Tuesday, April 6, 2021
Electronic City Council Workshop

5:30 P.M.
City Council Workshop - Electronic Attendance

Meeting may be viewed at: Live Stream on City of College Place, Washington YouTube at https://www.youtube.com/channel/UCbx3qrqzLDL_05NusReSl-g/featured

Or you may call this number to listen: 1-669-900-9128 ID#910 9055 6381
Zoom Attendee Link: https://zoom.us/j/91090556381

1. Opening Items.

Subject :	1.01 Council Reference Materials
Meeting :	Apr 6, 2021 - Electronic City Council Workshop
Category :	1. Opening Items.
Access :	Private
Type :	Information
Subject :	1.02 Call To Order
Meeting :	Apr 6, 2021 - Electronic City Council Workshop
Category :	1. Opening Items.
Access :	Public
Type :	Procedural

Public Content

Mayor Hernándezwill call the meeting to order.

Subject :	1.03 Pledge of Allegiance
Meeting :	Apr 6, 2021 - Electronic City Council Workshop
Category :	1. Opening Items.
Access :	Public
Type :	Procedural

Public Content

"Ipledge allegianceto the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all."

Subject :	1.04 Moment of Silence for Reflection / Invocation - Any City Employee or Elected Official; delivering the invocation, does so in his/her capacity as a private citizen, and not in his

	/her official position as a city employee/elected city official.
Meeting :	Apr 6, 2021 - Electronic City Council Workshop
Category :	1. Opening Items.
Access :	Public
Type :	Procedural
Subject :	1.05 Excuse Absence of Council Member Trop
Meeting :	Apr 6, 2021 - Electronic City Council Workshop
Category :	1. Opening Items.
Access :	Public
Type :	Information

2. Workshop Topics.

Subject :	2.01 Bird Scooter Sharing in College Place - Mr. Rizzitiello
Meeting :	Apr 6, 2021 - Electronic City Council Workshop
Category :	2. Workshop Topics.
Access :	Public
Type :	Discussion, Information

Public Content

Workshop Only - No Action

Mr. Garrett Gronowski of Bird reached out to the City on February 16th, 2021. Bird is interested in serving the College Place market. The Bird Scooter concepts was recommended for approval by both the College Place Youth Advisory Board as well as the Parks, Arbor, and Recreation Board. The initial fleet of scooters will be 50 throughout the community. It will operate between 6 AM and 10 PM. The local operator will take the scooters in at night to charge them and perform maintenance.

File Attachments

Bird City MOU.pdf (68 KB)
Bird Intro.pdf (369 KB)
What is Bird.pdf (1,189 KB)
Bird + College Place Planning.pdf (2,680 KB)

Subject :	2.02 American Rescue Plan - Mr. Rizzitiello
Meeting :	Apr 6, 2021 - Electronic City Council Workshop
Category :	2. Workshop Topics.
Access :	Public

Type :	Discussion, Information

Public Content

Workshop Only - No Action

File Attachments

American-Rescue-Plan-Presentation-03.18.21-.pdf (1,470 KB)
FactSheetARP202110d073dd-a327-462d-a5ba-1f32407db326.pdf (36 KB)
Five things to consider as you plan to use your citys ARP allocation.pdf (181 KB)
MRSC_Article.pdf (336 KB)
updated-chart60d8e2bf-12da-4899-bd91-79cf56e72e40.pdf (193 KB)

Subject :	2.03 Fireworks Regulations - Mr. Rizzitiello
Meeting :	Apr 6, 2021 - Electronic City Council Workshop
Category :	2. Workshop Topics.
Access :	Public
Type :	Discussion, Information

Public Content

Workshop Only - No Action

File Attachments

Data_All_210402.pdf (64 KB)

Subject :	2.04 Emergency Moratorium - Manufactured Housing - Ms. Culwell
Meeting :	Apr 6, 2021 - Electronic City Council Workshop
Category :	2. Workshop Topics.
Access :	Public
Type :	Discussion, Information

Public Content

Workshop Only - No Action

File Attachments

ManufacturedHousingPreservation_Policies_Report_August2020.pdf (636 KB)
RCW 36.70A.390_ Moratoria, interim zoning controlsPublic hearingLimitation on lengthExceptions_.pdf (58 KB)
Seattle Moratorium Ordinance 125764.pdf (2,505 KB)
Request - EMERGENCY MORATORIUM_Redacted.pdf (169 KB)
Brochu_Email_MHCW - Rongey.pdf (1,921 KB)

Subject :	2.05 Peddler Code - Ms. Culwell
Meeting :	Apr 6, 2021 - Electronic City Council Workshop
Category :	2. Workshop Topics.
Access :	Public
Type :	Discussion, Information

Public Content

Workshop Only - No Action

File Attachments

Peddler Code Revision.pdf (360 KB)

Subject :	2.06 VUSCA Blake Fix - Ms. Culwell
Meeting :	Apr 6, 2021 - Electronic City Council Workshop
Category :	2. Workshop Topics.
Access :	Public
Type :	Discussion, Information

Public Content

Workshop Only - No Action

File Attachments

VUCSA Blake fix.pdf (408 KB)

3. Closing Items.

Subject :	3.01 Adjourn
Meeting :	Apr 6, 2021 - Electronic City Council Workshop
Category :	3. Closing Items.
Access :	Public
Type :	Procedural

Memorandum of Understanding

(City/County) will permit Bird Rides, Inc. to provide services under the following terms and limitations. This agreement shall remain in effect until January 2022 unless terminated as set forth below.

AGREEMENT

1) Scope: This Agreement and its terms apply to any proposed deployment of Stand-up electric scooter sharing systems within City / County's jurisdictional boundaries. No person shall deploy a Stand-up electric scooter sharing system in the City / County in violation of this Agreement.

2) Stand-up electric scooters shall be governed by the rules applying to bicycles and are to be ridden on streets, and where available, in bike lanes and bike paths. Stand-up electric scooters are to stay to the right of street lanes and to offer the right of way to bicycles in bike lanes and on bike paths. Users of Stand-up electric scooters shall be 18 or older. Users of Stand-up electric scooters who violate these provisions may be fined by City / County consistent with fines for cyclists.

3) Bird Rides, Inc. shall provide easily visible contact information, including toll-free phone number and/or e-mail address on each Stand-up electric scooter for members of the public to make relocation requests or to report other issues with devices.

4) Hours of operation: Stand-up electric scooters will be made available to rent from 4 a.m. to midnight (local time)

5) Bird Rides, Inc. shall provide a minimum of 100 vehicles at launch.

6) Safety Education: Bird Rides will provide materials, videos, signage to promote safe riding and educate riders on rider responsibilities and encourage safe and courteous riding and parking.

7) Data sharing: Bird Rides, Inc. will provide data to the City/County as necessary to assist with monitoring program usage.

8) Indemnification: Bird Rides, Inc. agrees to indemnify, defend and hold harmless City / County (and City's/ County's employees, agents and affiliates) from and against all actions, damages or claims brought against City / County arising out of Bird Rides, Inc.'s negligence or willful misconduct, except that Bird Rides, Inc.'s indemnification obligation shall not extend to claims of City's / County's (or City's / County's employees', agents' or affiliates') negligence or willful misconduct. City / County expressly acknowledges that in no event shall Bird Rides, Inc. be liable for any special, indirect, consequential or punitive damages. Bird Rides, Inc.'s indemnification obligations shall survive for a period of one (1) year after expiration of this Agreement. Bird Rides, Inc. shall be released from its indemnification obligations under this section if the loss or damage was caused by the City's / County's negligent construction or maintenance of public infrastructure. City's / County's right to indemnification shall be contingent on City / County notifying Bird Rides, Inc. promptly following receipt or notice of any claim; Bird Ride, Inc. shall have sole control of any defense; City / County shall not consent to the entry of a judgment or enter into any settlement without the prior written consent of Bird Ride, Inc.

9) Insurance: Bird Rides, Inc. shall provide City / County with proof of insurance coverage exclusively for the operation of Stand-up electric scooters including: (a) Commercial General Liability insurance coverage with a limit of no less than $1,000,000.00 each occurrence and $2,000,000.00 aggregate; (b) Automobile Insurance coverage with a limit of no less than $1,000,000.00 each occurrence and $1,000,000.00 aggregate; and (c) where Bird Rides, Inc. employs persons within the City / County, Workers' Compensation coverage of no less than the statutory requirement.

10) Notices: All notices and communications to the City/County from Bird Rides, Inc. shall be made in writing (includes electronic communications) and sent to the address below.

11) Either party may terminate this agreement at any time and without cause upon (30) days prior written notice.

12) In carrying out their responsibilities, the parties shall remain independent contractors, and nothing herein shall be interpreted or intended to create a partnership, joint venture, employment, agency, franchise or other form of agreement or relationship.

13) The parties acknowledge that Bird Rides, Inc. may utilize independent business logistics providers to facilitate local operations. Bird's use of these logistics providers does not constitute a transfer or assignment of this Agreement, and Bird Rides, Inc. remains responsible for all obligations and requirements under this Agreement.

