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Title:	AN ORDINANCE approving the city of Enumclaw 2006 Comprehensive Water System Plan.		
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Date	Ver.	Action By	Action	Result
10/15/2007	1	Metropolitan King County Council	Hearing Held	
10/15/2007	1	Metropolitan King County Council	Passed	Pass
10/9/2007	1	Growth Management and Natural Resources Committee	Recommended Do Pass Consent	Pass
10/1/2007	1	Metropolitan King County Council	Introduced and Referred	

Clerk 09/24/2007

AN ORDINANCE approving the city of Enumclaw 2006 Comprehensive Water System Plan.

STATEMENT OF FACTS:

1. K.C.C. chapter 13.24 requires approval of comprehensive plans for water utilities as a prerequisite for granting right-of-way franchises and approval of right-of-way construction permits. Plans are required from water utilities with sources of supply, or distribution facilities, within unincorporated King County. With some exceptions, this requirement also applies to amendments to such plans.
2. RCW 43.20.260 requires that water system plans for any new industrial, commercial, or

residential use are to be consistent with the requirements of any comprehensive plans or development regulations adopted under chapter 36.70A RCW or any other applicable comprehensive plan, land use plan, or development regulation adopted by a city, town, or county for the service area.

3. King County last approved the city of Enumclaw's 1993 Comprehensive Water System Plan in May 1996. The 2006 update includes provisions for capital facilities to address anticipated growth within Enumclaw's Urban Growth Area ("UGA"), improvements to its existing facilities, and additional provisions for water conservation and water rights acquisitions. It also includes provisions for serving three different service areas - its "future service area" established under the South King County Coordinated Water System Plan ("CWSP"), its "wholesale service area," and its "retail service area," each of which has a different meaning. Within a "future service area" under the CWSP, the designated water utility has the exclusive authority to provide water service to a proposed new development within that area, unless it cannot do so in a "timely and reasonable" fashion, in which case a different water utility may provide it. There is no general definition in state law or rules for a "wholesale service area," which in this plan the city identifies as two existing small water systems located within the boundaries of its "retail service area." The city has indicated that it will supply water on a wholesale basis if requested by the small water systems, provided the systems' water rights are transferred to the city and the city is able to secure additional supply from the city of Tacoma. With regard to a "retail service area," pursuant to the Municipal Water Law ("MWL"), a municipal water supply system has a "duty to serve" new customers only within its designated "retail service area," which is the area to which it supplies direct service to retail customers. The plan acknowledges that based on current source and capacity constraints, the city is not prepared to meet the water supply demands projected in the plan's six-year and twenty-year planning horizons for its entire "future service

area," although it may be able to provide some service to that area within the twenty-year horizon if it has the capacity to do so after meeting its service obligations to existing customers and to new customers within its "retail service area". Should such capacity be available to directly serve any part of the "future service area," the plan states that the city will amend its water system plan to convert to a "retail service area" designation those areas of its "future service area" where it can provide retail water service. Absent that amendment process, the city has stated that it has no intention of serving any part of its "future service area" or expanding the place of use of its water rights beyond the retail areas designated in the plan.

4. The city of Enumclaw currently provides water service in south central King County, north of the White river. The city's corporate boundaries include approximately 3.8 square miles, and its service facilities extend into unincorporated King County outside the city boundaries. It has a large "future service area" established in 1989 in the CWSP; see discussion of service area, below. The city adopted a new comprehensive plan under the Growth Management Act in 2005, and modified its UGA boundary at the time to include the golf course that was transferred to the city by King County. The UGA is entirely within the "retail service area" identified in the plan. The city forecast population growth within the city limits to about sixteen thousand by 2023, and a population over twenty-one thousand by 2033.

5. The city currently has a building moratorium due to inadequate sewer system capacity. It anticipates the lifting of the moratorium with the completion of treatment plant upgrades in 2008 or 2009.

6. The city began providing water service in 1912, a year before the city incorporated. Over the years, it has assumed ownership of several smaller systems. Water is provided by two spring sources, a groundwater well field, and an intertie with the city of Tacoma. Annual average water consumption is approximately 2 million gallons per day. Since 1994, the city's per capita

demand has dropped from 223 gallons per day to 140 gallons per day, due to improved facilities and a water conservation program. The city estimates that, with forecasted growth in demand of four to nine percent in the next six years, and up to 36 percent within the next twenty years, it has adequate capacity to meet forecasted demand until 2017. It is investigating a number of supply alternatives to meet demand beyond then, including increased conservation, restoration of water source capacity to their full water rights, additional wholesale water and possibly acquisition of new water rights.

