairing customer-caused damages are paid per Section 12.10.125.

(Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27570 § 2; passed Dec. 19, 2006; Ord. 27522 § 5; passed Aug. 29, 2006; Ord. 26800 § 5; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.115 Turn-off, turn-on – Responsibility and liability.

The City shall not be liable for any damage to any person or property that may result from the turn-off or turn-on of the water service or from the service being left on when the premises may be unoccupied.

By requesting water service from the City, the customer assumes the responsibility for the flow and use of the water on his or her premises. Therefore, if water is desired to be turned off during remodeling, periods of freezing, or for other reasons, the customer agrees to turn off the water at the valve on his or her premises and the Division's turn-off valve shall not be relied upon for said purposes.

A customer's unpaid water service charges, penalties, and any cost to repair customer-caused damages to the water meter and appurtenances shall be paid at the time of application for turn-on, or a satisfactory arrangement for payment made with the City before water service to the premises is turned on.

(Ord. 26800 § 6; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.120 Turn-off, turn-on – condemned buildings.

Whenever a premises supplied with water has been found by the appropriate authorities to be unsafe, dangerous to human life or unfit for human habitation, and notice of such finding has been received by the Division from said authorities, the Superintendent shall cause the domestic water service to such premises to be turned off. Water service to such premises shall not be restored until the owner and/or agent has secured a release or clearance from said authorities.

(Ord. 27570 § 3; passed Dec. 19, 2006; Ord. 26048 § 1; passed Mar. 25, 1997; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.125 Damage of water service installation or Division facilities.

The contract business partner will be liable to the Division for damages to the water service installation and any damages that are caused directly or indirectly as a result of its actions.

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The cost to repair damages shall be paid prior to reconnection as set forth below:

	Effective 1/19/09
1" Meter & smaller	\$200
1-1/2" Meter & larger	Actual Cost (Time & Material)
Other than Meters (i.e. hydrant, main, blowoff)	Actual Cost (Time & Material)

(Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27570 § 4; passed Dec. 19, 2006: Ord. 27522 § 6; passed Aug. 29, 2006)

12.10.130 Termination of service.

Delinquency and nonpayment of one or more water service charges or customer-caused damage to the water meter and appurtenances shall be sufficient cause for termination of service by turning off the water service or reducing the flow of water to the premises. Water service shall not be turned on again until all costs incurred by the Division, plus charges and penalties are paid, or satisfactory arrangements for payment of delinquent charges and penalties has been made with the Division.

In accordance with Section 12.10.495, the Superintendent may discontinue water service to a customer determined to be in violation of the applicable provisions of the South Tacoma Groundwater Protection District (TMC 13.09).

Upon discovery of fraud, water service shall be terminated immediately and shall not be restored until the matter is resolved satisfactory to the Superintendent, or his or her designee.

All charges for water or water service shall be the personal obligation of the customer applying for or signing for and/or receiving such service and, in addition thereto, the City shall have all the lien rights granted by state laws against the premises where such service is furnished. The Superintendent shall have the absolute authority, except as limited by said state laws, to refuse to furnish service to, to discontinue service to, or to refuse to resume service to any applicant or customer on account of the failure to pay delinquent bills owing the City by such person, whether such bills cover service at the premises sought to be served or other locations.

In addition to the other authority in this chapter (or other laws) to discontinue water service or reduce flow to a customer, the Superintendent, or his or her designee, is hereby authorized to discontinue or reduce flow to a customer's premises when the customer fails to make a cash deposit or meet one of the authorized deposit waiver options with the City Treasurer as approved by Utility Board resolution.

Except as set forth in TMC 12.10.130 and 12.10.150, termination of water service to a premises shall not occur until:

1. The City has provided or attempted to provide the customer reasonable notice of the intent to terminate water service; and
2. The customer has been offered the opportunity of a hearing before a hearing officer, with the exception of Health Department directed orders which are undisputable.

Reasonable notice may be accomplished by mailing such notice to the customer using the United States Postal Service.

(Ord. 27570 § 5; passed Dec. 19, 2006: Ord. 27522 § 7; passed Aug. 29, 2006: Ord. 27299 § 2; passed Dec. 7, 2004: Ord. 27024 § 1; passed Dec. 10, 2002: Ord. 26800 § 7; passed Apr. 10, 2001: Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.150 Interruption of service.

A. In case of emergency, risk of damage to property, either public or private, or whenever public health, safety, or equitable distribution or conservation due to water shortage demands, the Director or Superintendent may authorize the Division to change, reduce or limit the time for, or temporarily discontinue the use of water for any or all customers. The water service may also be temporarily interrupted during the time necessary for purposes of making repairs, extensions, or doing other necessary work on the system. Before so requiring the changing, reducing, limiting or temporary discontinuance of the use of water, the Division will attempt to notify, insofar as practicable, all water customers affected. The City shall not be responsible for any damage resulting from any interruption, change, or failure of the water supply.

B. The Public Utility Board is authorized to approve, adopt, and/or amend a Water Shortage Response Plan ("Plan") applicable to all classes of customers, which Plan is consistent with the standards in this section. Any person who violates the adopted Plan or directives issued pursuant to the Plan, including a wholesale customer who fails to adopt similar use limitations, shall be subject to immediate reduction or discontinuance of service by the Division without notice or a hearing opportunity. All Water Shortage Response Plans previously adopted by the Public Utility Board are hereby approved and ratified.

(Ord. 27522 § 8; passed Aug. 29, 2006: Ord. 27299 § 3; passed Dec. 7, 2004: Ord. 26800 § 7; passed Apr. 10, 2001: Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.170 Ownership of water mains and appurtenances.

The Division shall own, operate, and maintain all Division approved and accepted water mains and related appurtenances in established city, county, and state rights-of-way or other utility rights-of-way, including recorded easements. Any person responsible for the construction of such mains and related appurtenances shall transfer ownership to the Division upon final acceptance. No one may operate, remove, change, or connect to any part thereof without the approval of the Division.

(Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27522 § 9; passed Aug. 29, 2006: Ord. 27299 § 4; passed Dec. 7, 2004: Ord. 26800 § 8; passed Apr. 10, 2001: Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.180 Satellite system management.

The Division may operate and maintain private distribution mains and other water system components outside of its service area in conjunction with its own facilities, provided an approved agreement has been entered into between the Division and the owners of such mains and components.

(Ord. 26800 § 9; passed Apr. 10, 2001: Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.200 Private contract charges.

Extension of a permanent water main may be constructed by private contract. The developer of the privately financed project will be responsible for all costs and expenses incurred by the Division for preparation of plans and specifications, construction inspection, testing, flushing, sampling of the mains, and other related work necessary to complete the new water main construction to Division standards and specifications. The engineering charge for the preparation of plans and specifications will be estimated by the Division and will include all applicable permit fees. The developer will be required to pay a deposit in the amount of the estimated cost and sign an agreement acknowledging that they are responsible to pay all actual time and materials costs associated with the project. The actual costs for the work will be billed against the developer's deposit. Should the actual costs for engineering the project exceed the deposit amount; the developer will be required to pay the balance prior to receiving the plans and specifications. Prior to construction, a second deposit in the estimated amount for construction inspection, testing, sampling and hydrant painting will be due to the Division. Upon completion of the project, the developer will either be refunded the unused amount of the deposit or billed for the cost overrun. Included in the deposits described above is a \$50 per fire hydrant in the project for painting.

The developer will be responsible for protecting Division facilities, including yokes and boxes, until final acceptance by the Division. After final acceptance of the project, the responsibility for the stub, yoke, box, and meter will belong to each property owner who will be charged accordingly for any damage.

(Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27522 § 10; passed Aug. 29, 2006: Ord. 27024 § 2; passed Dec. 10, 2002: Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.220 Cross connections.

The installation or maintenance of any uncontrolled cross connection that may endanger the quality of the public water supply of the City is prohibited. Any such cross connection now existing or hereafter installed is hereby declared unlawful and shall be abated immediately. The control and/or elimination of cross connections shall be in accordance with the applicable sections of the Washington Administrative Code ("WAC") the Tacoma Municipal Code, and the Policies and/or procedures approved by the Division. Failure to comply with Division cross connection control requirements may result in a penalty of \$100 per occurrence, installation of an approved backflow prevention assembly at the water meter at the expense of the customer, and/or termination of water service. For purposes of this section, an occurrence is defined as failure to install, test, repair, and/or replace a required backflow prevention assembly upon written notification by the Division. Responsibility for backflow assembly testing and payment of all penalties and/or fees are the responsibility of the customer receiving the water service per the Division's utility account billing information. These penalties are intended for remedial purposes.

1. Application of civil penalties may be repeated until compliance is achieved up to a maximum of five penalties.
2. The Customer shall be given written notification by the Division:
 - a. Prepared and sent by first-class mail to the Person receiving the water service per the Division's utility account billing information; or
 - b. Personally served upon the Person receiving the water service per the Division's utility account billing information; or
 - c. Posting of the written notice on the Parcel in a conspicuous manner which is likely to be discovered..
3. The Customer shall be given a minimum of 14 calendar days to respond or comply with Division requirements prior to each penalty.

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The Division will assign a test due date for each backflow prevention assembly and will make every effort to provide notice to the customer of the testing due date. Annual backflow assembly testing will be required by the Division established due date regardless of the actual date previous tests were performed.

(Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27522 § 11; passed Aug. 29, 2006: Ord. 26800 § 11; passed Apr. 10, 2001: Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.250 Water service construction charges.

All water service installations shall be constructed by the Division. For all service installations, the owner or applicant shall pay in advance the fixed charge or a deposit in the amount of the Division's estimated cost for the proposed work. For all estimated work the requestor will be required to sign a time and materials agreement noting their acceptance of the responsibility to pay the actual charges. The amount charged for work performed on an estimated basis will be actual costs to the Division, ~~including overhead cost of installation of Automated Meter Reading ("AMR") equipment when applicable.~~ If the actual cost is less than the estimated cost, the customer will be refunded the difference. Should the cost of the installation exceed the deposit amount, the additional amount will be billed to the customer that signed the time and materials agreement accepting the responsibility for actual charges. Failure to pay charges may result in, but not be limited to, termination of water service.

All required City, county, state, and/or other permits and fees are in addition to the charges listed below.

A. Water service construction charges on existing mains shall be as set forth below. In extraordinary circumstances where the Division determines that the fixed charges are not adequate to cover the actual costs, the water service construction charge will be based upon actual costs to the Division, including overhead and taxes.

	<u>Effective 1/19/09</u>
3/4-inch" Service & 5/8-inch" Meter	\$2,325
3/4-inch" Service & 3/4-inch" Meter	\$2,400
1-inch" Service & 5/8-inch" Meter	\$2,400
1-inch Service & 3/4-inch Meter	\$2,450
1-inch" Service & 1-inch" Meter	\$2,550
Meter exchange from 5/8" to 3/4"	\$625
Meter exchange from 3/4" to 5/8"	\$325

<u>Water Service Construction Charges on Existing Mains</u>					
<u>Type of Service</u>	<u>Effective Dates</u>				
	<u>1/1/20</u>	<u>1/1/21</u>	<u>1/1/22</u>	<u>1/1/23</u>	<u>1/1/24</u>
<u>3/4" Service with 5/8" Meter</u>	<u>\$3,250</u>	<u>\$3,350</u>	<u>\$3,450</u>	<u>\$3,550</u>	<u>\$3,660</u>
<u>1" Service with 5/8" Meter</u>	<u>\$3,600</u>	<u>\$3,800</u>	<u>\$4,010</u>	<u>\$4,230</u>	<u>\$4,460</u>
<u>1" Service with 3/4" Meter</u>	<u>\$3,675</u>	<u>\$3,900</u>	<u>\$4,140</u>	<u>\$4,400</u>	<u>\$4,670</u>
<u>1" Service with 1" Meter</u>	<u>\$3,825</u>	<u>\$4,040</u>	<u>\$4,270</u>	<u>\$4,510</u>	<u>\$4,760</u>
<u>Meter Exchange from 5/8" to 3/4"</u>	<u>\$700</u>	<u>\$720</u>	<u>\$740</u>	<u>\$760</u>	<u>\$790</u>
<u>Meter Exchange from 5/8" to 1"</u>	<u>\$700</u>	<u>\$720</u>	<u>\$740</u>	<u>\$760</u>	<u>\$790</u>
<u>Meter Exchange from 3/4" to 5/8"</u>	<u>\$325</u>	<u>\$330</u>	<u>\$340</u>	<u>\$360</u>	<u>\$370</u>
<u>Meter Exchange from 3/4" to 1"</u>	<u>\$700</u>	<u>\$720</u>	<u>\$740</u>	<u>\$760</u>	<u>\$790</u>
<u>Meter Exchange from 1" to 5/8"</u>	<u>\$200</u>	<u>\$210</u>	<u>\$210</u>	<u>\$220</u>	<u>\$230</u>
<u>Meter Exchange from 1" to 3/4"</u>	<u>\$200</u>	<u>\$210</u>	<u>\$210</u>	<u>\$220</u>	<u>\$230</u>

Service construction charges for services larger than 1-inch will be estimated based upon actual costs to the Division, including overhead. ~~Service construction charges for water meters 3-inches and larger, or as required by the Division, will include the cost of installation of AMR equipment in accordance with the most current requirements. AMR is also required on all wholesale meters.~~

All services and meters applied for shall be installed within two years of the application. Those customers who have not requested their water service and meter be installed within the two-year period will be required to pay the difference in all current charges and the charges paid at time of application, including the system development charge ("SDC").