14) This agreement shall be governed by and construed in accordance with the laws of the state.

City/County/State	**Bird Rides Inc**
Recommended By:	
Signature	Signature:
Print Name:	Print Name:
Title:	Title:
Approved By:	
Signature	Signature:
Print Name:	Print Name:
Title:	Title:

How Bird Partners with Local Communities

Bird works closely with local government agencies to bring convenient, sustainable transit to communities with stand-up electric scooters, which can be rented for short trips using the Bird Mobile App. Our mission is to get people out of cars, reduce traffic and bring communities together by providing an affordable, environmentally-friendly transit alternative.

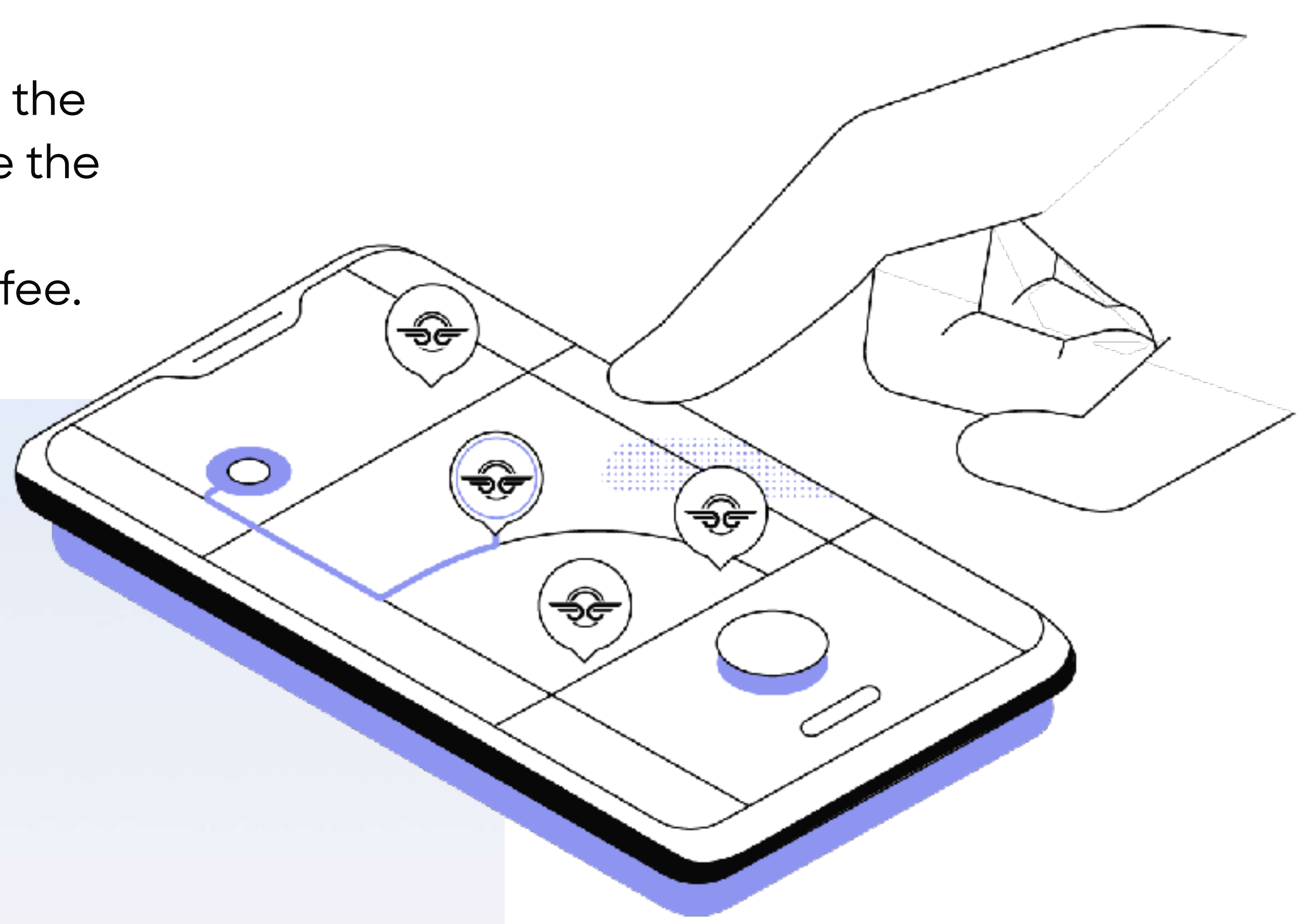
Cities who partner with Bird benefit from our Industry-leading approach:

- Clean, equitable, transportation options
- Safest vehicles with advanced detection
- Smart technologies to eliminate concerns
- Opportunities for local entrepreneurs
- Hyperlocal operations

How it works

Through the Bird smartphone app, riders can see the closest Bird scooter on a map, unlock it, complete the safety tutorial and ride directly to their desired destination. It costs $1 to start, then a per minute fee.

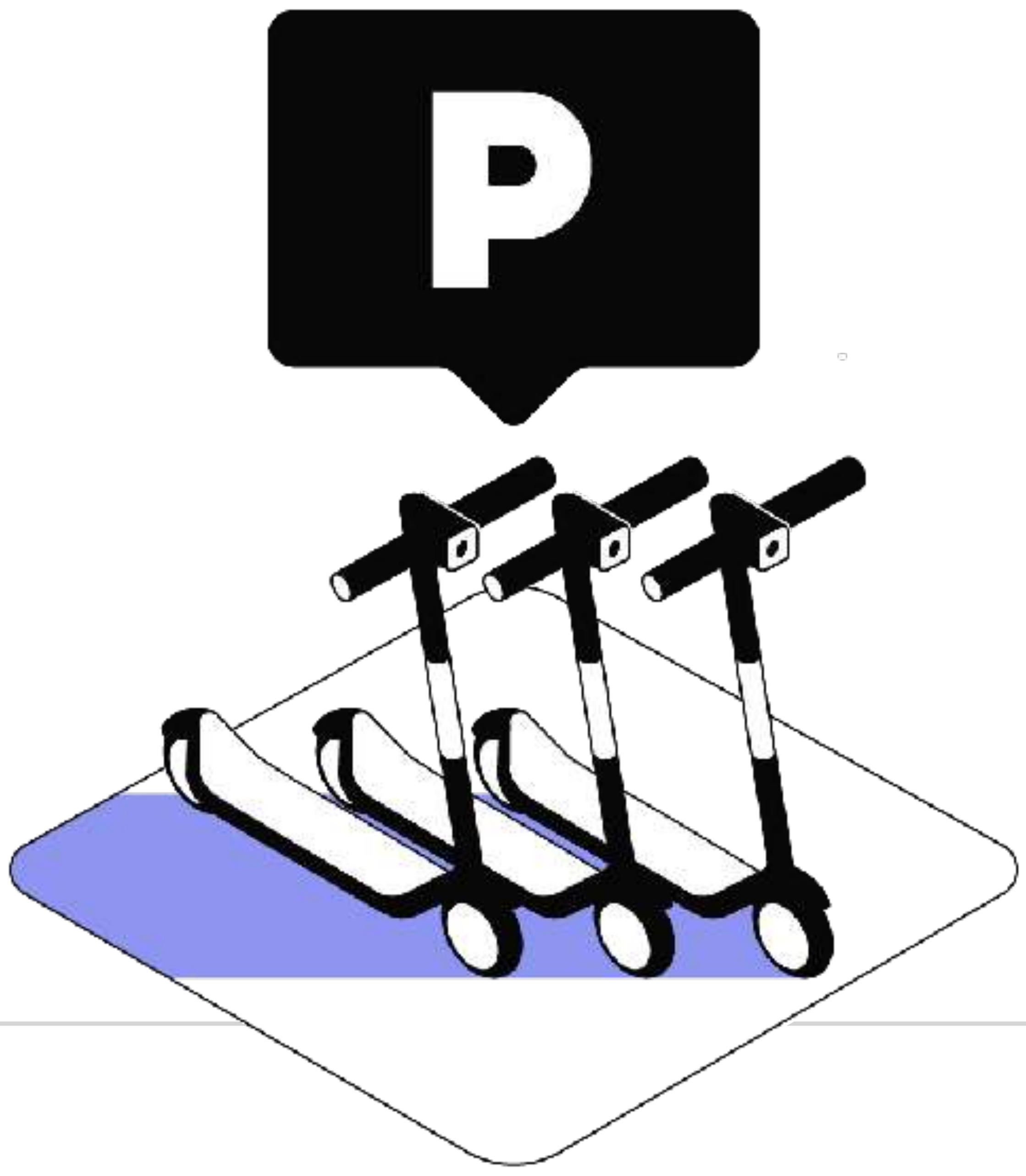
1. Find Birds on the map
2. Scan QR to begin ride
3. Watch safety tutorial
4. Enjoy the ride



THE BIRD LOCAL ADVANTAGE:

By Locals, For Locals

When Bird comes to town, we work with a local entrepreneur from the community to manage the fleet on the ground. They make money on every ride taken on the scooters that they manage. We provide the tools, operational experience and technology to help them be successful; and they provide the local pride, knowledge and expertise to cater the program to the community.