7. The city's plan identifies five million seven hundred thousand dollars in water system improvements to be completed by 2011, and an additional eight million nine hundred thousand dollars between 2012 and 2025. The financing plan calls for use of revenue bonds issued in 2007 and 2010, with sixty-five percent of the capital improvements funded out of capital reserves rather than debt. It plans to change its current rate structure to ensure rate adequacy, equity, promotion of water conservation, and customer affordability. As of 2006, the city reduced its rate multiplier to customers outside the city limits from twice the in-city rate to one hundred fifty percent of the in-city rate.

8. The city's service area or areas includes a "future service area," approved as part of the South King County CWSP adopted in 1989, a "retail service area" as defined by the Washington state Department of Health ("DOH") under the 2003 MWL and a "wholesale service area" which is comprised of two small water systems. The plan proposes boundary changes to conform to the MWL "duty to serve" requirements, to recognize approximately fifty current and potential retail customers outside the CWSP boundary, and to ensure water supply to all customers within the UGA for Enumclaw. It also states that it does not intend to become a satellite management agency, as authorized under the Public Water System Coordination Act, to provide service, that is, via ownership/operation of new small systems, within its designated "future service area." In

addition, the proposed boundaries for the "retail service area" include areas outside the city's designated service area boundaries in the existing South King CWSP. The plan states that King County has the authority to simply amend the existing CWSP service area map to reflect these additions. The King County office of the prosecuting attorney has advised staff that no clear authority exists for King County to take such an action. Although this area is not claimed by any other utility, the inconsistency with the CWSP should be resolved with a modification to that CWSP, as provided for in state law. This ordinance includes a finding to that effect.

9. Enumclaw agreed to modify some provisions of the draft plan to describe in more detail how it intends to provide "timely and reasonable" service within its proposed "retail service area", and to be consistent with the existing CWSP and anticipated changes. It has also agreed with a DOH requirement to submit a plan amendment each time it proposes to add retail customers within its "future service area", thereby modifying the boundaries of its "retail service area." The plan contains a statement, on page 2-2, that, upon approval of this plan, and pursuant to the MWL, the place of use of its water rights becomes "coextensive" with the "retail service area", "future service area", and "wholesale service area", and that the city may serve any of those areas without the necessity of a change to its water rights. This provision of the MWL requires a determination that such an automatic change to the place of use in a water utility's water right cannot be inconsistent with a county's comprehensive plan. The county has interpreted this provision, taking into consideration guidance published by DOH, as only applying to the "retail service area", and to customers outside the "retail service area" served by the utility, or with which the utility has an agreement to provide service. This would mean that the MWL provision would not apply to the entire "future service area" that Enumclaw has under the CWSP. However, with the clarification provided by Enumclaw that it will formally modify its "retail service area" each time it includes a new customer within its "future service area", the county

finds that the plans for service are not inconsistent with the county's Comprehensive Plan. The county anticipates receiving and reviewing those plan amendments, as provided under K.C.C. 13.24.010.E.

10. Enumclaw has acknowledged that there may be opportunities for the use of reclaimed water -particularly with regard to irrigation of its golf course-and has committed to evaluating such opportunities after the wastewater treatment plant upgrade is completed in 2008/2009.

11. The water system comprehensive plan, as amended, has been determined by the utilities technical review committee ("UTRC") to be consistent with the King County Code, and the King County Comprehensive Plan, as documented by the checklist provided by the executive with the transmittal letter. The UTRC specifically finds that the provisions in the revised Plan for providing service to the "retail service area", including Enumclaw's UGA, are consistent with K.C.C. 13.24.010.B.2, and King County Comprehensive Plan Policies F-225, F-226 and F-228.

12. Under the state Environmental Policy Act the city of Enumclaw reviewed the draft Comprehensive Water Supply Plan, completed a checklist, and issued a Determination of Nonsignificance on June 2, 2006.

13. The state DOH has not yet approved the Enumclaw Plan. DOH has indicated that Enumclaw has provided adequate responses to the DOH comments, and DOH will approve the Enumclaw Plan on receipt of the King County approval ordinance. Alternatively, DOH may approve the plan before the final King County approval, conditioned on the receipt of the King County approval.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. The city of Enumclaw 2006 Water System Plan Update, Attachment A to this ordinance, is hereby approved as a comprehensive water system plan, subject to the following finding:

King County finds that the Enumclaw 2006 Comprehensive Water System Plan is consistent with

King County's Comprehensive Plan. However, Enumclaw's service to properties located within its proposed "retail service area" but outside of its service area boundary as described in the South King County Coordinated Water System Plan appears inconsistent with the Coordinated Water System Plan. Only King County or the Washington state Department of Health is authorized under state law to initiate an update or modification to the South King County Coordinated Water System Plan. Service by the city to those properties within the "retail service area" may occur, provided the city seeks modification of the South King CWSP boundary at such time the South King County Coordinated Water System Plan water utility coordinating committee is reconvened as provided for by law.