Where a service stub was previously installed at the option of the Division, activation of that service shall require payment of all current fees and charges including service construction charge in effect at the time of application for service.

B. Installation of Services and Meters on New Mains. The standard for residential Domestic service for residential will require is the installation of 3/4-inch services and 5/8-inch meters. Larger service and meter sizes may be provided if requested by the customer and the Division approves the request, or if the Division determines larger service and/or meter is necessary. The developer requesting services and meters for use other than domestic service for residential will be required to provide additional information on the proposed use. Plan review will be required to determine sizing requirements. For stubs, installation occurs after successful samples and pressure tests. For meter installations, system development charges will also apply.

Stub Only	Effective 1/19/09
a. 3/4 inch Service stubs installed after successful samples and pressure tests.	\$750/service
b. 1 inch Service stubs installed after successful samples and pressure tests.	\$800/service
Meter, Yoke and Box	Effective
a. 5/8-inch Meter, yoke and box installed when requested.	\$400/meter plus the SDC
b. 3/4 inch Meter, yoke and box installed when requested.	\$450/meter plus the SDC
Meter Only	Effective 1/19/09
a. 5/8-inch Meter installed when requested	\$175/meter plus the SDC
b. 3/4-inch Meter installed when requested.	\$225/meter plus the SDC

Installation of Services and Meters on New Mains					
Type of Installation	Effective Dates				
	1/1/20	1/1/21	1/1/22	1/1/23	1/1/24
<u>3/4" Service Stub</u>	<u>\$925</u>	<u>\$950</u>	<u>\$980</u>	<u>\$1,010</u>	<u>\$1,040</u>
<u>1" Service Stub</u>	<u>\$975</u>	<u>\$1,000</u>	<u>\$1,030</u>	<u>\$1,070</u>	<u>\$1,100</u>
<u>5/8" Meter Only</u>	<u>\$200</u>	<u>\$210</u>	<u>\$210</u>	<u>\$220</u>	<u>\$230</u>
<u>3/4" Meter Only</u>	<u>\$350</u>	<u>\$410</u>	<u>\$480</u>	<u>\$560</u>	<u>\$660</u>
<u>1" Meter Only</u>	<u>\$500</u>	<u>\$520</u>	<u>\$530</u>	<u>\$550</u>	<u>\$560</u>
<u>5/8" Meter, Yoke & Box</u>	<u>\$475</u>	<u>\$490</u>	<u>\$500</u>	<u>\$520</u>	<u>\$530</u>
<u>3/4" Meter, Yoke & Box</u>	<u>\$675</u>	<u>\$720</u>	<u>\$780</u>	<u>\$830</u>	<u>\$890</u>
<u>1" Meter, Yoke & Box</u>	<u>\$1,200</u>	<u>\$1,240</u>	<u>\$1,280</u>	<u>\$1,320</u>	<u>\$1,360</u>

(Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27570 § 6; passed Dec. 19, 2006: Ord. 27522 § 12; passed Aug. 29, 2006: Ord. 27299 § 5; passed Dec. 7, 2004: Ord. 27024 § 5; passed Dec. 10, 2002: Ord. 26800 § 12; passed Apr. 10, 2001: Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.275 Property-side (private) in public rights-of-way.

A. When a customer requests a service and meter installation for a property not abutting a water main and the public entity having jurisdiction over the right-of-way does not allow privately owned water lines in the right-of-way then the customer must obtain easements from the adjacent property owners for installation of their property side pipe. Recorded copies of said easements must be provided to the Division before installation of the requested service and meter can occur.

Where a public entity requires that a customer’s existing property-side (private) pipes be removed from public rights-of-way, the following four options are available to the customer:

1. The customer may arrange for a private contractor to install a new water main in the right-of-way using the private contract process noted in Section 12.10.200. The main would be designed by the Division and installed by the contractor, at the expense of the customer. Following the construction of the water main in the right-of-way, the customer’s service and meter will be transferred to the new main at no charge.
2. The customer may organize with adjacent property owners to form a Local Improvement District (“LID”) to install a new water main in the right-of-way. The design and construction process is similar to Option 1 above, but the project is financed and repaid over time through the Division, through the LID process.
3. The customer may obtain easements from adjacent property owners to allow relocation of its property-side (private) pipes out of the right-of-way into the easement obtained. In this option, the customer must provide verification to the Division that the easement has been recorded prior to the installation of the service and meter.
4. The Customer may arrange for the Division to design and install the necessary water main and appurtenances using the time

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and materials process. The Division will estimate all costs associated with design and construction of the proposed water main and appurtenances and the customer will be required to make a deposit in the estimated amount. If the final costs are more than the estimate the customer will be required to pay the balance, if the costs are less the difference will be refunded.

(Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27570 § 7; passed Dec. 19, 2006: Ord. 27522 § 13; passed Aug. 29, 2006)

12.10.300 Fire hydrant installation and relocation.

Fire hydrant installation and/or relocation shall be performed by the Division at the customer's expense. A deposit shall be paid to the Division in the amount of the Division's estimate of the cost to install or relocate a fire hydrant. If the actual cost is less than the estimated cost, the customer will be refunded the difference. Should the cost of installation exceed the deposit amount, the customer will be billed the additional amount.

All costs to acquire the necessary City, county, state, and/or other permits to accomplish the installation or relocation are in addition to the above costs.

(Ord. 27522 § 14; passed Aug. 29, 2006: Ord. 27299 § 6; passed Dec. 7, 2004: Ord. 27024 § 4; passed Dec. 10, 2002: Ord. 26800 § 13; passed Apr. 10, 2001: Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.301 Fire hydrant services fee.

Pursuant to Chapter 70.315 of the Revised Code of Washington, the Water Division will charge and collect all costs associated with providing fire hydrant services from the customers, "Residential Service," "Commercial and Industrial – General Service," and "Commercial and Industrial – Large Volume Service" rate categories, following the rate schedules below:

Monthly Hydrant Service Fee		
	Rate Effective Dates	
	1/1/19	1/1/20
Inside City of Tacoma	\$2.71	\$2.90
Outside City of Tacoma	\$3.48	\$3.75

The customer portion of the fire hydrant service fee shall be calculated on a monthly basis, included in the Ready to Serve charge, invoiced and collected pursuant to the applicable customer service policies.

(Ord. 28286 Ex. A; passed Mar. 17, 2015: Ord. 28133 Ex. A; passed Feb. 26, 2013: Ord. 27970 Ex. A; passed Feb. 1, 2011)

12.10.302 System capacity flow testing.

To determine the capacity of a water system at a particular location for the purpose of a supply for automatic fire sprinkler systems or for other reasons, the Division can conduct a fire flow test using two (2) or more fire hydrants. The fire flow test shall be conducted by the Division upon request and after payment of a fee in the amount of \$350. The fee shall cover the cost of performing the flow test and any necessary system cleanup created by the increased water velocities during the test.

(Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27522 § 15; passed Aug. 29, 2006)

12.10.305 Fire hydrant use (non-fire fighting).

When water service is supplied through the use of a fire hydrant, other than for fire fighting, the proposed use must be disclosed and a permit must be obtained from the Division authorizing the hydrant use. A charge for all costs associated with hydrant and water usage shall be collected by the Division. A fire hydrant meter or a water service and meter may be required under certain circumstances as determined by the Division.

The use of the Division’s hydrant without a current permit, using a restricted hydrant or failing to conform to the Division's hydrant operating procedures will result in a penalty of \$1,000 in addition to all other hydrant use charges. Refusal to pay the penalties and charges may be cause for the Division to refuse future hydrant use by the violator and/or discontinue service to the benefited premises.

Persons using a fire hydrant will be responsible for all damages to Division facilities and/or other private facilities that may result from the use of said hydrant. If the person refuses to pay the cost for all damages associated with fire hydrant use, the Division may refuse future service to the customer and/or discontinue water service to the benefited premises.

Applications for fire hydrant use for periods greater than six consecutive months for the purpose of supplying water to a business may require the business to purchase a water service connection of adequate size to accommodate the proposed water usage as determined by the Division. Water service construction charges, SDC, and main charges shall be as specified in TMC 12.10.250, 12.10.310, and 12.10.315.

Fire hydrant use permits in Category 1 and 2 are good for a maximum of one year or until the backflow protection documentation expires, whichever comes first. Upon expiration a new permit application will be required and a new permit fee is due. Hydrant Permit charges will be as follows:

HYDRANT USE CATEGORY AND FEE SCHEDULE

Category	Fee
Category #1 ** Fixed (Single) Site Construction Project	Permit Fee \$100
	Meter Deposit for Hydrant \$1,000*
	Permittee is required to submit meter reads on a monthly basis.
	Monthly Water Use Charge at the Inside/Outside Commercial Rate plus the Ready to Serve Charge for a 2-Inch Meter
	Penalty for Unauthorized Use \$1,000
*Deposit to be refunded by the Division after return of the meter and appurtenances. All costs for hydrant and/or meter repairs/replacement caused by improper operation or theft of said equipment shall be deducted from the deposit. Refund of deposit will be initiated after payment of closing/final water bill. Costs exceeding the deposit amount will be billed to customer. ** Subcontractor would be allowed to use same permit as general contractor provided subcontractor meets all cross-connection requirements and name is disclosed at issuance of permit.	
Category #2 *Multiple-Site Hydrant Use (Approved Hydrant Locations)	Permit Fee \$100
	Monthly Water Use Charge at the Inside/Outside Commercial Rate (based on estimated consumption**) plus the Ready to Serve Charge for a 2-inch Meter
	Penalty for Unauthorized Use \$1,000
*Subcontractor would be allowed to use same permit as general contractor provided subcontractor meets all cross-connection requirements and name disclosed at issuance of permit. **Both general and subcontractors are required to submit a monthly log sheet of estimated water consumption per truck	
Category #3 Short-Term (one day and minimal) Use	\$50 per truck per day*
	Penalty for Unauthorized Use \$1,000
*Approved hydrant only	

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A Division-approved backflow protection assembly shall be installed by the person requesting the use of a fire hydrant. The assembly shall be accompanied by a current backflow assembly test report. The test report shall remain on the site for the duration of the hydrant use. The Division reserves the right to terminate any hydrant permit at any time for security and/or water quality control reasons.

(Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27522 § 16; passed Aug. 29, 2006; Ord. 27299 § 7; passed Dec. 7, 2004; Ord. 27024 § 5; passed Dec. 10, 2002)

12.10.310 System development charge ("SDC").

A. A system development charge ("SDC") shall be levied for each new water service connection to the City water system, for a service upgrade requiring a larger meter, or for any existing service with 3-inch and larger meters that exceeds 150 percent of their highest maximum annual daily average water use. The SDC fee is based on an equitable share of the cost of the entire existing water system and future facilities necessary to accommodate projected growth. This fee is established pursuant to RCW 35.92.025, the City Charter, and this chapter. SDCs are considered contributions for or in aid to construction, and shall be accounted for accordingly. Customer water consumption amounts on and after May 9, 1999, the original effective date of Ordinance No. 26408, will be examined to determine whether additional SDC amount is owed to the Department.