What Cities Are Saying

“We’re a relationship-based city and Bird works with us to understand our unique needs and challenges. With any new technology, we anticipate a steep learning curve. Bird stands out by being responsive, responsible and respectful of our community.”

Virginia Korte
Council Member, Scottsdale

“The Rider Incentives and your fleet managers on the ground seem to be doing a good job managing the devices, fleet rebalancing, and overall user parking performance. Keep up the great work and thank you for the partnership!”

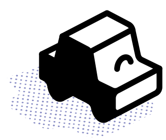
Alyssa Muto
Deputy Director of Environment & Mobility Planning, San Diego

What is Bird?

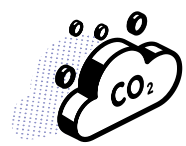
Bird is a last-mile electric vehicle sharing company dedicated to bringing affordable, environmentally-friendly transportation solutions to communities everywhere. Today Bird serves over 100 cities worldwide.

Our mission is to get people out of cars and:

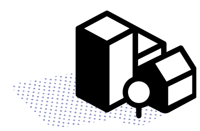
Solve the last-mile problem and connect more residents to transit options



Reduce congestion and over-reliance on cars



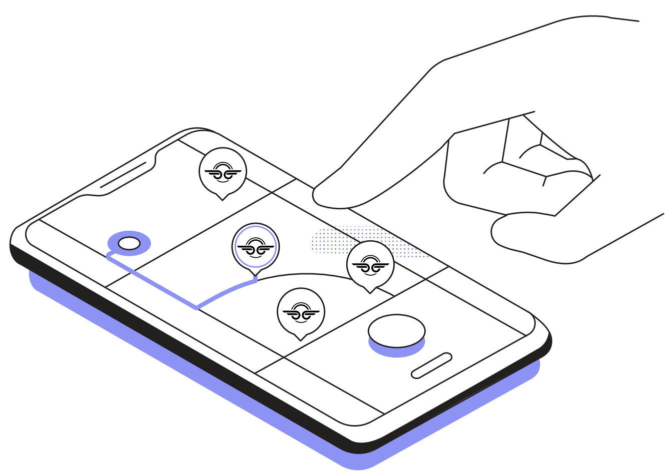
Improve air quality and reduce GHG emissions



Improve the overall quality of life in cities

How it works.

Through the Bird smartphone app, riders can see the closest Bird scooter on a map, unlock it, complete the safety tutorial and ride directly to their desired destination. It costs $1 to start, then a per minute fee.



1 FIND BIRDS ON THE MAP

2 SCAN QR TO BEGIN RIDE

3 WATCH SAFETY TUTORIAL

4 ENJOY THE RIDE!

Bird’s impact on the communities we serve

Prioritizing safety, first.

Bird partners with cities across the globe to develop programs that maximize the positive impact of micro-mobility.

Starting with less cars on the road

By replacing car trips with convenient options, like Bird, we can remove the biggest safety hazards from the road and make our cities safer today.

Bird leads the industry in safety.

Safety is deeply embedded across all components of our business- from our policy and operations; to our community education and engagement; to our industry leading vehicle design.

One sustainable ride at a time.

Bird’s custom vehicles are the most durable micro-mobility options on the road today. **Each Bird One and Bird Two on the road today represents:**

18+ months
OF SUSTAINABLE RIDES

1,500 pounds
OF CO2 AVOIDED

Bolstering the local economy.

58%
of Bird rides ending at local businesses helping connect shops and restaurants with riders in their community.

9X
increase in the reach of transit stations expanding the mobility and job opportunities of more residents.

2.5M
in annual take-home pay for every 1,000 Birds in a city

Leading the way on innovative solutions for cities

Bird is committed to working with cities to manage and maximize the positive impact of our partnerships. That's why we've developed industry-leading technology to measure, innovate, and improve both our fleet and our reporting. Here's just a small sample of our offering for cities:

CUSTOM IN-APP EDUCATION

Bird riders are each shown a comprehensive education program that can be customized to address your city's chief concerns.

COMMUNITY-BASED REPORTING

Every member of your community can access community mode in the Bird app to submit complaints directly to our team for fast resolution.

LOCALIZED POLICY ZONES

Bird's geo-fencing technology allows us to implement no-ride zones, no-parking zones, and reduced-speed zones with custom messaging to increase safe riding.

PARKING MANAGEMENT

Bird offers a comprehensive suite of parking tools that bridges the gap between technology and infrastructure by both directing and incentivizing riders to park in city-designated areas.

INCENTIVES FOR HELMET USAGE

The Bird app encourages—and incentivizes—responsible riding. We even give out rewards to riders who take a #BirdHelmetSelfie, showing us that they wore a helmet on their ride.

INDUSTRY-LEADING VEHICLES

Bird's best-in-class teams create innovative new vehicles from the ground-up. From self-reporting damage sensors and tip detection to an industrial-grade anti-tipping kickstand, Bird offers the most advanced shared e-scooter on the road today.

PROGRAMS FOR EQUITABLE ACCESS

Our city dashboards provide customized information about how our partnership is helping to complement the city's mobility menu. In-depth data APIs provide cities with detailed and historical information on Bird operations and rider movement within their city.

CUSTOMIZED DASHBOARDS AND ROBUST APIS

Bird provides cities with easy-to-read dashboards and in-depth APIs to help cities understand how riders move about the city and how Bird is complementing their mobility menu.

Want to learn more about if Bird would be a good partner to meet your city's goals?

Just reach out to your Bird Government Partnerships Representative.

BIRD

Hello, College Place

2021

What is Bird?

Bird is a last-mile, stand-up electric vehicle sharing company dedicated to bringing affordable, environmentally-friendly transportation solutions to communities everywhere.

Our mission is to get people out of cars and:

Solve the last-mile challenge by connecting more residents to transit options.

Reduce congestion and over-reliance on single occupancy car trips

Improve air quality and reduce Greenhouse Gas emissions

Improve the overall quality of life in cities

How it works

Using the Bird smartphone app, riders find the closest Bird scooter on a map, unlock it and complete the safety tutorial to start their ride. It costs $1 to start, then a per minute fee.

1. FIND BIRDS ON THE MAP
2. SCAN QR TO BEGIN RIDE
3. WATCH SAFETY TUTORIAL
4. ENJOY THE RIDE!

Bird Scooter

BirdZero	
Braking	Drum Brake + Regenerative Brake
Lights	Front/Rear LEDs

UNIQUE ID

8JHAK

SAFETY DECAL

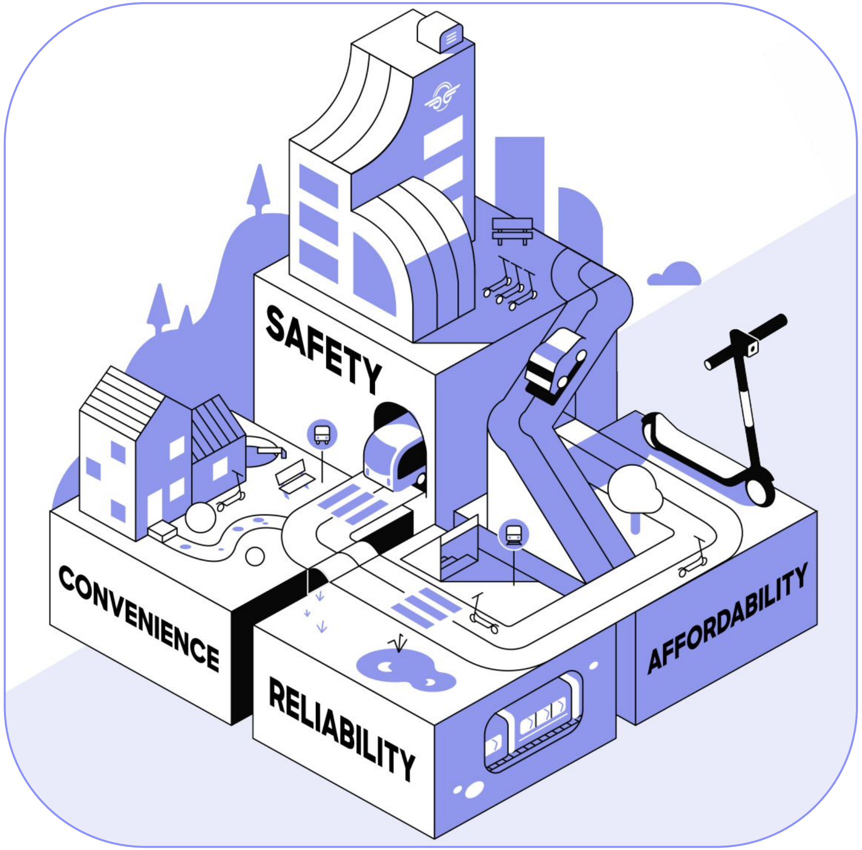
Ride Safely

Helmet Required
License Required
No Riding on Sidewalks
No Double Riding
18+ Years Old

HELLO@BIRD.CO
1·866·205·2442

Transportation Benefits

- **No cost** micromobility solution for the city
- Provide a sustainable, open-aired transportation option
- Reduce congestion & carbon emissions
- Supplement bus and transit trips
- Alternative parking solution
- Provide increased access to businesses throughout the city
- Establish a multimodal transportation network



Our Approach

We partner closely with cities to design solutions that work for your community.