B. For retail meters 5/8-inch through 2-inches, the charge will be based on customer class and meter size.

For meters larger than 2 inches, the SDC shall be determined based on the customer's anticipated water use as shown below:

Meter Size	Inside City- Residential Charges		Inside City- Commercial/Industrial Charges	
	Effective			
	1/1/03	1/1/04	1/1/03	1/1/04
5/8-inch	\$1,443	\$1,485	\$1,928	\$1,984
3/4-inch	2,166	2,229	2,894	2,978
1-inch	3,610	3,715	4,823	4,963
1-1/2-inch	7,218	7,427	9,647	9,927
2-inch	11,548	11,883	15,433	15,881
3-inch & Larger	Individually calculated based on consumption			

System Development Charges – 2” Meter Size or Smaller				
Meter Size (Inches)	Residential		Commercial & Other	
	Inside City	Outside City	Inside City	Outside City
	Effective Date			
	1/1/20	1/1/20	1/1/20	1/1/20
5/8	\$809	\$970	\$1,061	\$1,273
3/4	\$1,213	\$1,456	\$1,592	\$1,910
1	\$2,022	\$2,426	\$2,653	\$3,183
1.5	\$4,043	\$4,852	\$5,306	\$6,367
2	\$6,469	\$7,763	\$8,489	\$10,187

Meter Size	Outside City- Residential Charges		Outside City- Commercial/Industrial Charges	
	Effective			
	1/1/03	1/1/04	1/1/03	1/1/04
5/8-inch	\$1,732	\$1,782	\$2,315	\$2,382
3/4-inch	2,599	2,674	3,473	3,574
1-inch	4,330	4,456	5,786	5,954
1-1/2-inch	8,661	8,912	11,575	11,911
2-inch	13,860	14,262	18,520	19,057
3-inch & Larger	Individually calculated based on consumption			

The SDC for a multiple family dwelling unit arrangement to be served by a single meter shall be calculated by taking the number of units in the premise and multiplying by 60 percent of the SDC for a single-family dwelling (5/8-inch meter) . If said premise chooses in the future to separately meter each premise the additional 40 percent of the SDC for a single-family dwelling (5/8-inch meter) shall be due and payable at the time of application for services.

For meters 3-inches and larger, estimates of anticipated average day ~~and use~~, peak day, ~~and four day maximum~~ water use will be determined by the Division. Peak day is defined as the maximum 24-hour use during summer months of June through, and including, September. ~~Four day maximum use is defined as the average use per day of the four highest consecutive days of the customer's water use in the summer months. For inside City customers, the average day SDC cost is \$2.64/gallon – (effective 1/1/04). The peak day SDC cost is \$0.28/gallon (effective 1/1/04). The four day maximum SDC cost is \$2.36/gallon – (effective 1/1/04). For outside City customers, the average day SDC cost is \$3.17/gallon (effective 1/1/04). The peak day SDC cost is \$0.34/gallon (effective 1/1/04). The four day maximum SDC is \$2.83/gallon (effective 1/1/04).~~

System Development Charges – 3” Meter Size or Larger

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<u>Cost per Gallon</u>	<u>Inside City of Tacoma</u>	<u>Outside City of Tacoma</u>
	<u>Effective Date</u>	
	<u>1/1/20</u>	<u>1/1/20</u>
<u>Average Day</u>	<u>\$2.09</u>	<u>\$2.51</u>
<u>Peak Day</u>	<u>\$2.09</u>	<u>\$2.51</u>

The SDC will be the sum of the average day use multiplied by the average day cost/gallon ~~and~~; the peak day use minus average day use multiplied by the peak day cost/gallon; ~~and the four day maximum use minus average day use multiplied by the four day maximum cost/gallon.~~

As of April 23, 2001, the SDC paid for meters 3-inches and larger will be adjusted annually based on actual usage. If usage is greater than 110 percent of the anticipated average ~~or~~, peak day ~~or four day maximum~~ use during a 12-month period of time, an additional SDC will be charged, using the same methodology for calculating average day, ~~and~~ peak day, ~~and four day maximum~~ water use and multiplying by the respective SDC cost per gallon in effect at the time of adjustment. This requirement for an additional SDC may be waived upon satisfactory demonstration by the customer that the increased water use was temporary in nature and will return to the originally anticipated level.

C. SDC Exemptions:

1. New water service connections dedicated exclusively for fire protection purposes shall be exempt from payment of the SDC. The conversion of a dedicated fire service to a service for use other than exclusively for fire protection shall require the payment of the SDC as provided for in subsection B above.

2. The Division requires that all new single family dwelling residential combination domestic/fire sprinkler service and meters be served by a 1-inch service and 3/4-inch meter. If a larger size meter is required for fire protection the customer must install separate fire service and domestic services. The customer is required to pay all fees to construct said 1-inch service and 3/4-inch meter and all applicable main charges. When such use is documented through the plan review process, the SDC for a 5/8-inch meter will apply. The monthly customer charge will be at the standard charge for a 3/4-inch meter as set forth in TMC 12.10.400.

3. If a residential customer has an existing 3/4-inch x 5/8-inch service and meter an exchange to a 3/4-inch meter will be allowed if the customer's fire protection engineer determines it will provide adequate flow. All applicable fees will apply. If flow tests after the meter exchange show inadequate flow the customer will be required to pay the additional fees to retire the 3/4" service and install a new 1" service. Residential customers requesting an upgrade to an existing meter to a 3/4-inch meter for a combination domestic/fire sprinkler service will be exempt from payment of the additional SDC when such use is approved through the plan review process. The monthly customer charge will be at the standard charge for a 3/4-inch meter as set forth in TMC 12.10.400.

4. Customers who are requesting a separate water service connection and are being provided with water service by way of another Division customer (i.e., multi-premises connection), shall be exempt from payment of the SDC if:

Billing record exists showing multi-premise rate for each premise on meter.

All premises served by meter of record were constructed prior to October 7, 1991.

D. Existing Facilities:

1. Multiple dwelling unit arrangements currently being served by a single meter shall be exempt from payment of the SDC when changing to separate water service connections for each unit if the original meter was installed prior to October 7, 1991. If the existing meter was installed after October 7, 1991, the customer will be required to pay the 40 percent differential for each individual meter installed as noted in B above.

E. Credit policy for retail customers previously or currently metered:

1. When a request or requirement for a larger meter is made, an SDC credit for the existing meter will be made. The credit for meters up to 2-inches will be the current published SDC amount using the rate in place prior to the requested or required up-sizing. For meters 3-inches and larger, the credit would be calculated based on 150 percent of the highest maximum annual daily average water use derived from billing records. If billing records are not available for a specific meter, the SDC credit calculation will be based on a system-wide use data for that size meter.

2. For situations where meters 3-inches or larger exist and water use will increase, but no change in the meter is required, an SDC will not be required unless the projected use is more than 150 percent of historical use. If the projected use exceeds the 150 percent historical use quantity, an SDC will be calculated for the quantity of water in excess of the 150 percent figure. Prior written commitments to deliver a specific quantity of water, if greater than 150 percent of historical use, will be honored.

3. Credit shall be given for inactive or previously removed meters that can be verified by Division records. The credit will be determined as stated in subsection E.1 above.

Multiple dwelling unit arrangements – Credit for existing multiple dwelling unit meters shall be calculated at 60 percent of the applicable 5/8-inch meter rate per unit and applied to the required SDC if previously served by a single meter.

4. Credits as computed will be subtracted from the determined SDC amount. If an available credit exceeds the SDC amount, the balance shall remain with the parcel previously receiving water service. No refunds shall be allowed for the amount of this credit.

5. All SDC credits are non-transferable unless parcels are combined to facilitate redevelopment.

6. This section is not applicable to the Pulp Mill's existing services.

F. For wholesale meters, as sized by the Division, the SDC will be determined based on the customer's anticipated water use.

~~1-~~ Estimates of anticipated average day use and, peak day, ~~and four day maximum~~ water use will be submitted to and approved by the Division. Peak day is defined as the maximum 24-hour use during summer months of June through, and including, September. ~~Four day maximum use is defined as the average use per day of the four highest consecutive days of water use in the summer months.~~ The average day SDC cost is \$3.172.09/gallon (effective 1/1/04). The peak day SDC cost is \$0.342.09/gallon (effective 1/1/04). ~~The 4 day maximum SDC cost is \$2.83/gallon (effective 1/1/04).~~

The SDC will be the sum of the average day use multiplied by the average day cost/gallon and, the peak day use minus average day multiplied by the peak day cost/gallon.

~~1., and the four day maximum use minus average day multiplied by the four day maximum cost/gallon.~~

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The SDC, as of the effective date of this ordinance, will be adjusted annually based on actual usage. If usage is greater than 110 percent of the anticipated average, ~~or peak day or four-day maximum~~ use during a 12-month period of time, an additional SDC may be charged using the same methodology for calculating average day ~~and~~, peak day, ~~and four-day maximum~~ water use and multiplying by the respective SDC cost per gallon in effect at the time of adjustment. This requirement for an additional SDC may be waived upon satisfactory demonstration by the customer that the increased water use was temporary in nature and that water use will return to the originally anticipated level.

2. For situations where an existing wholesale customer is increasing its purchase of water, SDC credit for existing service will be based on either maximum historic use or prior written commitments to deliver a specific quantity of water, whichever is greater.

G. SDCs for meters 2-inches and smaller are payable in full at the time the meter installation is requested. Time payments will be allowed for SDCs for meters 3-inches and larger, for up to ten years, at the discretion of the customer, as follows:

1. When a down payment of 20 percent or more is initially paid, the Division will accept annual payments, with interest, on the unpaid balance calculated using the then current prime rate of interest less 2 percent.
2. When a down payment of at least 10 percent, but less than 20 percent, is initially paid, the Division will accept annual payments, with interest, on the unpaid balance calculated using the then current prime rate of interest.
3. The time payment agreements shall provide that this obligation constitutes a lien on the benefited premises and that the City has the right to terminate water service for any nonpayment of the amounts due on the outstanding balance. In addition, unless the customer is a financially stable public entity, the customer shall be required to provide security such as a financial guarantee bond to guarantee payment of the SDC or make incremental prepayments of the SDC plus interest on the balance of the outstanding total amount of the SDC.

H. Rate Adder to Recover Capital Costs Not Covered by the SDC. In addition to paying the SDC set forth in this section, a customer who proposes to use water for a new or enlarged power plant, and who does not use best available water conservation technology (BAWCT), shall be required to pay, in addition to the applicable water rate, an adder to such rate in accordance with the Division's Customer Service Policy for New Power Plants. The adder shall be calculated to recover over a period of 20 years a portion of the capital costs that are not covered by the SDC for such customer. This present value of the adder (spread over 20 years) will be equivalent to an SDC on that portion of the customer's water consumption that is in excess of the amount of water the customer would have consumed had BAWCT been used. Said customers shall also be required to enter into a water service agreement with the Division, and such agreement shall be submitted to the Public Utility Board for approval.

(Ord. 28286 Ex. A; passed Mar. 17, 2015; Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27570 § 8; passed Dec. 19, 2006; Ord. 27522 § 17; passed Aug. 29, 2006; Ord. 27299 § 8; passed Dec. 7, 2004; Ord. 27024 § 6; passed Dec. 10, 2002; Ord. 26872 § 1; passed Nov. 6, 2001; Ord. 26800 § 14; passed Apr. 10, 2001; Ord. 26408 § 1; passed Apr. 27, 1999; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.315 Water main charge.

Where all or a portion of the premises to be served has not been previously assessed or contributed its share towards the cost of installing a permanent distribution main to serve such premises, or the property does not abut a distribution water main, water service shall be provided upon payment of a water main charge as provided for in this section, in addition to a water service construction charge, in accordance with TMC 12.10.250 and the SDC in accordance with TMC 12.10.310.

If the main is a temporary main and is not acceptable for meeting the water requirements of the customer, the service will be installed and connected to the nearest water main that is acceptable in accordance with TMC 12.10.350, Water main charge - Premises not abutting a water main. If the temporary main is a supply or transmission pipeline, the water service will be installed in accordance with the Customer Service Policies (Direct Service From Supply and Transmission Pipelines).

Credit shall be given for the portion of the property which has been previously assessed or has contributed its share toward the cost of installing a permanent water main. Water main charge shall be based on the frontage of the property served, as determined by the Division, in accordance with the following schedule and subject to the following terms and conditions:

A. Residential Service.

The water main charge shall be based on the frontage of the property served. The minimum charge shall be based on 50 front feet and the maximum charge on 100 front feet.

Commencing 1/1/07
\$50/per front foot

B. Commercial Service.

Where the property is zoned for the same, the water main charge shall be based on the entire frontage of the property served. The minimum charge shall be based on 50 front feet.

Commencing 1/1/07
\$50/per front foot

C. Industrial Service.

Where the property is zoned for the same, the water main charge shall be based on the entire frontage of the property served. The minimum charge shall be based on 50 front feet.

Commencing 1/1/07
\$55/per front foot

D. Water main charges for services abutting a permanent main shall be considered revenue of the Division.

The water main charge herein above provided for shall be credited to and considered as a benefit to the specific property served by said connection. Said property so benefited shall be described and recorded as a part of the Division's permanent records pertaining thereto.

(Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 27522 § 18; passed Aug. 29, 2006: Ord. 27299 § 9; passed Dec. 7, 2004: Ord. 26800 § 14; passed Apr. 10, 2001: Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.350 Premises not abutting a permanent water main.

Where the premises to be served is not abutting a permanent water main (as described in the Customer Services Policies) and said premises owner has not previously paid a water main charge, the water service connection will be constructed by the Division to the nearest available temporary or permanent water main that is acceptable for meeting the water requirements of the customer upon application and payment of a temporary water main charge as provided for in TMC 12.10.315 in addition to a service construction charge, in accordance with TMC 12.10.250 and the SDC in accordance with TMC 12.10.310. The water main charge shall be paid to the Division in accordance with and subject to the same terms and conditions as detailed in TMC 12.10.315 above.

All water main charges received where no main abuts subject parcel shall be deposited by the City in the Water Main Deposit Fund and shall be credited to and considered as a benefit to the specific property served by said connection. The property so benefited shall be legally described and recorded as part of the Division's permanent records pertaining thereto.

When a public road is improved or resurfaced by a person where there is currently no water main or said public road has a temporary water main as defined in the Customer Service Policies, it shall be the person's responsibility to extend the water main/system to the extent of the road improvements or to a point that meets the approval of the Division. Said water main/system may be extended using the private contract process, TMC 12.10.200, or by the LID process as set forth in RCW 35.44, and Division standards.

If a permanent water main exists or is being constructed between the existing service and the specific benefited property, said service may be relocated to the permanent main at a point closer to the benefited property at no charge, provided the owner reroutes its property-side water pipe between the new meter location and the property.

Upon the installation of permanent mains, the main charge collected by the City shall be applied toward the payment for said mains for the benefit of the properties in accordance with Division records. The temporary water service will be relocated by the Division to the permanent main abutting the benefited property at no charge. The owner must reroute its property-side water pipe between the new meter location and the property and make the connection. If the property owner does not agree to relocate its property-side water pipe at the time of main installation and requests a service relocation at a later date, the work will be done at the expense of the property owner.

(Ord. 27522 § 19; passed Aug. 29, 2006: Ord. 27299 § 10; passed Dec. 7, 2004: Ord. 26800 § 15; passed Apr. 10, 2001: Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.400 Rates – Inside and outside City limits.

The standard charge for water supplied inside and outside the City for residential, commercial/industrial, parks and irrigation, and public facilities use shall consist of a customer charge, also termed a "monthly ready to serve charge," based on the meter size together with the rate for the quantity of water used, and public fire protection fees where applicable. The standard charge for wholesale shall consist of a monthly ready to serve charge based on contracted peak capacity together with a rate for the quantity of water used.

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For water supplied to a single premises which contains multiple dwelling units, i.e., two or more houses under the same ownership, duplexes, apartment buildings, condominiums, mobile home parks, trailer courts, industrial buildings, etc., the monthly charges will be the same as indicated above.

When water is being supplied to an existing multiple premises, i.e., two or more separate premises being served by one service and meter, the "monthly ready to serve charge" will be based on either the existing meter size or on a 5/8-inch meter size for each premises served, whichever is the greater charge.

When more than one service supplies a premises, the consumption of water for each meter shall be computed separately.

A. Standard charges:

1. The monthly ready to serve charge shall be in accordance with the following schedule for residential, commercial/industrial, and commercial/industrial large volume.

Residential, Commercial & Large Volume - Ready to Serve Charge				
Meter Size (Inches)	Inside City of Tacoma		Outside City of Tacoma	
	Rate Effective Dates			
	1/1/19	1/1/20	1/1/19	1/1/20
5/8	\$24.76	\$24.95	\$29.94	\$30.21
3/4	\$35.79	\$35.98	\$43.18	\$43.45
1	\$57.84	\$58.03	\$69.64	\$69.91
1.5	\$112.96	\$113.15	\$135.78	\$136.05
2	\$179.11	\$179.30	\$215.16	\$215.43
3	\$333.46	\$333.65	\$400.38	\$400.65
4	\$553.96	\$554.15	\$664.98	\$665.25
6	\$1,105.21	\$1,105.40	\$1,326.48	\$1,326.75
8	\$1,766.71	\$1,766.90	\$2,120.28	\$2,120.55
10	\$2,538.46	\$2,538.65	\$3,046.38	\$3,046.65
12	\$3,723.65	\$3,723.84	\$4,468.61	\$4,468.88

The monthly ready to serve charge shall be in accordance with the following schedule for parks and irrigation.

Parks and Irrigation - Ready to Serve Charge				
Meter Size (Inches)	Inside City of Tacoma		Outside City of Tacoma	
	Rate Effective Dates			
	1/1/19	1/1/20	1/1/19	1/1/20
5/8	\$11.03	\$7.35	\$13.23	\$8.82
3/4	\$16.54	\$11.03	\$19.85	\$13.23
1	\$27.57	\$18.38	\$33.08	\$22.05
1.5	\$55.13	\$36.75	\$66.15	\$44.10
2	\$88.20	\$58.80	\$105.84	\$70.56
3	\$165.38	\$110.25	\$198.45	\$132.30
4	\$275.63	\$183.75	\$330.75	\$220.50
6	\$551.25	\$367.50	\$661.50	\$441.00
8	\$882.00	\$588.00	\$1,058.40	\$705.60
10	\$1,267.88	\$845.25	\$1,521.45	\$1,014.30
12	\$1,860.47	\$1,240.31	\$2,232.57	\$1,488.38

The monthly ready to serve charge shall be in accordance with ~~the following schedule for wholesale~~, a wholesale customer's contracted peak capacity in MGD times the monthly rate.

Wholesale—Ready to Serve Charge		
Meter Size (Inches)	Rate Effective Dates	
	1/1/19	1/1/20
5/8	\$26.46	\$26.46
3/4	\$39.70	\$39.70
1	\$66.16	\$66.16
1.5	\$132.30	\$132.30
2	\$211.68	\$211.68
3	\$396.90	\$396.90
4	\$661.50	\$661.50
6	\$1,323.00	\$1,323.00
8	\$2,116.80	\$2,116.80
10	\$3,042.90	\$3,042.90
12	\$4,465.13	\$4,465.13

Wholesale – Ready to Serve Charge	
Range in MGD (million gallons per day)	Rate Effective Date
	1/1/20
For each MGD of contracted peak capacity	\$15,314.35

2. The schedule of rates for water used shall be as follows and billed to the nearest CCF (100 cubic feet or approximately 748 gallons):

Residential Service - Rate per CCF				
Range in CCF (100 cubic feet)	Inside City of Tacoma		Outside City of Tacoma	
	Rate Effective Dates			
	1/1/19	1/1/20	1/1/19	1/1/20
Winter Tier: For each CCF of water consumption during the winter months of October through and including May	\$2.011	\$2.132	\$2.413	\$2.558
Summer Tier 1: For the first five CCF of water consumption per month during the summer months of June through and including September	\$2.011	\$2.132	\$2.413	\$2.558
Summer Tier 2: For each CCF of water consumption over five CCF during the summer months of June through and including September	\$2.514	\$2.665	\$3.016	\$3.198

Commercial and Industrial - General Service - Rate per CCF				
	Inside City of Tacoma		Outside City of Tacoma	
Range in CCF (100 cubic feet)	Rate Effective Dates			
	1/1/19	1/1/20	1/1/19	1/1/20
For each CCF of water consumption	\$2.209	\$2.298	\$2.651	\$2.758

Commercial and Industrial - Large Volume Service - Rate per CCF. Customers may qualify for this rate based on an established consumption history greater than 65,000 CCF annually.				
	Inside City of Tacoma		Outside City of Tacoma	
Range in CCF (100 cubic feet)	Rate Effective Dates			
	1/1/19	1/1/20	1/1/19	1/1/20
For each CCF of water consumption	\$1.784	\$1.787	\$2.141	\$2.144

Parks and Irrigation Service - Rate per CCF				
	Inside City of Tacoma		Outside City of Tacoma	
Range in CCF (100 cubic feet)	Rate Effective Dates			
	1/1/19	1/1/20	1/1/19	1/1/20
For each CCF of water consumption	\$3.739	\$3.998	\$4.487	\$4.798

B. Wholesale Service. Wholesale water service may be provided to community water systems that are in compliance with state Department of Health regulations. All wholesale water agreements are subject to Tacoma Public Utility Board approval. Any customer purchasing wholesale water must adopt or commit, in writing, to a water conservation and water shortage response program substantially equivalent to the Division's program as a condition of service.

1. Water Rates. A wholesale water service customer with contractual agreement from Tacoma Water may choose either a rate schedule below with a corresponding ready to serve charge as described in Section A1 for an outside city customer or a market-based price set by Tacoma Water staff based on an analysis of the wholesale system and their supply alternatives. All wholesale contractual agreements with market-based pricing shall be approved by the Tacoma Public Utility Board and Tacoma City Council.

a. Constant Use Customer:

Wholesale Constant Use Customer – Rate per CCF		
Range in CCF (100 cubic feet)	Rate Effective Dates	
	1/1/19	1/1/20
Per CCF for winter months (October – May)	\$2.042	\$1.973
Per CCF for summer months (June – September)	\$2.553	\$2.466
<u>Wholesale Constant Use Customer – Rate per CCF</u>		
<u>Range in CCF (100 cubic feet)</u>	<u>Rate Effective Date</u>	
<u>Per CCF for winter months (October – May)</u>	<u>1/1/20</u>	
<u>Per CCF for summer months (June – September)</u>	<u>\$1.797</u>	
	<u>\$2.246</u>	

This option may be considered by those customers using water on a year-round basis where their average summer day use divided by their average winter day use results in a summer/winter use ratio of 2.5 or less.

b. Summer Season, Peaking:

Wholesale Summer Season, Peaking – Rate per CCF		
Range in CCF (100 cubic feet)	Rate Effective Dates	
	1/1/19	1/1/20
For each CCF of water consumption	\$3.829	\$3.699

Wholesale Summer Season, Peaking – Rate per CCF	
Range in CCF (100 cubic feet)	Rate Effective Date
	1/1/20
For each CCF of water consumption	\$3.369

This option will be used for those customers using relatively large amounts of water in the summer months and little or no water in winter months. The ratio of average summer day use divided by average winter day use shall be greater than 2.5.

For purposes of these rates, summer-use months are defined as June through September and winter-use months are October through May.

Existing customers will be classified into one of the two rate schedules upon annual review of their usage patterns. New customers will select a rate based upon anticipated use. This selection will be subject to revision if usage is not consistent with the above options after a six-month period.

2. Additional Water. Additional or new water may be provided by the City to a wholesale customer conditioned upon satisfying the following:

- a. For every new customer of the wholesale customer that is provided with water from City’s surplus supply, the wholesale customer shall remit to the City (on a monthly basis or by other arrangement as agreed to by the Superintendent) the appropriate SDC for said customer based on meter size in accordance with TMC 12.10.310.
- b. That, in lieu of satisfying subsection A above, in the event the wholesale customer is in a water deficient status or later becomes water deficient as determined by the Superintendent in consultation with wholesale customer, then the Superintendent shall establish a SDC equivalent for said wholesale customer. This SDC equivalent shall not be less than what the total “retail customer equivalent” would have been for the total deficiency.
- c. That the City and wholesale customer shall enter into a letter agreement setting forth the above requirements and committing the wholesale customer to remit the SDC payment to City. The wholesale customer may be required to provide City with periodic reports, certified to be accurate, detailing pertinent data.

C. Emergency Intertie Service. Requests for one-way and two-way emergency intertie service between the City and another purveyor will be considered.