YOUR TEAM

Garrett Gronowski

Account Partner

Sajni Patel

Account Manager

Get to know each other:
Understand where Bird fits into the local transportation ecosystem.

Setting Expectations:
Align on how Bird can best serve your city based on city input and Bird data.

Operating Plan:
Decision to move forward and local operational partner outreach started.

Launch Day:
Introduce a new transportation option to town.

Ongoing:
Your dedicated Account Manager will provide ongoing support and serve as your main point of contact for all city requests.

.

Localized Operations

We work with a local entrepreneur from the community to manage the fleet on the ground, and in exchange they earn money on each ride.

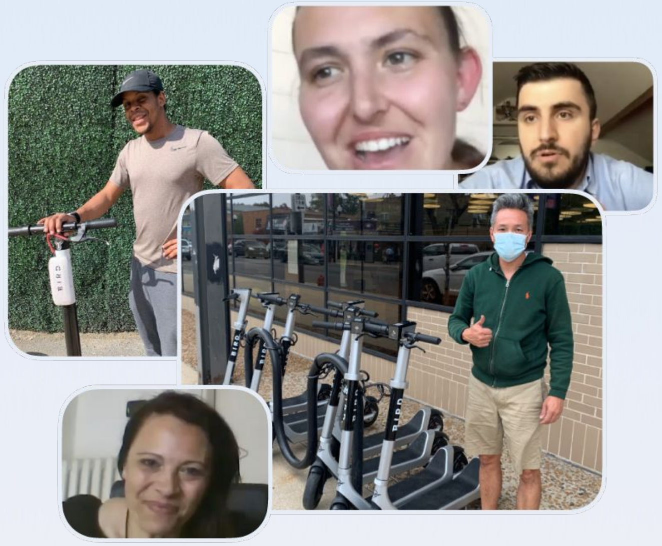
How cities benefit:

Local Touch:

- Deep community ties, local pride, and fast issue resolution
- Nuanced knowledge of where to deploy
- Economic Opportunity

Backed by the Industry Leader:

- World-class technology & compliance tools
- Operational know-how
- Industry's Safest Vehicles



> "I like being my own boss, the flexibility of setting my own schedule and being able to hire my nephew because he also needed a job. I also like being part of the growing micromobility industry. It's in line with my values regarding city transportation solutions.
>
> *- Mark, Azbri Productions, Nashville*"

The Local Impact

56%

of rides have connected to a local businesses

$70K+

average take-home earnings from local entrepreneurs partnering with Bird.

16%

more jobs accessible

Leading the way on
innovative solutions for cities

Warm Up Mode

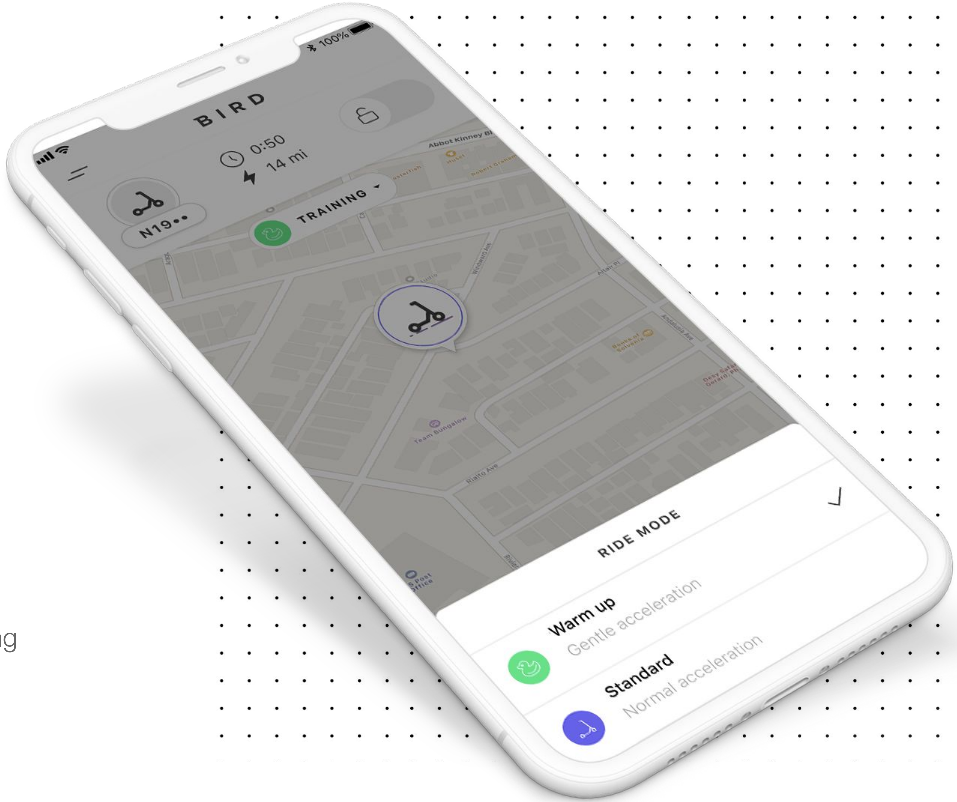
This feature offers a gentle acceleration profile that helps users learn to ride safely and confidently.

Quick Start

An industry-first feature that automatically detects when a Bird is within range and offers riders the opportunity to unlock it with the tap of a button.

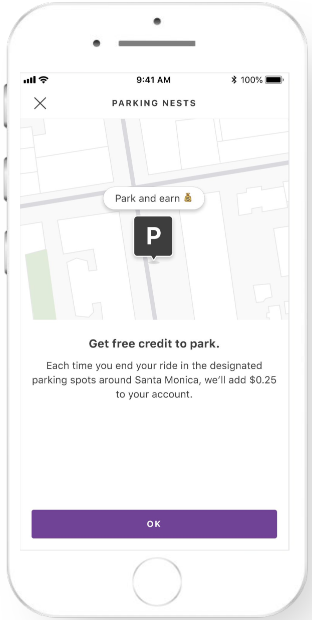
Parking Management

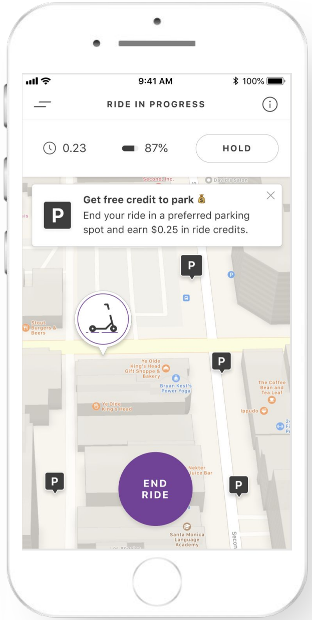
Bird offers a comprehensive suite of parking tools that bridges the gap between technology and infrastructure by both directing and incentivizing riders to park in city-designated areas.

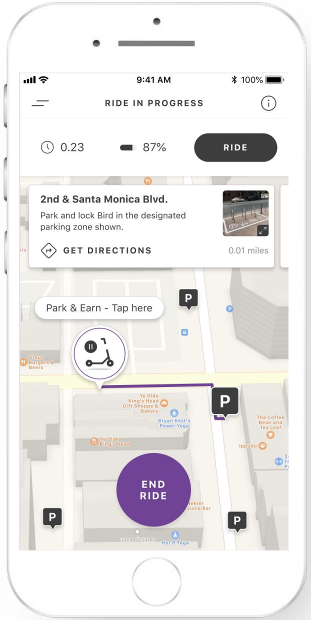


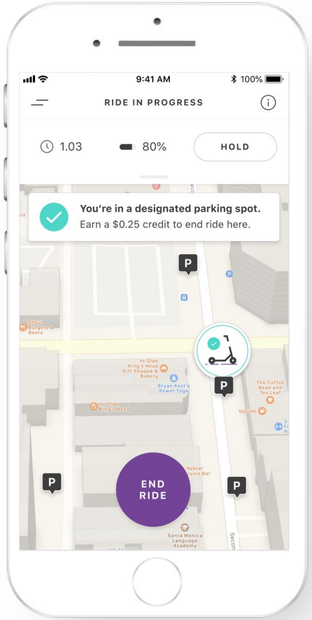
Recommended Parking Areas

Always know where to park









Identify Locations → **Direct Riders** → **Verify Parking**

Thank you

Garrett Gronowski
Senior Manager
garrett@bird.co

BIRD

Proposal

- **Launch Date:** April 1
- **Local Partner Onboarded:** March 15
- **# of Vehicles:** 50
- **Staging locations:** 25
- **Key staging areas:**
- **Prohibited Areas:**
  Roadways over 35mph

The American Rescue Plan Act

Historic Intervention! Once in a Generation Opportunity!

- The American Rescue Plan Act became law on March 11th, 2021 (P.L. 117-2)

- For the first time, all 19,000 municipal governments are entitled to a direct, non-competitive federal formula grant from the U.S. Treasury Department.

- **Direct funding means:**
    1. All cities, towns, and villages are entitled to a federal grant from the new Coronavirus Local Fiscal Recovery Fund.
    2. Aid obligated to municipalities is not in any way mingled with aid obligated to state or county governments.
    3. Aid for municipalities is protected from state our county interference by iron-clad statutes compelling states to comply, including penalties for states that fail to carry out their responsibilities to small cities and towns.

NATIONAL LEAGUE OF CITIES

Coronavirus State and Local Fiscal Recovery Funds

The $360 billion in funding under this section is broken down as follows:

- **State Governments:** $195.3 billion
- **Tribal Governments:** $20 billion to federally recognized tribal governments
- **Local Governments:** $130.2 billion split evenly into
  - $65.1 billion for 19,000+ municipal governments; and
  - $65.1 billion for 3000+ county governments
- New "**Capital Project Fund**": $10 billion for broadband grants to states
  - "to carry out critical capital projects directly enabling work, education, and health monitoring, including remote options, in response to the public health emergency."

Grant Calculations for Cities, Towns, and Villages

$65.1 billion in funding to address an estimated $90 billion combined revenue shortfall.

- Most cities will not receive a grant amount that is completely equal to their needs

Grant Calculations Based on a Modified CDBG formula

- 70% of funds, or $45.5 billion, is obligated to cities with 50,000 or more residents
  - Grant calculations based on population size, poverty rates, and measures of housing instability. *(Prioritizes targeting to need)*
- 30% of funds, or $19.5 billion, is obligated to cities with less than 50,000 residents
  - Grant calculations based on population size only. *(Prioritizes simplification)*

Small Cities Cap

- Small city grants cannot be greater than an amount equal to 75 percent of the city's most recent pre-pandemic budget.
- Blunt instrument to overcome unavailability of precise data for small localities.

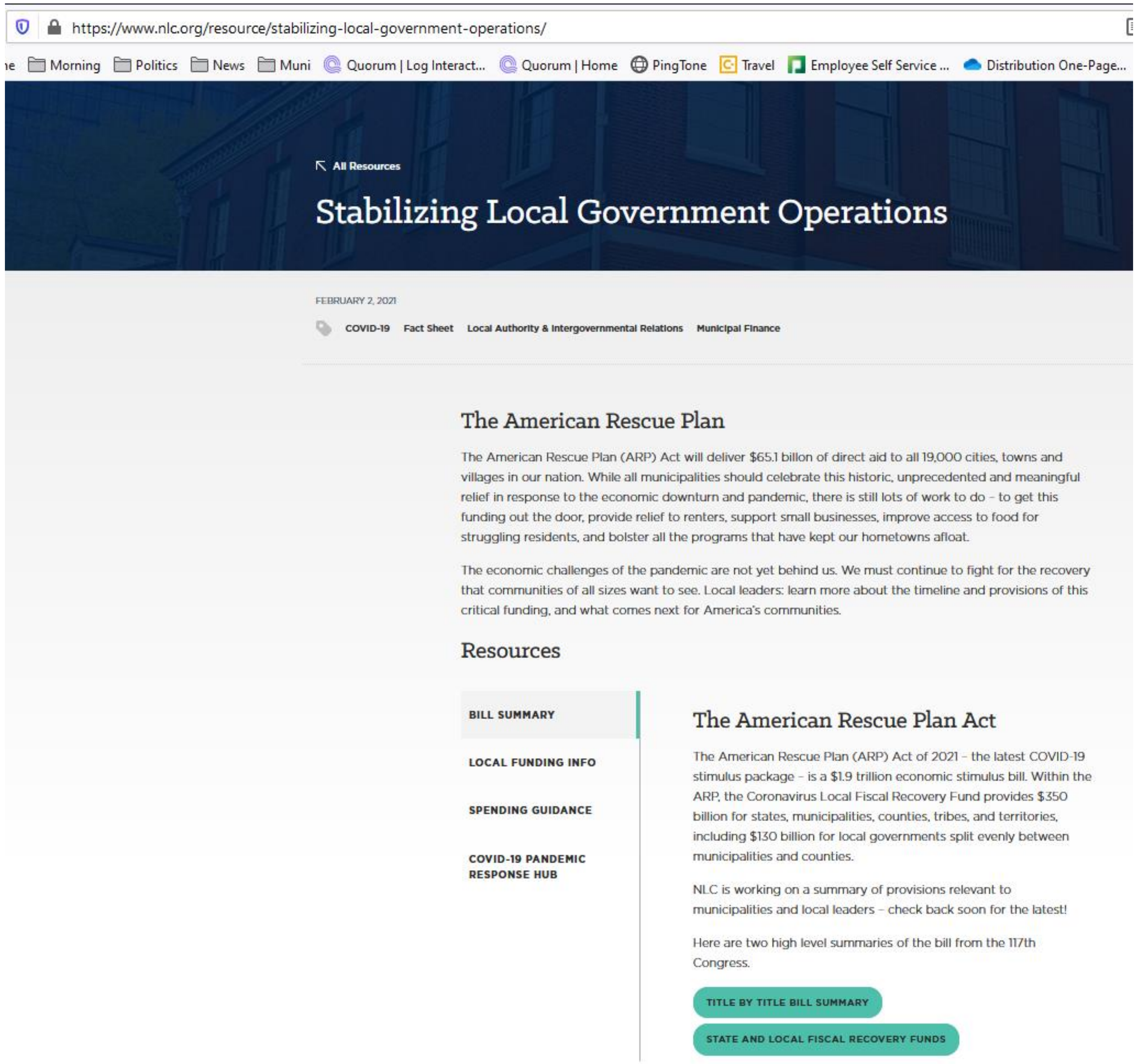
2 Year Funding Certainty

- Grants will be released in 2 tranches. ½ following enactment and ½ 12 months following receipt of first payment

Spending Deadline

- Money remains available until December 31, 2024; unexpended funds must be returned to Treasury.

Grant Estimates – We Must Be Patient!



https://www.nlc.org/resource/stabilizing-local-government-operations/

Morning Politics News Muni Quorum | Log Interact... Quorum | Home PingTone Travel Employee Self Service ... Distribution One-Page...

All Resources

Stabilizing Local Government Operations

FEBRUARY 2, 2021

COVID-19 Fact Sheet Local Authority & Intergovernmental Relations Municipal Finance

The American Rescue Plan

The American Rescue Plan (ARP) Act will deliver $65.1 billon of direct aid to all 19,000 cities, towns and villages in our nation. While all municipalities should celebrate this historic, unprecedented and meaningful relief in response to the economic downturn and pandemic, there is still lots of work to do – to get this funding out the door, provide relief to renters, support small businesses, improve access to food for struggling residents, and bolster all the programs that have kept our hometowns afloat.

The economic challenges of the pandemic are not yet behind us. We must continue to fight for the recovery that communities of all sizes want to see. Local leaders: learn more about the timeline and provisions of this critical funding, and what comes next for America's communities.

Resources

BILL SUMMARY

LOCAL FUNDING INFO

SPENDING GUIDANCE

COVID-19 PANDEMIC RESPONSE HUB

The American Rescue Plan Act

The American Rescue Plan (ARP) Act of 2021 – the latest COVID-19 stimulus package – is a $1.9 trillion economic stimulus bill. Within the ARP, the Coronavirus Local Fiscal Recovery Fund provides $350 billion for states, municipalities, counties, tribes, and territories, including $130 billion for local governments split evenly between municipalities and counties.

NLC is working on a summary of provisions relevant to municipalities and local leaders – check back soon for the latest!

Here are two high level summaries of the bill from the 117th Congress.