The Superintendent may enter into specific agreements, specifying the terms under which water will be furnished or accepted by the Division. Water furnished to a purveyor through an emergency intertie service will be billed as a wholesale service with a ready to serve charge and rate for water used. Billing will be at the constant use rate for up to 30 days. If use exceeds 30 days the Superintendent will have the discretion to change the constant use rate to the summer season peaking rate. Said agreement shall provide that neither party shall be liable for failure to deliver water to the other at any time.

D. Fire Protection Service. When a customer does not receive domestic water from the Division and requests a fire service from the Division the appropriate regular domestic service rates shall apply as detailed above. In addition all regular construction fees, main charges and SDC shall apply. Where City water is used for domestic purposes, such customers are entitled to a separate fire service at the regular fire service rate, payable monthly as follows:

Fire Protection Service – Ready to Serve Charge					
Meter Size (Inches)	Inside City of Tacoma		Outside City of Tacoma		Maximum Allowable Monthly Water Usage for Testing and Leakage, CCF
	Rate Effective Dates				
	1/1/19	1/1/20	1/1/19	1/1/20	
2	\$27.37	\$28.78	\$32.84	\$34.54	2.99
3	\$39.85	\$41.91	\$47.82	\$50.29	2.99
4	\$66.58	\$70.01	\$79.90	\$84.01	2.99

6	\$149.35	\$157.04	\$179.22	\$188.45	2.99
8	\$265.87	\$279.57	\$319.04	\$335.48	2.99
10	\$415.86	\$437.28	\$499.03	\$524.74	2.99
12	\$665.16	\$699.43	\$798.19	\$839.32	2.99

Where such fire service is provided, the monthly rate shall include usage of up to a maximum of 2.99 units of water per month. The 2.99 units of allowable water use is for incidental water use for monthly leakage and system testing and is the maximum amount allowed in a single month. In any month where the total consumption is in excess of the amount shown above, the rate for water consumed shall be as noted below.

Fire Protection Service - Rate per CCF				
Range in CCF (100 cubic feet)	Inside City of Tacoma		Outside City of Tacoma	
	Rate Effective Dates			
	1/1/19	1/1/20	1/1/19	1/1/20
For each CCF of water consumption	\$3.960	\$3.960	\$4.752	\$4.752

If the Water use in excess of the maximum monthly allowable amount was used in extinguishing fires of incendiary or accidental origin and the customer at the location where the use occurs gives written notice to the Division within ten days from the time of such fire the customer shall pay only for actual water used at the rate noted above. If the Division is not notified the Division will conclude that water is being used for purposes other than extinguishing fires and charge the additional fee noted below of 12 times the monthly rate.

Whenever water from the Division is available on a premise through a service being charged the rate for fire protection only and is used for purposes other than extinguishing fires of incendiary or accidental origin including ongoing leakage of the fire service line and the amount of water used is in excess of the amount shown in the table above, 12 times the ready to serve charge for the specific service in question shall be the monthly minimum charge and the charge for water consumed shall be as noted in the “Fire Protection Service – Rate per CCF” table above. Waivers may be granted from the assessment of the 12 times the ready to serve charge for leaks or other accidental use upon written request with all supporting documentation but the charge for water consumed shall not be waived.

Nonpayment of invoices related to the construction of or monthly use of a fire service will result in the service being turned off and notification of the appropriate fire official who may then disallow occupancy of the premise.

Unauthorized use of water through a detector check meter more than once per calendar year may be cause for installation of a turbine meter assembly, UL/FM approval for fire service assemblies at the expense of the customer. Within the City of Tacoma, whenever water is used for purposes other than extinguishing fires, the amount of water used may be subject to the appropriate sanitary sewer charge as defined in TMC 12.08, in addition to the rates noted above and assessment of the 12 times the ready to serve charge.

Should the unauthorized use continue, including leakage in excess of the maximum amount of water allowed, the service will be considered as other than standby fire protection and be billed in accordance with the type of use pursuant to this section, and shall be subject to payment of the applicable SDC pursuant to TMC 12.10.310. Refusal to pay for the installation of the fire line meter and/or the SDC shall result in termination of service pursuant to TMC 12.10.130.

When a customer desires a fire service for the protection of a premises and the domestic water for said premises is provided from another source, the applicable single-family residential, multi-family residential, or commercial/industrial rates shall apply for the requested fire protection service inside and outside the City, respectively. When any outlet for fire protection purposes is installed on a residential, commercial or industrial service, no rebate will be allowed for water used for extinguishing a fire.

E. Special Contracts. The Superintendent, with the approval of the Board, shall have the right to enter into contracts for periods up to 20 years where service conditions are extraordinary; provided, that such contracts shall contain applicable rates as adopted by the Board and the City Council.

F.The Pulp Mill Contract. The rates, terms, and conditions in the contract originally entered between the City and RockTenn CP, LLC (“Pulp Mill”) and all future assignee to the contract are applicable, except as modified by this section. For a nominated contract demand, the water rate will be based on a monthly distribution charge and the daily supply charge. If the monthly water use exceeds 103% of the contract demand or the daily water use exceeds 109% of the contract demand, an excess water usage charge will be applied. The excess water usage charge will be either the daily excess water use charge or the monthly excess water use charge, whichever is greater.

1. Water use within the range of contract demand plus 3 percent: The charge will consist of a monthly distribution charge and daily supply charge per ccf metered as stated below.

2. Daily water use greater than one hundred and nine percent (109%) of the contract demand: The charge will consist of a monthly distribution charge, daily supply charge, plus a Daily Excess Water Usage Charge (based upon the commercial and industrial-large volume rate) for water metered daily in excess of the contract demand plus 9 percent as stated below.

3. Monthly water use greater than one hundred and three percent (103%) of the contract demand: The charge will consist of a monthly distribution charge, daily supply charge, plus a Monthly Excess Water Usage Charge (based on the commercial and industrial-large volume rate) for water metered during a month in excess of the contract demand plus 3 percent, as stated in the following table.

Billing Components	Commencing	
	1/1/19	1/1/20
Distribution Charge per Month	\$82,296.95	\$84,354.37
Supply Charge/CCF	\$0.7620256	\$0.7810762
Daily or Monthly Excess Water Usage Charge (Commercial and Industrial - Large Volume Rate) per CCF	\$1.784	\$1.787

4. The Superintendent is hereby authorized to execute a contract with the Pulp Mill to provide additional terms and conditions of service and other provisions consistent with this ordinance.

G. Meter Tests. If a customer has informed the Division that its water consumption has been above its normal billing consumption and verification discovers no leaks on the customer facilities, the customer may request that the Division test the meter. If the test discloses the meter is accurate within the American Water Works Association (“AWWA”) specifications, the customer will be billed for the test and their water bill will not be adjusted. If the test discloses the meter is not accurate within the AWWA specifications and the inaccuracy is the cause of the recorded high consumption, the customer’s water bill will be adjusted and credit given for the excessive consumption and the customer will not be billed for the test. The charge for testing meters shall be added to the customer’s bill as follows:

Meter Size	Cost
1-inch and smaller	\$75.00
>1-inch	*Estimated Cost

*The customer shall pay a deposit in the amount of the Division’s estimated cost.

If the actual cost differs from the estimated cost, the customer will be refunded or billed the difference.

The Division will not test meters owned by others.

H. Low Pressure or Low Flow Concerns. The customer may request the Division to conduct a flow and pressure test on the service to its premises. If the cause of the problem is found to be located on the property side of the meter yoke outlet, the customer will be invoiced for a fee of \$25.

If the test discloses that the low flow and/or pressure is caused by Division facilities, the Division will attempt to correct the problem and the customer will not be charged.

I. Low-income Senior and/or Low-income Disabled Residential Rate Discount. Residential customers who qualify as low-income senior or low-income disabled shall be eligible for a 30 percent reduction from the regular residential water rates. The determination of low-income senior and low-income disabled shall be made as set forth in TMC 12.06.165 for City Light Division (d.b.a. “Tacoma Power”) customers. Customers must submit an application for review and acceptance by the authorized administering agency to qualify for this reduction. For the water rate discount, there is no requirement that a customer be a Tacoma Power customer or submit to an energy audit.

J. Water System Acquisition. A water system may be acquired by the City under an agreement between the water system owner(s) and the City with Board and City Council approval. When all or a portion of the acquired system requires upgrading equal to Division standards, the agreement shall provide for funds to achieve compliance with said standards. Under the agreement, a surcharge may be levied by the City for a period of time or an LID may be formed in accordance with RCW Title 35. The surcharge shall be an additional charge equivalent to the Ready to Serve charge per month times a multiplier, or an actual dollar amount as stated in the acquisition agreement and set forth below. The current surcharge areas include:

Former Water System	
Hyada Mutual Service Company	Total Monthly Charge \$30.00 per month through July 2022
Andrain	Total Monthly Charge equal to the Ready to Serve charge per month until paid in full.
Curran Road	Total Monthly Charge equal to the Ready to Serve charge per month until paid in full.

If allowed by the acquisition agreement, a customer in a surcharge area may opt to pay off the outstanding surcharge amount.

(Ord. 28305 Ex. A; passed Jul. 14, 2015: Ord. 28286 Ex. A; passed Mar. 17, 2015: Ord. 28133 Ex. A; passed Feb. 26, 2013: Ord. 27971 Ex. A; passed Feb. 8, 2011: Ord. 27970 Ex. A; passed Feb. 1, 2011: Ord. 27778 Ex. A; passed Jan. 6, 2009: Ord. 27570 § 9; passed Dec. 19, 2006: Ord. 27522 § 20; passed Aug. 29, 2006: Ord. 27299 § 11; passed Dec. 7, 2004: Ord. 27137 § 2; passed Sep. 9, 2003: Ord. 27076 § 1; passed Apr. 8, 2003: Ord. 27024 § 7; passed Dec. 10, 2002: Ord. 26872 § 2; passed Nov. 6, 2001: Ord. 26800 § 16; passed Apr. 10, 2001: Ord. 26409 § 1; passed Apr. 27, 1999: Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.485 City not liable for damages.

The Division reserves the right to require any customer to install as a condition of water service a pressure reducing valve, backflow prevention assembly, pressure relief valve or similar devices at any location where the Superintendent determines a need to protect the Division's facilities, water quality or customer's service.

The City shall not be liable for damages and allowances will not be made for loss of production, sales or service in case of: (1) water pressure variations, (2) revisions to pressure within the system, (3) operation of the City's source of water supply or means of distribution fails or is curtailed, suspended, interrupted or interfered with, or (4) for any cause reasonably beyond the Division's control. Pressure variations, equipment failure, failure to supply, curtailment, suspension, interruption or interference shall not constitute a breach of contract on the part of the City, or in any way affect any liability for payment for water made available or for money due on or before the date of such occurrence. The customer shall notify the Division as soon as possible in the event of unusual occurrences. The Division reserves the right to make system modifications as deemed necessary for the operation and maintenance of the system.

When water service is turned on or left on at the request of the customer, or the Division discontinues service for "nonpayment" or "no contract," the Division shall not be liable for damages incurred to the premises because of such actions.

If a water meter or other Division pipes and equipment is located on the customer's premises, as a condition of water service the customer agrees not to make claim against nor sue the City for any damages due to water leakage and shall hold the City harmless from any and all claims and litigation which allege damages resulting from water leakage occurring at such meter, pipes, and equipment.

The responsibility for customer facilities installed by the Division for the benefit of the customer shall be that of the owner of the premises served and the City shall not be liable for any part of the cost nor for any damage resulting from its use.

(Ord. 27778 Ex. A; passed Jan. 6, 2009; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.490 Protection of public health.

The Superintendent may arrange for a periodic inspection of the water system in coordination with the appropriate State Director of Health. The Superintendent shall from time to time promulgate, publish and enforce such rules and standards deemed necessary by the Division to protect the municipal potable water supply from pollution. Copies of such rules and standards, and amendments thereto, shall be placed on file with the Clerk of the Public Utility Board.

(Ord. 27299 § 12; passed Dec. 7, 2004: Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.495 South Tacoma Groundwater Protection.

Upon receipt of written request and documentation from the Director of the Tacoma-Pierce County Health Department, or his or her designee, that a customer is in violation of the requirements of TMC 13.09, the Superintendent may order water service to be discontinued.

(Ord. 27522 § 21; passed Aug. 29, 2006)

12.10.500 Waivers – By Superintendent.

The Superintendent is authorized to grant minor waivers to specific requirements contained in this chapter. The Superintendent may grant a minor waiver upon Division initiation or upon a clear demonstration by the applicant that such waiver will not be in conflict with the intent and spirit of this chapter.

(Ord. 26048 § 1; passed Mar. 25, 1997.)

12.10.505 Customer service policies – Additional rules and regulations.

The Superintendent, with the approval of the Director, may promulgate and enforce Customer Service Policies and related additional rules and standards as may be deemed appropriate to implement this chapter, to encourage conservation and the efficient use of water, and for further clarification of service.

Legal criminal enforcement shall be vested in the Police Department of the City, and all prosecutions for violations hereof shall originate in the Municipal Court of the City of Tacoma. The penalties provided herein are in addition to any civil remedy

provided at law.

(Ord. 27522 § 22; passed Aug. 29, 2006: Ord. 27299 § 13; passed Dec. 7, 2004: Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.515 Violations – Penalties – Enforcement.

Any person violating any of the provisions relating to the rate schedules, general provisions, and customer service policies governing the sale of water shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine in any sum not exceeding \$1,000.00, or imprisonment for a period not to exceed one year, or both; and, in addition to the penalty herein above provided, the service to the premises of any person found guilty of violating these provisions shall be discontinued. The person violating same shall be liable for all damages resulting and for all water used by reason of such violation.

Legal criminal enforcement shall be vested in the Police Department of the City and all prosecutions for violations hereof shall originate in the Municipal Court of the City of Tacoma. The penalties provided herein are in addition to any civil remedy provided by law.

(Ord. 26800 § 17; passed Apr. 10, 2001; Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.520 Severability.

If any clause, sentence, paragraph, subdivision, section or part of the provisions relating to the rate schedules, general provisions and customer service policies governing the sale of water shall for any reason be adjudged to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this chapter.

(Ord. 26048 § 1; passed Mar. 25, 1997)

12.10.525 Interference with and/or damage to City water system.

Any person causing damage to any property belonging to the Division shall be liable to the Division for any and all damages resulting either directly or indirectly therefrom.

It shall be unlawful for any person to willfully disturb, break, deface, damage or trespass upon any property belonging to or connected with the water system of the Division in any manner whatsoever.

It shall be unlawful for any person to build, store, maintain or keep any goods, merchandise, materials or rubbish that will interfere with the access to or operation and maintenance of any water facilities, or any of their appurtenances.

(Ord. 27299 § 14; passed Dec. 7, 2004: Ord. 26048 § 1; passed Mar. 25, 1997)



ORDINANCE NO. 28615

1 BY REQUEST OF MAYOR WOODARDS AND COUNCIL MEMBERS
2 BLOCKER AND USHKA

3 AN ORDINANCE relating to Public Safety; amending Chapter 8.27 of the
4 Tacoma Municipal Code, relating to Park Code, to address emerging
5 public safety issues impacting the quality of life in public parks.

6 WHEREAS the Park Code was last updated nearly 10 years ago, and City
7 staff, including representatives of the Tacoma Police Department, have worked
8 collaboratively with staff of the Metropolitan Park District of Tacoma (MPT) to
9 review and develop updates to Chapter 8.27 of the Tacoma Municipal Code
10 (TMC), to address emerging public safety issues, and

11 WHEREAS on August 22, 2019 the City Council's Community Vitality and
12 Safety Committee discussed and recommended the proposed amendments to the
13 full council for consideration, and

14 WHEREAS the MPT Board of Park Commissioners, after taking and
15 reviewing public comments upon the proposed amendments during a three-week
16 period in August, 2019, passed a Resolution at their Park Board meeting on
17 September, 9, 2019 recommending City Council adoption of the substantive
18 changes entailed in the proposed amendments, and

19 WHEREAS the substantive Park Code revisions being proposed include: (1)
20 clarifying the current prohibition of smoking in parks to be inclusive of the use of e-
21 cigarettes, or vapor products; (2) adding drones, "sky lanterns," unmanned aircraft
22 systems and motorized models as prohibited equipment except as
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specifically authorized; (3) aligning electric scooters, e-bikes, mono-wheel devices, surreys, scooters and similar devices with existing rules for bicycles and skateboards, and permitting them on roads, sidewalks, paths or trails in any parks; (4) defining vehicles to include personal transportation devices that are motorized; (5) clarifying continuous moorage in a park as three non-consecutive or consecutive overnight periods within a ten-day period; (6) limiting permissible “structures” in parks to only those specifically authorized or are temporary that have only a roof and no walls; and (7) authorizing the park district to adopt a code of conduct that regulates activities or behavior in parks to protect the public’s health and safety, to promote respect for the rights and needs of others, and to preserve park property, and

WHEREAS the City Council has determined that it is in the best interest of the public health, safety and welfare to amend the Park Code in the manner set forth herein to respond to current and emerging public safety issues in Tacoma’s parks; Now, Therefore,



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BE IT ORDAINED BY THE CITY OF TACOMA:

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

Section 2. That amendments to Tacoma Municipal Code section Chapter 8.27.210, relating to no structures in the parks, are effective December 1, 2019.

Passed _____

Mayor

Attest:

City Clerk

Approved as to form:

City Attorney

EXHIBIT A

CHAPTER 8.27 PARK CODE

Sections:

- 8.27.010 Chapter constitutes park code.
- 8.27.020 Exercise of police power.
- 8.27.030 Definitions.
- 8.27.040 Permits – Assemblies, entertainment, etc.
- 8.27.050 Permits – Generally.
- 8.27.060 Public disturbance noises.
- 8.27.070 Destruction of park property.
- 8.27.080 Intoxicating liquors.
- 8.27.085 Smoking in parks prohibited.
- 8.27.090 Selling, advertising, soliciting.
- 8.27.100 Damage or removal of plants prohibited.
- 8.27.110 Disposal of trash.
- 8.27.120 Animal control.
- 8.27.130 Molesting or feeding animals.
- 8.27.140 Damage by animals.
- 8.27.150 Prohibitions as to boating, fishing and swimming.
- 8.27.160 Boats and beaches.
- 8.27.165 Moorage buoy and float regulations.
- 8.27.170 Fires.
- 8.27.180 Use of certain equipment.
- 8.27.190 Fireworks.
- 8.27.200 Vehicular standards.
- 8.27.205 Entrance fees.
- 8.27.210 Overnight use.
- 8.27.215 Parking fees required.
- 8.27.220 Opening and closing hours.
- 8.27.230 Emergency conditions.
- 8.27.240 Aiding and abetting violations.
- 8.27.250 Penalty for violations.
- 8.27.251 Authority to adopt a code of conduct.
- 8.27.255 Violators may be required to leave park.
- 8.27.260 Severability.

8.27.010 Chapter constitutes park code.

This chapter shall constitute the park code of the City of Tacoma and may be cited as such. Conduct in all public parks shall be subject to all ~~the~~applicable provisions of the Tacoma Municipal Code, the general police regulations of the City of Tacoma and rules adopted by the Metropolitan Park District of Tacoma and not exclusively to the provisions of this chapter.

8.27.020 Exercise of police power.

This chapter is hereby declared to be an exercise of the police power of the State of Washington, the City of Tacoma and the CityMetropolitan Park District of Tacoma for the public peace, health, safety, and welfare, and its provisions shall be liberally construed.

8.27.030 Definitions.

The terms herein used, unless clearly contrary to or inconsistent with the context in which used, shall be construed as follows:

“Civil infraction” has the meaning given that term by chapter 7.80 RCW, the Infraction Rules for Courts of Limited Jurisdiction and any local rule adopted thereto by the Tacoma Municipal Court.

“Director” means the Executive Director of ~~Parks and Recreation of~~ the Metropolitan Park District of Tacoma or his or her designee.

“Drones” or “Unmanned Aircraft Systems” (UAS) or “Unmanned Aerial Vehicle” (UAV) means a powered, aerial vehicle that does not carry a human operator, uses aerodynamic forces to provide vehicle lift, and can fly autonomously or be piloted remotely. The vehicle may be expendable and recoverable.

“Hearing Board” means the panel consisting of the persons designated by the City Manager or his or her designee or by the Director to adjudicate matters relating to the use of parks. The Hearing Board shall consist of three members. At least one member shall be appointed by the City Manager and at least one member shall be appointed by the Director.

“Hearing Officer” means a person designated by the City Manager or by the Director to adjudicate matters relating to the use of parks.

“Micromobility device” means a personal transportation device such as bicycles, scooters, skateboards, roller skates, roller blades, unicycles, mono wheel devices, surreys, electric personal assistive mobility devices (EPAMD) as defined in TMC 11.06.010 and electric motorized foot scooters as defined in TMC 11.06.020. A micromobility device includes all human powered devices, including devices powered by more than one person, and devices that are powered by an electric motor that is capable of propelling the device with or without the assistance of human propulsion.

“Park” means and includes all parks, squares, drives, parkways, docks, piers, moorage buoys and floats, boathouses, boulevards, golf courses, zoos, beaches, playgrounds, ~~and~~ recreation areas, community centers and any other facilities either developed or undeveloped, that are owned by the Metropolitan Park District of Tacoma or the City of Tacoma, or under the management and control of the Metropolitan Park District of Tacoma or the City of Tacoma.

“Rafting” or berthing of multiple boats, one outside the other, beside a pontoon, in between piles, or around a mooring buoy.

“Vape” or “Vaping means the use of any kind of vapor product.

“Vapor product” means any noncombustible product containing solution or other consumable substance, regardless of whether it contains nicotine, which employs a mechanical heating element, battery, or electronic circuit regardless of shape or size that can be used to produce vapor from the solution or other substance, including an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device.

Vehicle” shall have the meaning set forth in RCW 46.04.670 as currently enacted or hereafter amended and shall also include (1) trailers, including trailers designed to be towed behind any vehicle, and (2) ~~motorized scooters and electric personal assistive mobility devices, as defined in Chapter 11.06 of this code,~~ any personal transportation device such as bicycle, scooters, skateboards, unicycles, surreys or mon wheel devices that are powered by an internal combustion engine that is capable of propelling the device with or without human propulsion. A micromobility device is not a vehicle.

Wherever consistent with the context of this chapter, words in the present, past, or future tenses shall be construed to be interchangeable with each other, and words in the singular number shall be construed to include the plural.

8.27.040 Permits – Assemblies, entertainment, etc.

It is necessary for any person who conducts or participates in any organized entertainment, demonstration, or public gathering in any park to obtain the prior written permission of the Director. The procedure for application and consideration of permits for this purpose is as follows:

A. Any person desiring a permit under the above provisions shall file a written application with the Director no later than one month prior to the date of the proposed use. The application shall state the purpose for which the park would be used, the date and time of the proposed use, the name of the park and the area thereof that would be used, the anticipated number of persons who would be present, and such other information reasonably relating to the contemplated use as the Director may require; provided, however, ~~that the~~ the said Director may, for good cause shown, waive the one-month requirement for filing said application.

B. In reviewing an application under this section, the Director shall consider the following conditions and standards:

1. The size of the park and any specialized purpose for which it is normally used or for which specialized facilities have been provided;
2. The location of the park, its aesthetic character and physical characteristics, and the character of the area surrounding it;
3. The anticipated size of the ~~proposed-intended~~ use and assemblage;
4. Policing problems that may arise from the intended use;
5. The effect of the intended use, including consideration of the noise to be expected, upon the adjacent area and its occupants; and
6. Other activities scheduled for the parks at the anticipated time and place.

C. If, under the conditions set forth in subsection B of this section, the Director finds after an investigation that the safety, comfort, and convenience of the public in the use of the parks, or in the usage of the area adjacent to the park, would be unduly disturbed, he or she may deny the application, may impose restrictions upon the permit, or may issue a permit for a different date, time, park, or park area so as to alleviate such burden. The Director may issue a permit for use of the park during hours when the park is closed if he or she approves the application.

8.27.050 Permits – Generally.

Permits, when required by this chapter, shall be applied for through the Director unless otherwise ~~specified~~provided. The granting or denying of permits shall be based upon the policies and standards set forth in this chapter and the ~~regulations~~rules of the Board of Park Commissioners ~~or the Director~~, as now or hereafter amended, which are incorporated herein as though fully set forth. Where fees are required by the Board of Park Commissioners ~~or the Director~~ for the issuance of permits, payment of such fees will be required before permits are issued.