TITLE BY TITLE BILL SUMMARY

STATE AND LOCAL FISCAL RECOVERY FUNDS

Frequently Asked Questions

- How can recipient governments use relief allocations from the State and Local Fiscal Recovery Funds?
- How will state and local governments receive the relief allocations?
- Why have the allocations on the estimates spreadsheet changed over time?
- What will cause final allocations to differ from the estimates spreadsheet?
- What if a city, town, village, or township is not included on the estimates spreadsheet?
- What about cases where a local government appears more than once?

https://www.nlc.org/resource/stabilizing-local-government-operations/

NATIONAL LEAGUE OF CITIES

Eligible Expenditures

A. to respond to the public health emergency with respect to the Coronavirus Disease 2019 (COVID–19) or its negative economic impacts, including assistance to households, small businesses, and nonprofits, or aid to impacted industries such as tourism, travel, and hospitality;
   - *No more restrictive than the CARES Act Coronavirus Relief Fund*

B. to respond to workers performing essential work during the COVID–19 public health emergency by providing premium pay to eligible workers of the metropolitan city, nonentitlement unit of local government, or county that are performing such essential work, or by providing grants to eligible employers that have eligible workers who perform essential work;
   - *Allows a municipality to provide up to $13 per hour above regular wages.*

C. for the provision of government services to the extent of the reduction in revenue of such metropolitan city, nonentitlement unit of local government, or county due to the COVID–19 public health emergency relative to revenues collected in the most recent full fiscal year of the metropolitan city, nonentitlement unit of local government, or county prior to the emergency; or
   - *Allows revenue replacement. The base year to measure lost revenue against is not the most recent full fiscal year, but the most recent full fiscal year* ***prior to the emergency.***

D. to make necessary investments in water, sewer, or broadband infrastructure.
   - *Treasury will provide additional guidance*

Regulatory Requirements

Permissions

- Recipient governments can transfer funds to a:
  - Private nonprofit organization
  - A public benefit corporation involved in the transportation of passengers or cargo
  - A special-purpose unit of State or local government.
- No restrictions on local governments prohibiting tax-cuts or local stimulus payments

Restrictions

- Small cities may not receive more than 75 percent of the city's most recent budget
- Grant monies may not be used for pension funds - No state, metropolitan city, nonentitlement unit of local government, or county may use funds made available under this section for deposit into any pension fund.
- State governments are prohibited from spending to replace revenue declines resulting from tax cuts enacted since March 3, 2021. (Currently subject to lawsuits)

Requirements

- All grantees shall provide the Treasury Department with periodic reports providing a detailed accounting of the uses of funds

ARP: Stabilization of Households and Small Businesses is Critical for Returning to Work

- Direct Stimulus Payments
  - $1,400 per person, reduced eligibility ($80,000)
  - Local governments should have an economic mobility strategy
- Tax Credits
  - Enhances Earned Income, Dependent Care, and Child Tax Credit
  - Employee Retention Credit and Paid Leave Credit
  - Makes states and local governments eligible for FFCRA paid leave reimbursable tax credit, beginning March 31, 2021
- Benefits
  - Enhanced Unemployment Insurance
  - Extends Supplemental Nutrition Assistance Program (SNAP)
  - Extends Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)
- Limited PPP funding increase (March 31 closes) – includes nonprofit eligibility; EIDL increase
- Restaurant Revitalization Fund – grants equal to pandemic-related revenue loss
- Funding for shuttered venue operators

Health and Human Services

Health

- Supplemental vaccination and testing grants for state and local distribution
- Funding available to state and local government public health departments to support workforce
- Funding available for community health centers
- Block grants under the Substance Abuse and Mental Health Services Administration
- Medicaid and Medicare provisions that will apply at the state level, ACA provisions
- 100% COBRA subsidy

Human Services

- Child Care and Development Block Grant – these go to the State then to providers
- Child Care Stabilization grants; Child Care Entitlement to States
- Emergency Funding to states for low-income families with children
- Mental Health Services Block grant,
- Grants to Community Behavioral Health Clinics,
- Funds for Head Start, home visiting programs, child abuse prevention and treatment grants, family violence grants
- Older American Act funding, including nutrition programs
- LIHEAP for energy assistance, plus water/sewer assistance

FEMA, DOT, and ED

Federal Emergency Management Agency (FEMA)

- Maintain 100% FEMA reimbursement to states and local governments (Apply!)
- FEMA firefighter, SAFER, and emergency management performance grants (Suggest joint grant)

U.S. Department of Transportation

- Operating assistance formula grants to states to support rural transit programs/agencies
- Airport funding – costs related to operations and COVID response; non-primary airports aid

U.S. Department of Education

- ESSERF: school districts ventilation systems, support staff, reduced class sizes, PPE, learning loss remediation - - Must have plan to return to in-person operations
- IDEA funding, non-public schools through governor; School and library internet funding through FCC E-rate program
- States must maintain spending on both K-12 and higher education in FY 2022 and FY 2023 at least at the proportional levels relative to a state's overall spending, averaged over FY 2018, FY 2019 and FY 2020.
- States cannot cut per-pupil spending for high-need districts more than other districts; cannot fund highest-poverty districts below FY19 funding

Household Stabilization

Renter and Homeowner Assistance

- Emergency rent relief and utility assistance; extra for rural housing
- Homeowner Assistance Fund – mortgage payments, property taxes, utilities, insurance
- Housing – not more than 15% of funds can be used for admin by states and local governments
- VA construction funds to upgrade homes; support for state-operated facilities

Homeless Intervention

- Emergency housing vouchers to address homelessness

Utility Assistance

- University funding for lost revenue; restrictions on use, including to use for financial aid
- Low-Income Household Drinking Water and Wastewater Emergency Assistance Program created under the FY 2021 Omnibus to assist with payments for drinking water and wastewater expenses

Nutrition Assistance

- Emergency assistance through Temporary Assistance for Needy Families (TANF)
- Food supply chain – USDA purchases of food and seafood, seafood processors

Economic Support

- EDA Economic Adjustment Assistance Grants (competitive)
    - 25% reserved for states and communities to address losses in the travel, tourism or outdoor recreation sectors
- Corporation for Public Broadcasting – stabilization grants to small and rural stations

Next Steps

- NLC is working with the Treasury Department and White House on the implementation of this section of the American Rescue Plan Act, as well as work to make suggestions on guidance.

- Weekly NLC Calls on Friday @ 1:30PM EST

- If you have any input, questions or to share your ARP Story, please submit through this form which can be accessed by scanning here:

ARP Questions Form: https://bit.ly/3eVyvWt

Principles for Coronavirus Local Fiscal Recovery Fund

1. **Use dedicated grants and programs first whenever possible**
   - Save Local Fiscal Recovery Funds for gaps and priorities not eligible for other federal and state assistance programs
2. **Assess government operations AND community needs**
   - Ask valuable staff and stakeholders for help creating a comprehensive needs assessment
3. **Prioritize fiscal stability and returning to work**
   - Save pet projects for earmarks
4. **Maintain records and document success**
   - Create long-term information infrastructure for your future leaders
5. **Your Congressional Delegation is part of your success**
   - Invite Members of Congress to re-openings, ribbon-cuttings, etc...

Complete the 2021 State of the Cities Survey!

- The passage of the historic American Rescue Plan means over $65 Billion will be delivered directly to cities, towns and villages. Now the real work begins.

- What are your local priorities for this funding?

- To gauge how conditions have changed this past year, and how new funding will be used to address these challenges, NLC is conducting a short survey and we invite you to participate!

- Link to Survey

https://nlc.co1.qualtrics.com/jfe/form/SV_bynoFYkxaTqrpfo

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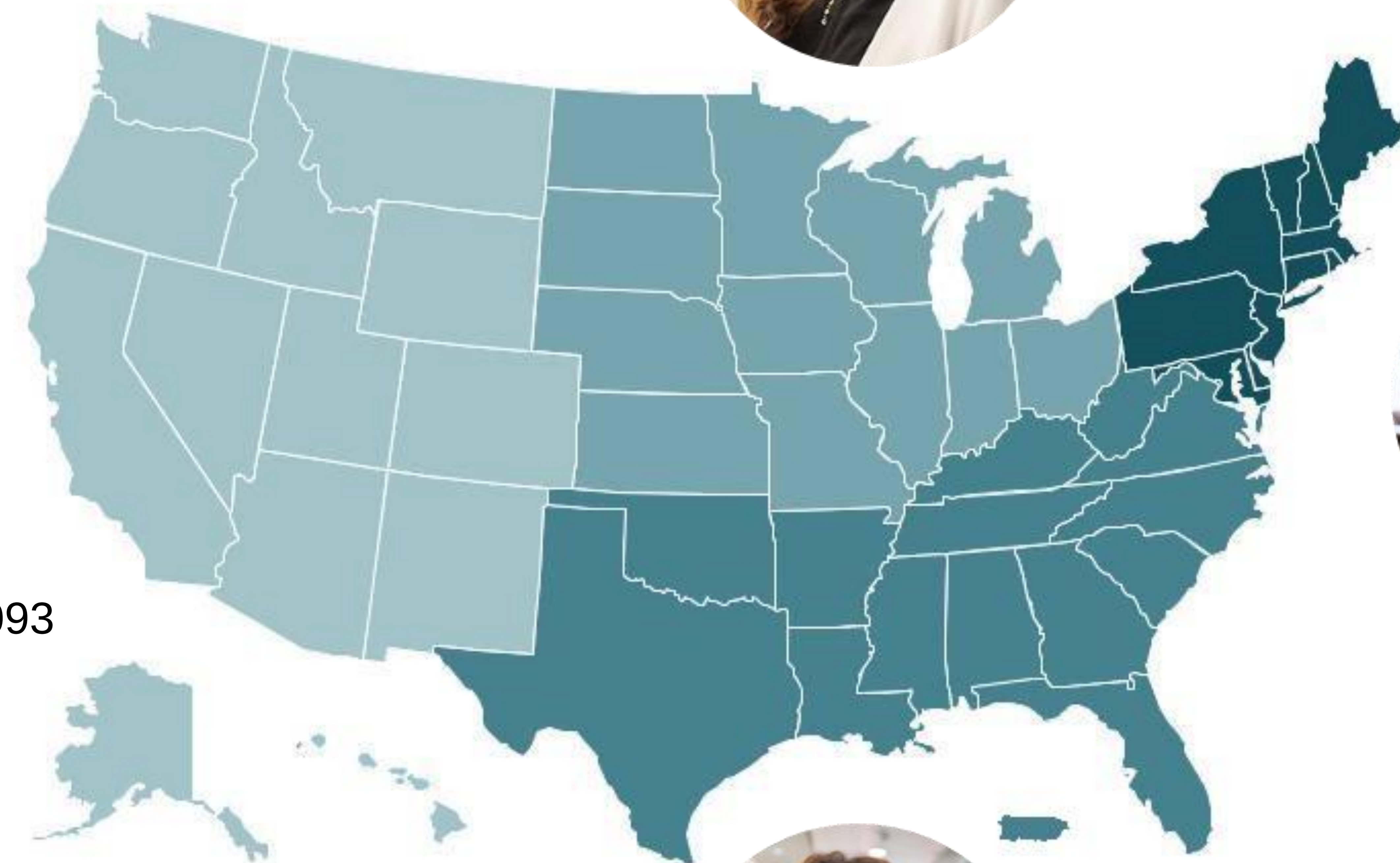