All permits issued ~~by the Board of Park Commissioners~~hereunder shall be subject to other applicable ~~city~~Tacoma Municipal Code provisions, City ordinances and ~~Metropolitan Park Board regulations~~District of Tacoma rules. The persons to whom such permits are issued ("permittees") shall be bound by said ~~rules, regulations, and code~~ordinances and rules as fully as though the same were contained in such permits. A permittee shall be liable for any loss, damage, or injury sustained by any person by reason of the negligence, unlawful or wrongful conduct of the permittee, as well as for any breach of such ~~rules, regulations, or code~~ordinances or rules, to the person or persons so suffering ~~damages~~loss, damage or injury.

Permits issued for musical acts or bands shall specify that the noise/sound level emitting from such act or band shall be no greater than 90 decibels at or beyond 50 feet from the act or band and in no event greater than 90 decibels at the boundary of the park.

Any person claiming to have a permit ~~from the Board of Park Commissioners~~issued hereunder must produce and exhibit such permit upon the request of any authorized person who may desire to inspect the same.

8.27.060 Public disturbance noises.

A. Noise in parks and penalties for violations is regulated by TMC 8.12.060 and TMC 8.12.065, as now enacted or as subsequently amended, except that permitted events must comply with the standard set forth in TMC 8.27.050.

B. The use of public address systems or other sound-amplifying devices must be approved by specific permit.

1. A "sound-amplifying device" is any machine or device for the amplification of the human voice, music, or any other sound. "Sound-amplifying device," as used in this chapter, shall not be construed as including standard radios or similar equipment, when used in compliance with TMC 8.12.060, nor warning devices on authorized emergency vehicles nor horns or other warning devices on other vehicles and used only for traffic safety purposes.

C. It is a violation to use a public address or sound-amplifying device in a park without a permit.

8.27.070 Destruction of park property.

It is unlawful for any person to damage or destroy any real or personal property within a park or to physically interfere with any Metropolitan ~~Parks~~Park District of Tacoma employee in the discharge of his or her duties within a park.

8.27.080 Intoxicating liquors and marijuana.

The display, possession, or consumption of intoxicating liquors in any park is prohibited, except in particular areas or facilities which may be expressly designated from time to time by the Director. ~~Every~~^A person who violates ~~any provision of~~ this section shall be guilty of a class 2 civil infraction ~~and shall be fined not more than \$100, which includes all~~including statutory assessments.

The opening of a package containing marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates, or consuming marijuana, useable marijuana, marijuana-infused products, or marijuana concentrates, in any park is prohibited. "Marijuana" means marijuana as defined by RCW 69.50.101 as now or hereafter amended. A person who violates this section shall be guilty of a class 3 civil infraction, not including statutory assessments.

Whenever any person is stopped for a violation of this section, the officer may detain that person for a reasonable period of time necessary to identify the person and check for outstanding warrants.

8.27.085 Smoking and vaping in parks prohibited.

It is unlawful for any person to smoke or vape any product derived from or containing nicotine ~~light cigars, cigarettes, tobacco, or other smoking material~~ within a park, unless the product has been approved by the United States Food and Drug Administration as a tobacco cessation product, such as transdermal nicotine patches, nicotine gum and nicotine lozenges, or for the other medically approved purposes and is being used for that approved purpose. ~~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 object that is lighted and used for 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.

8.27.090 Selling, advertising, soliciting.

No person, except duly authorized concessionaires, and those having a specific permit, shall sell or offer for sale in any park any goods, refreshments, photographs, or other articles.

Advertising by the distribution, carrying, erection, attachment, or use of a handbill, sign, or device of any kind in any park is prohibited. ~~It is unlawful to place or erect a structure of any kind in any park.~~ It shall be unlawful to carry on any activity whatsoever for compensation or remuneration except upon express authorization of ~~said Board of Commissioners~~^{the Director}, including, but not limited to, the sale of goods, wares, merchandise, and services.

8.27.100 Damage or removal of plants prohibited.

Unauthorized cutting, removal, or destruction of any turf, tree, plant, shrub, flower, or seaweed on park property is prohibited. While inside any park, having in one's possession any newly-plucked branch, tree, flower, plant, fungus (mushrooms, shelf fungus, etc.), algae (seaweed, etc.), or shrub without specific permission shall be presumptive evidence of such unauthorized cutting, removal, or destruction.

8.27.110 Disposal of trash.

No person shall throw or leave litter, garbage, trash, or yard waste in or at a park except in a receptacle provided for that purpose. No person shall deposit on any park property any household or commercial garbage, refuse, or rubbish which is brought as such from any private property. The penalty for violation of this section shall be as provided in TMC 8.12.150.

8.27.120 Animal control.

A. Unless in a designated off-leash area, dogs and cats must be on a leash no longer than eight feet or secured inside a vehicle and are not allowed to enter wading pools, ponds, lakes, fountains, spraygrounds, or any play area designed to utilize water in any park. Animals of any other type are not permitted in any park unless first approved by the Director, except for service animals, as defined in RCW 9.91.170.

B. Any person with an animal in his or her possession shall be responsible for the conduct of the animal.

C. The provisions of this section do not apply to animals owned or maintained by the Metropolitan Park District of Tacoma.

D. The Director may prohibit animals, except for service animals as defined in RCW 9.91.170, from events and/or facilities within a park.

E. All provisions of Title 17 of this code remain in full force and effect in all parks and may be enforced by any police officer or animal control officer.

F. Any violation of this section is a class 1 civil infraction unless a different penalty is provided in Title 17 of this code.

8.27.130 Molesting or feeding animals.

No person shall molest or ~~attempt to touch~~harass any ~~bird~~wildlife or ~~non-domesticated~~ animal in a park ~~except to the extent permitted at the Point Defiance Zoo & Aquarium~~. It shall be unlawful for any person to give, offer, or attempt to give to any ~~wildlife or non-domesticated~~ animal within ~~the parks~~a park any tobacco, drink, or other ~~article~~substance known to be dangerous or noxious to ~~wildlife or non-domesticated~~ animals. It is also unlawful to feed any ~~bird or~~wildlife or ~~non-domesticated~~ animal in a park, ~~except as authorized by the Director~~.

8.27.140 Damage by animals.

Owners of dogs or other animals damaging or destroying park property will be held liable for the full value of the property damaged or destroyed, in addition to impounding fees and the penalty imposed for violation of these provisions.

8.27.150 Prohibitions as to boating, fishing, and swimming.

It is unlawful for any person to boat, fish, wade, swim, scuba dive, snorkel, or bathe in any park except in the places and at times designated by the Director.

8.27.160 Boats and beaches.

No dock or any other structure shall be built upon any beach unless expressly authorized. No boat shall be kept for hire or private use upon any waters under the jurisdiction of the Metropolitan Park District of Tacoma, except as expressly authorized by the Director. Launching of waterborne craft from any shoreline is prohibited, except for specifically designated areas or with specific permit issued by the Director. The launching of waterborne craft, as provided in this section, shall be unlawful if the required fee, as determined by the Director, has not been paid.

8.27.165 Moorage buoy and float regulations.

Use of the park moorage buoys and floats shall be regulated as follows:

A. ~~Continuous moorage at a park by one vessel shall be limited to three consecutive nights (72 hours maximum). A boat shall not be moored at a park in excess of three overnight periods, whether continuous or not, within any 10-day period, unless authorized by the Director and then only upon payment of the applicable moorage fees.~~

B. Rafting shall be allowed only as follows: three vessels, when each is less than 21 feet in length; two vessels, when each is less than 30 feet in length; no rafting shall be allowed for vessels of 30 feet or more in length.

C. No trash shall be dumped from any moored vessel and all moored vessels must keep a litter bag on board.

D. Open display and/or consumption of alcoholic beverages while vessels are moored is prohibited.

E. No sewage shall be dumped from a vessel while moored.

F. Moored vessels must be currently registered and properly numbered.

G. Moorage fees, including parking and launching fees, shall be paid according to a fee schedule adopted by the Director. Any person who fails to pay the fees when due shall be guilty of a class 1 civil infraction, not including statutory assessments.

8.27.170 Fires.

Fires are prohibited except in picnic stoves installed under the authority of the Director or in portable barbeques. Fires in any other facility or area are allowed only by special permit. Fires in picnic stoves or portable barbeques may only utilize propane or charcoal briquettes as fuel; all other fuel sources, including wood, are specifically prohibited. Portable barbeques may be utilized only for cooking food. Briquettes must be completely extinguished and properly disposed of or removed from the park. The Director may further restrict the use of barbeques within any park, provided that signs are installed to notify patrons of the restrictions.

8.27.180 Use of certain equipment.

It is unlawful for any person to use a slingshot, beanshooter, paintball gun or similar implement or equipment, or any hot air balloon, sky lantern or other device that uses a flame for lift or propulsion or other similar implement, or golf or archery equipment in or upon any park; except that golf and archery equipment may be used in areas especially specifically designated or provided for that use, or as otherwise authorized by the Director by specific permit.

It is unlawful to practice or play golf, baseball, tennis, soccer, or other games of like character, or to hurl or propel any projectile or missile into or over any park, except in areas specifically designated for that use at places set apart for such purposes. It is unlawful to use operate motorized model aircraft, drones, unmanned aircraft systems (UAS), unmanned aerial vehicle (UAV), motorized models such as cars, cycles, trucks or watercraft in any park, except as specifically designated for that use. Any use of such models with engines or motors with a greater than twenty-five one hundredths cubic inch displacement is prohibited or as otherwise authorized by the Director.

8.27.190 Fireworks.

It is unlawful to carry, shoot, fire, or explode any fireworks or explosives of any kind in any park.

8.27.200 ~~Vehicular~~ Vehicle and Micromobility Device standards.

A. It is unlawful: to enter or leave a park by other than established entrances and exits.

~~1. to enter or leave a park by other than established entrances and exits.~~

~~2B. Vehicular traffic, including bicycles, is~~ Vehicles are prohibited in any park, except on roads intended for the movement of public vehicular traffic, or on roads and trails specifically designated for special uses specifically designated and signed for such use.

C. Micromobility devices are permitted on roads, sidewalks, paths or trails in any park unless otherwise prohibited and signed for the particular micromobility device(s) being prohibited.

~~3. Roller skating and skateboarding is prohibited in parks except in designated areas.~~

~~4D.~~ The parking of vehicles in any park is prohibited except in established parking areas. It is unlawful to park along roadways if the normal flow of traffic is impeded or if parking causes conditions that are hazardous to public safety. Any vehicle that is impeding traffic or is illegally parked may be impounded.

~~5E.~~ No person shall service, wash, wax, or change the oil of any vehicle within a park.

~~6E.~~ It is unlawful to engage in, conduct, or hold any trials or competitions for speed, endurance, or hillclimbing involving any vehicle, boat, aircraft, micromobility device or animal in any park without specific permit.

~~7G.~~ All vehicles, including bicycles, and micromobility devices shall obey the posted speed limits and all other regulatory signs.

~~8. Between the hours of 10:00 p.m. and 4:00 a.m., only persons engaged in fishing activities shall be allowed to park vehicles in the parking lot immediately adjacent to the Les Davis Fishing Pier.~~

8.27.205 Entrance fees.

Where fees are required by the Director for entering any park, it is unlawful to enter without paying the prescribed fee. Any person who fails to pay the fee when due shall be guilty of a class 1 civil infraction, not including statutory assessments.

8.27.210 ~~Overnight use~~ No Structures in parks; exceptions.

A. It is unlawful to ~~erect, install~~ or set tents or other shelters overnight in place any structure within a park, unless except as provided herein.

B. "Structure" means any structure or shelter, including but not limited to any temporary makeshift dwelling units, lean-tos, shacks and/or trailers, comprised of tree branches, wood, plastic, metal, nylon, tarp or any other materials.

C. This section shall not apply to:

1. Any structure erected installed or placed within a park by the owner or operator of the park or as expressly authorized by the Director.

2. A temporary structure that has only a roof and no walls.

8.27.215 Parking fees required.

Where parking fees are required by the Board of Park Commissioners or the Director for parking within any park, it is unlawful to park without paying the prescribed parking fee. Any person violating this section shall be deemed to have committed a parking class 1 civil infraction, ~~the penalty for which shall not exceed the sum of \$250.00.~~

8.27.220 Opening and closing hours, no use of parks when closed, exceptions.

A. Parks ~~shall be considered~~ open one-half hour before sunrise and ~~close~~ closed one-half hour after sunset, unless otherwise expressly determined by the Director or otherwise posted at the park. Any person entering or remaining in a park when it is closed is subject to arrest and prosecution for criminal trespass. Any vehicle remaining in a park when the park is closed may be impounded and any personal property or structure remaining in a park when the park is closed may be removed.

B. The Director may extend open hours for sanctioned events or uses, but only that portion of a park being used for ~~specified by~~ the ~~event~~ Director will be open beyond normal hours; other areas of such a park shall remain closed.

C. This section shall not apply to:

1. the police substation at Wapato Park or to any other City facility constructed and operated in a park.
2. police officers or park employees while on-duty.
3. sidewalks that are within the right-of-way of a public street, when the street is not within the boundaries of a park.

8.27.230 Emergency conditions.

A. In case of an emergency, or in case where life and property are endangered, all persons, if requested to do so by the Director or other Metropolitan Park District of Tacoma employee or a police officer, shall depart from the portion of the grounds specified by such employee or officer ~~or employee~~, and shall remain off the same until permission is given to return.

B. Any person who remains on park property after being required to leave by a Metropolitan Park District of Tacoma employee or by a police officer, or who returns to the park without permission, is guilty of criminal trespass and may be arrested and prosecuted under the Tacoma Municipal Code. Any juvenile violating this section may be arrested and prosecuted under chapter 9.52 RCW, as currently enacted or hereafter amended.

8.27.240 Aiding and abetting violations.

Anyone concerned in the violation of this chapter, whether directly committing the act or omitting to do the thing constituting the offense, or who aids or abets the same, and whether present or absent, and anyone who directly or indirectly counsels, encourages, hires, commands, induces, or otherwise procures another to commit such offense, is and shall be a principal under the terms of this chapter and shall be proceeded against and prosecuted as such.

8.27.250 Penalty for violations.

Unless specifically designated ~~in this chapter as a gross misdemeanor or misdemeanor, or if specified~~ to be enforced pursuant to other law, including, but not limited to, another section, chapter, or title of the Tacoma Municipal Code, any violation of this chapter shall constitute a Class 1 civil infraction, ~~not to exceed \$250, not~~ including statutory assessments. Such penalty is in addition to any other remedies or penalties provided by law: including, but not limited to, another section, chapter, or title of the Tacoma Municipal Code or the Revised code of Washington. For each act herein prohibited of a continuing nature, each day shall be considered a separate offense.

8.27.251 Authority to adopt a code of conduct.

The use and enjoyment of parks are enhanced when patrons abide by a code of conduct that promotes health and safety, that requires respect for the rights and needs of others, and that requires respect for the park property. The Director may adopt a code of conduct that regulates any activity or behavior in parks to protect the public's health and safety, to promote respect for the rights and needs of others, and to preserve park property. The Director may also include within the code of conduct criteria to determine the length of any exclusion notice issued pursuant to TMC 8.27.255.

8.27.255 Violators may be required to leave park.

A. When any Metropolitan Park District of Tacoma employee or any police officer has probable cause to believe that a person has violated any rule of the Metropolitan Park District of Tacoma, [including but not limited to any code of conduct adopted by the Director pursuant to TMC 8.27.251](#), any provision of the Tacoma Municipal Code, or any provision of the Revised Code of Washington while in a park [or other applicable law](#), he or she may require that person to leave the park immediately. Any person who remains on park property after being required to leave by a Metropolitan Park District of Tacoma employee or by a police officer, or who returns to any park on the same calendar day, is guilty of criminal trespass and may be arrested and prosecuted under the Tacoma Municipal Code. Any juvenile violating this section may be arrested and prosecuted under the Tacoma Municipal Code or under chapter 9.52 RCW as currently enacted or hereafter amended.

B. When any Metropolitan Park District of Tacoma employee or any police officer has probable cause to believe that a person has committed any of the following violations while in a park, he or she may require that person to leave the park immediately. Any person who remains on park property after being required to leave by a Metropolitan Park District of Tacoma employee or by a police officer, or who enters any park during the period of exclusion, is guilty of criminal trespass and may be arrested and prosecuted under the Tacoma Municipal Code. Any juvenile violating this section may be arrested and prosecuted under Tacoma Municipal Code or under chapter 9.52 RCW, as currently enacted or hereafter amended. The exclusion may be for 90 days and shall be in writing and delivered to the person being excluded.

A person committing any of the following violations may be excluded for 90 days:

1. a drug offense, including a violation of TMC 8.29.060 (drug paraphernalia); TMC 8.72, Drug-related Loitering; and TMC 8.28 Narcotics; or
2. a violation of TMC 8.46 (prostitution); or
3. an alcohol-related offense, including a violation of TMC 8.27.080 (drinking in a park), a violation of TMC 8.20 (intoxicating liquor), a violation of chapter 66 RCW (alcoholic beverage control); or
4. TMC 8.12.013, assault; or
5. TMC 8.106.010, harassment; or
6. TMC 8.12.111, indecent exposure; or
7. TMC 8.32.020, indecent conduct; or
8. TMC 8.12.120, destruction of property; or
9. TMC 17.04, relating to a dangerous or potentially dangerous dog; or
10. TMC 17.02.100, TMC 17.02.110, directing a dog to attack; or
11. TMC 17.01.160, TMC 17.01.161, a crime relating to animals or cruelty to animals; or
12. TMC 8.12.026, vehicle prowling; or
13. TMC 8.12.170, stalking; or
14. TMC 8.13A.040, solicitation by coercion; or
15. TMC 8.12.010(8), theft; or
16. TMC 8.12.010(6), discharging a firearm; or
17. TMC 8.12.014, reckless endangerment; or
18. TMC 8.12.090, sexual assault; or
19. TMC 8.12.113, communication with minor for immoral purposes; or
20. TMC 8.12.115, sexual misconduct with a minor in the second degree; or
21. TMC 8.12.025, criminal trespass, but only when the trespass is based on the person violating a previously issued exclusion order; or

22. RCW 46.61.500 or 46.61.530, Reckless driving/racing; or
23. RCW 46.61.502 or 46.61.504, DUI; or
24. RCW 79A.60.040, boating - DUI or reckless; or
25. TMC 8.66 (weapons); or
26. violation of a court order issued pursuant to chapter 8.105 TMC, chapter 7.90 RCW, chapter 10.99 RCW, chapter 26.09 RCW, chapter 26.10 RCW, chapter 26.26 RCW, chapter 26.50 RCW, chapter 74.34 RCW, RCW 26.52.010, or a foreign protection order, as defined by RCW 26.52.010; or
27. TMC 8.120.030, graffiti; or
28. TMC 8.12.150, littering, but only when the amount of garbage, rubbish, refuse, or material amounts to five gallons or more; or
29. TMC 8.27.210, ~~Overnight use~~ no structure in parks; or
30. TMC 8.27.220, no use of parks when closed; or
31. TMC 8.27.251, code of conduct adopted by the Director; or
32. a violation of any other rule of the Metropolitan Park District of Tacoma, any provision of the Tacoma Municipal Code, or any provision of the Revised Code of Washington ~~when~~ or other applicable law when it is a repeat violation or the person has been the subject of one (1) prior exclusion notice issued under this section within one (1) year prior to the current violation.

C. When any Metropolitan Park District of Tacoma employee or any police officer has probable cause to believe that a person has committed any of the following violations while in a park, he or she may require that person to leave the park immediately. Any person who remains on park property after being required to leave by a Metropolitan Park District of Tacoma employee or by a police officer, or who enters any park during the period of exclusion, is guilty of criminal trespass and may be arrested and prosecuted under the Tacoma Municipal Code. Any juvenile violating this section may be arrested and prosecuted under the Tacoma Municipal Code or under chapter 9.52 RCW, as currently enacted or hereafter amended. The exclusion shall be for one (1) year and shall be in writing and delivered to the person being excluded.

A person committing any of the following violations may be excluded for one (1) year:

1. Any felony, as defined by state or federal law; or
2. a violation of TMC 8.67 (firearms); or
3. a violation of any rule of the Metropolitan Park District of Tacoma, any provision of the Tacoma Municipal Code, or any provision of the Revised Code of Washington when the person has been the subject of two (2) or more prior exclusion notices issued under ~~this section~~ subsection B above, -within one (1) year prior to the current violation.

D. The person being excluded need not be charged, tried, or convicted of any crime or be issued an infraction or have an infraction found committed in order for an exclusion notice to be issued or effective. The exclusion may be based upon observation by a Metropolitan Park District of Tacoma employee or observation by a police officer or upon the sort of civilian reports that would ordinarily be relied upon by police officers in the determination of probable cause.

E. The exclusion notice shall be in writing and shall contain the date of issuance; the violation which the person is alleged to have committed; and a citation of the code, statute, or park rule violated. The exclusion notice shall specify the length and places of exclusion and the method for appealing the notice. It shall be signed by the issuing individual. Warning of the consequences for failure to comply shall be prominently displayed on the notice.

F.1. A person receiving an exclusion notice longer than one (1) day may file a written appeal before the Hearing Officer to have the exclusion notice rescinded or the duration of the exclusion shortened. The written appeal must be under oath and set forth all facts relied upon by the person for his or her contention that the notice should be rescinded or shortened. The written appeal shall be accompanied by a copy of the exclusion notice which is being appealed. The written appeal must be delivered to the Hearing Officer or postmarked no later than seven (7) calendar days after the issuance of the exclusion notice. The Hearing Officer shall issue a ruling upholding,

rescinding, or shortening the duration of the exclusion no later than five (5) business days after receipt of the written appeal.

2. The Hearing Officer shall consider the exclusion notice and any other materials submitted that the Hearing Officer considers relevant and trustworthy.

3. If the violation is proved by a preponderance of the evidence, the exclusion notice shall be upheld; but upon good cause shown, the Hearing Officer may shorten the duration of the exclusion. If the violation is not proved by a preponderance of the evidence, the Hearing Officer shall rescind the exclusion. If the Hearing Officer rescinds an exclusion, the exclusion shall not be considered a prior exclusion for purposes of this section.

G.1. A person receiving an exclusion notice longer than one (1) day may request a hearing before the Hearing Board to have the exclusion notice rescinded or the duration of the exclusion shortened. A person requesting a hearing must comply with the requirements of subsection F above and contain a written request for a hearing. The hearing should occur within ten (10) business days after the Hearing Board receives the request for hearing. The Hearing Board shall take reasonable steps to notify the offender of the date, time, and place of the hearing.

2. At the hearing, the violation must be proved by a preponderance of the evidence in order to uphold the exclusion notice. The exclusion notice establishes a prima facie case that the offender committed the violation as described. The Hearing Board shall consider a sworn report or a declaration under penalty of perjury, as authorized by RCW 9A.72.085, written by the individual who issued the exclusion notice, without further evidentiary foundation. The certifications authorized in Rule 6.13 of the Criminal Rules for Courts of Limited Jurisdiction shall be considered without further evidentiary foundation. The rules and procedures for the Hearing Examiner set forth in TMC 1.23 and the Rules of Procedure for Hearings adopted by the Hearing Examiner shall govern hearing procedures.

3. If the violation is proved, the exclusion notice shall be upheld; but upon good cause shown, the Hearing Board may shorten the duration of the exclusion. If the violation is not proved by a preponderance of the evidence, the Hearing Officer shall rescind the exclusion. If the Hearing Board rescinds an exclusion, the exclusion shall not be considered a prior exclusion for purposes of this section.

H. The decision of the Hearing Officer or Hearing Board is final. An offender seeking judicial review of the Hearing Officer's or Hearing Board's decision must comply with TMC 1.23 and the Rules of Procedure for Hearings adopted by the Hearing Examiner.

I. The exclusion shall remain in effect during the pendency of any administrative or judicial proceeding.

J. No determination of facts made by a person conducting a hearing under this section shall have any collateral estoppel effect on a subsequent criminal prosecution or civil proceeding and shall not preclude litigation of those same facts in a subsequent criminal prosecution or civil proceeding.

K. Any person who remains on park property after being required to leave by a Metropolitan Park District of Tacoma employee or by a police officer, or who enters any park during a 90-day or one-year exclusion, is guilty of criminal trespass and may be arrested and prosecuted under the Tacoma Municipal Code. Any juvenile violating this section may be arrested and prosecuted under the Tacoma Municipal Code or under chapter 9.52 RCW as currently enacted or hereafter amended.

8.27.260 Severability.

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