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The American Rescue Plan Act

2021

Providing direct flexible funding to cities across the country

President Joe Biden recently signed the American Rescue Plan Act (ARP) into law. The sweeping **$1.9 trillion** federal relief plan brings much needed financial assistance to individuals, businesses, and local governments across the nation.

Under the plan, U.S. cities and towns will receive **$65.1 billion** in direct and flexible federal funds. The funding will begin to arrive in the next couple of months and will be distributed in two tranches: the first in 2021 and a second in 2022.

Washington cities are projected to receive more than **$1.1 billion** in federal funding.

Cities can use ARP funds for:

- Responding to the COVID-19 pandemic
- Covering costs incurred from the public health emergency
- Replacing lost, delayed, or decreased revenues due to COVID-19
- Addressing the negative economic impacts on local businesses and nonprofits
- Making necessary investments in water, sewer, and broadband infrastructure

A chart of projected allocations for cities is available on our website. **The estimates are not official values and are subject to change.**

Funds will be available to cities through December 31, 2024.

In addition to city funding, the ARP provides **$1.4 billion** to Washington counties and critical funding to social programs, schools, small businesses, and individuals.

The bill includes funding for:

- Agriculture and nutrition programs, including extending SNAP and Pandemic EBT to keep families fed through the pandemic;
- Schools and institutions of higher education to safely reopen schools, address learning loss, and support students and staff, including broadband support for students;
- Childcare to help sustain providers and expand childcare assistance to 857,000 children;
- COVID-19 vaccinations, testing, treatment, and prevention, especially for hard-to-reach communities;
- Mental health and substance use disorder services;
- Emergency rental assistance, homeowner assistance, and other housing programs to help families pay rent, mortgages, and utilities;
- Transit agencies to prevent transit worker layoffs and prevent severe cuts to transit services that essential workers and the public rely on;
- Small business assistance, including specific programs for restaurants and live venues;
- Tribal government services;
- Extending enhanced unemployment benefits through September 2021, providing an additional $300 per week, on top of all state unemployment benefits; and
- Expanding the Child Tax Credit and the Earned Income Tax Credit, two powerful and effective tools to end poverty.

Contact:

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03/11/21

AWC ASSOCIATION OF WASHINGTON CITIES

OF WASHINGTON CITIES

Advocacy

Published on Mar 29, 2021

Five things to consider as you plan to use your city's ARP allocation

Contact: Peter King, Jacob Ewing

$1.1 billion – a huge and historic number for cities in Washington. Last year, we were thrilled that cities were allocated $187 million of the state's share of the CARES Act; however, the American Rescue Plan (ARP) Act is a whole new level of federal funding.

With such large sums of federal funds flowing into our cities in the coming months, we must take a moment to consider the good, better, and best way of using the funds to support city operations, community members, and local businesses. Here are five tips to keep in mind as you plan how to spend your ARP allocation.

1. **There are still more questions than answers.** It's been over two weeks since the ARP was signed into law. The Treasury Department has been tasked with writing up guidelines for how cities, counties, and states can use their allocations. The Treasury Department has until early May to put the guidelines together. We expect they will use most of that time developing the guidelines to ensure they cover all the questions and concerns local governments have about the federal funds.

   AWC, NLC, and the state are collecting and submitting questions to the Treasury. In a recent call with NLC staff, they estimated that they have sent over 1,000 questions to Treasury regarding ARP funding. At AWC, we have received dozens of

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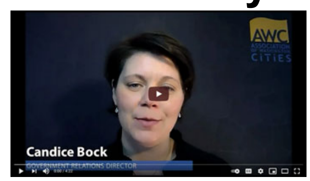

or Jacob Ewing.

2. **Check before committing funds to programs that are also receiving federal aid.** The ARP is a $1.9 trillion relief package. It includes funds for counties, tribes, states, businesses, school districts, rental assistance, broadband, utilities, public health, and so much more. Before committing to funding any local programs, make sure to verify if there are available federal dollars specifically for those programs. Remember, once you've spent your city's allocation, that money is gone. For a holistic view of the act, take a look at this breakdown from the Senate Democrats.

3. **You don't need to spend all the money right now.** Unlike the CARES Act that had a very tight deadline, the ARP allows cities to spend funds until the end of 2024. While the money is coming in two tranches over the next year, you are not required to spend either tranche right away. You should take time to collect community and staff input on how funds should be spent, consider what needs should be addressed right away and which needs can be addressed in the coming few years. Again, they are one-time federal dollars, and once they are spent, they are spent.

4. **Document, document, document.** The ARP Act includes a reporting requirement for all jurisdictions that receive federal funds. It is not entirely clear if it will be a direct reporting requirement or if the federal government will conduct random audits over the coming years. No matter how the federal government decides to accomplish the requirement, it is critical that cities document both how and why money is being spent in their community.

press.

5. **Communicate with your federal representatives.** Support for the ARP Act was highly partisan. Whether or not your federal representatives voted to support the ARP, it is still important to keep them informed about how your city is using the funds. Consider inviting them to a ribbon-cutting ceremony for a local business re-opening after the pandemic. Send them a video of a local nonprofit helping a family move into a home. Invite them to an open house discussing local infrastructure improvements funded through the ARP. Showing our federal elected officials that cities are good stewards of federal funds will help win future federal support if cities ever need direct federal dollars again.

We look forward to these critical funds arriving in Washington and seeing how our 281 cities use them to support their local communities.

Advocacy COVID-19 Federal

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American Rescue Plan Provides More Relief to Local Governments

March 17, 2021 by Eric Lowell
Category: Revenues , COVID-19

On March 11, 2021, the American Rescue Plan Act ("ARPA" or "ARP") was signed into law, which means many local government agencies in Washington State will receive a new round of relief. ARPA is a $1.9 trillion package that includes direct relief to states, counties, cities, and towns as well as public utilities, libraries, and transit agencies.

Although MRSC does not yet know all the logistics on the rollout of the ARPA funds and programs, this blog will provide preliminary information regarding programs that will be of interest to local governments in Washington State.

County, City, and Town Local Fiscal Recovery Funds

Title IX, Subtitle M (Sec. 9901) of ARPA establishes the State and Local Fiscal Recovery Funds program, adding several sections to Title VI of the Social Security Act. The new Section 603 establishes the Local Fiscal Recovery Fund, discussed here. (Section 602 establishes the State Fiscal Recovery Fund and pertains solely to states, territories, and tribes.)

Final numbers have not been released, but the U.S. Conference of Mayors has shared an early estimate (Excel download) of how much direct relief will be received by local counties, cities, and towns. (There are separate tabs for metro cities, counties, and other non-counties.)

The U.S. Treasury will disburse payments in two installments, or “tranches,” with the first distribution no later than May 10, 2021, and the second distribution no earlier than twelve months after the first payment.

Counties and designated “metropolitan” cities will receive their first tranche/distribution directly from the U.S. Treasury no later than May 10, 2021.

All other cities and towns will receive their distributions through the State. The State has an additional 30 days to distribute the recovery funds to recipients which means those cities would receive their distribution by June 9, 2021. The State can apply for a 30-day extension should distribution of the funds cause an "excessive administrative burden," in which case those cities would receive their distribution at the latest by July 9, 2021.

These local fiscal recovery funds will remain available to cover qualifying expenses through December 31, 2024. ARPA funds can be used by local governments:

- To respond to the public health emergency caused by COVID-19;
- To provide assistance to households, small businesses, and nonprofits related to the negative economic impacts of COVID-19;
- To aid impacted industries such as tourism, travel, and hospitality;
- For premium pay (hazard pay) up to $13/hour, not to exceed $25,000 to any individual employee, to eligible local government essential workers;
- For grants to eligible private employers to provide hazard pay to essential workers;
- To provide government services to the extent of the reduction in revenue of such cities/counties due to COVID-19 relative to revenues collected in the most recent full fiscal year prior to the emergency (for cities and counties in Washington, the baseline would be the calendar year 2019 budget); or
- To make necessary investments in water, sewer, or broadband infrastructure.

As it did with the CARES Act, the U.S. Treasury Department is expected to issue more detailed guidelines for the expenditure of funds in the near future. We will post links to this guidance on our website once it is available.

Local governments may also transfer funds to private nonprofit organizations, a public benefit corporation involved in the transportation of passengers or cargo, or a special purpose unit of a State or local government. The legislation does make clear that ARPA funds may not be used for deposit into any pension fund under any circumstances.

When transferring funds to private organizations or individuals, local governments must be mindful of the prohibition on gifts of public funds in Washington State. Historically, MRSC has advised agencies that contributions of funds in the form of grants or loans is generally prohibited. On March 17, 2020, the Washington Attorney General issued a memo to state and local governments clarifying that public funds may be spent "for the primary purpose of protecting and promoting public health which may have an incidental benefit on private citizens and entities." On April 6, 2020, the Attorney General's Office issued further guidance that "loans or grants are permissible if local governments can establish a clear nexus between such programs and either protecting the local economy or promoting compliance with public health guidelines."

Local governments are ultimately responsible for the appropriate use of funds and should ensure that proper internal controls are in place, as well a proper documentation of expenditures. If your entity chooses to transfer ARPA funds to another agency, it should have appropriate contract language to ensure compliance and guidance standards are being met.

Utility Ratepayer Protection

ARPA appropriates $500 million to the Secretary of Health and Human Services for public drinking and wastewater services (see Section 2912). These funds are directed towards reducing the arrearages of low-income households, particularly those with the lowest incomes, that have been impacted by the COVID-19 pandemic. Grants will provide funding to "owners and operators of public water systems or treatment works."

As of the publication date of this blog, the US Department of Health and Human Services (HHS) has yet to post information regarding ARPA grants on the Coronavirus (COVID-19) Grant Opportunities and Guidance webpage.

Additionally, ARPA appropriates $4.5 billion to the Low-Income Home Energy Assistance Program (LIHEAP) (see Section 2911). LIHEAP is a federal program that provides energy assistance to eligible households. Washington State's LIHEAP program is administered through the Department of Commerce (DOC), which maintains a LIHEAP webpage that includes information about eligibility, services, and county-specific links. Since households are responsible for applying for LIHEAP assistance, local energy utilities may want to provide information about LIHEAP on their website and/or include information with their billings. Households that qualify for support will have payments paid directly to their energy utility.

The funds for water and energy assistance are in addition to the amounts appropriated by the Coronavirus Response Relief Supplemental Appropriations Act (CRRSA) and discussed in our recent blog post New Federal Funding for Rent and Utility Assistance.

Public Transportation

Another provision of ARPA makes available $30.5 billion in grants from the Federal Transit Administration (FTA) for the operating expenses of public transit agencies (see Section 3401). These grants can be used for:

- Payroll;
- Operating expenses to maintain service (including purchase of personal protective equipment, or PPE); or
- Payment of administrative leave due to reductions in service.

Expenses must be included in a transportation improvement plan, long-range transportation plan, statewide transportation plan, or statewide transportation improvement plan.

As of the publication date of this blog, the FTA does not have information regarding the new appropriations. Information regarding programs under the CARES Act and the Coronavirus Response and Relieve Supplemental Appropriations Act (CRRSA) can be found on the FTA COVID-19 FAQ webpage.

Libraries

ARPA appropriates $200 million to the Institute of Museum and Library Services (IMLS) for the necessary expenses to carry out museum and library services (see Section 2023). 89% of these funds will be distributed to state library agencies, which will be responsible for administering these funds to local libraries. Once available, information on the ARPA grants will be on posted on the Washington State Library Grants Information webpage.

FFCRA Leave

The Families First Coronavirus Response Act in 2020 required employers to provide additional paid leave to qualifying employees related to COVID-19. This requirement expired on December 31, 2020.

However, as part of the CRRSA, employers were given the option to allow employees who did not exhaust their FFCRA leave to use any remaining leave until March 31, 2021. ARPA gives employers the option to give workers an additional 10 days of leave for the same qualifying reasons under FFCRA, and adds the additional qualifying reason for the leave (see Section 9641):

> [If] the employee is seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID–19 and such employee has been exposed to COVID–19 or the employee's employer has requested such test or diagnosis, or the employee is obtaining immunization related to COVID–19 or recovering from any injury, disability, illness, or condition related to such immunization...

The new, additional 10 days of leave, with the newly added reason for qualification, are available beginning April 1, 2021 until September 30, 2021. Employers are not mandated to offer the additional 10 days of leave, and as was the case with the original FFCRA leave, it appears local governments are not eligible for the payroll tax credits on their Form 941.

Other Grant Opportunities

The ARPA legislation is over six hundred pages long, and this article only covers areas most pertinent to local governments. Also included in ARPA are several other potential grant opportunities for local governments. Your agency may want to pursue funding available in these areas, such as:

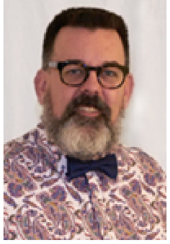
- Block grants for community mental health services (Section 2701)
- Block grants for prevention and treatment of substance abuse (Section 2702)
- Grants for local substance use disorder services (Section 2706)
- Grants for local behavioral health needs (Section 2707)
- Homelessness assistance and supportive services (Section 3205)

Keep Updated

MRSC has a topic page on COVID-19 Local Government Fiscal Impacts that includes the latest updates and information on budget impacts, financial reporting, and links related to COVID-19. As we receive new information regarding ARPA, it will be updated on the topic page.

Since ARPA was just passed, granting agencies do not have information about their programs related to the legislation. Check the program links listed in this post periodically over the next weeks in order to keep apprised of updates. For additional questions, please do not hesitate to email me, use our online Ask MRSC form, or call us at (206) 625-1300 or (800) 933-6772.

MRSC is a private nonprofit organization serving local governments in Washington State. Eligible government agencies in Washington State may use our free, one-on-one Ask MRSC service to get answers to legal, policy, or financial questions.



About Eric Lowell

Eric Lowell joined MRSC in December 2020 as a Finance Consultant. He has been involved in local government finance for over 13 years, including working in city government as well as for a special purpose district.

Eric received a B.A. in Secondary Education from Arizona State University and a B.S. in Accounting from Central Washington University.

VIEW ALL POSTS BY ERIC LOWELL

These estimates are not official values from the U.S. Treasury and are subject to change.

Projected entitlement community allocations

Note: Estimates use FY2020 HUD data to identify populations eligible for assistance, and may not include localities that relinquished their CDBG allocation in that year. Funding to localities on this list would be reduced to the extent that such cities apply for and receive funding as a metro city under this proposal.

Anacortes	$2,890,000
Auburn	$15,760,000
Bellevue	$20,750,000
Bellingham	$21,000,000
Bremerton	$11,370,000
East Wenatchee	$3,560,000
Everett	$22,630,000
Federal Way	$18,330,000
Kennewick	$17,010,000
Kent	$28,410,000
Lakewood	$14,860,000
Longview	$8,320,000
Marysville	$9,600,000
Mount Vernon	$9,570,000
Olympia	$10,060,000
Pasco	$18,400,000
Richland	$7,610,000
Seattle	$239,020,000
Spokane	$84,360,000
Tacoma	$63,030,000
Vancouver	$32,610,000
Walla Walla	$9,990,000
Wenatchee	$5,920,000
Yakima	$25,520,000

These estimates are not official values from the U.S. Treasury and are subject to change.

Projected nonentitlement community allocations

Note: Estimates use 2019 Census data to identify populations eligible for assistance, and do not include villages or other sublocal entities that may also qualify for funding. Projected amounts may be distributed to more nonentitlement governments than are listed in the breakdown to the extent that eligible nonentitlement governments have overlapping populations (for example, residents of a village government and town government in New York). What this means is that village AND town governments will be receiving a direct allocation of federal assistance, as intended by the legislation, but village amounts are not included because of the complications of calculating those amounts until a process is put in place to divvy up funds between overlapping governments. Identification of eligible governments and distribution of assistance across units with overlapping populations may reflect decisions made by the Department of Treasury and state governments.

These projected allocations do not account for the 75% cap limitation.

City	Allocation
Aberdeen	$3,649,040
Airway Heights	$2,065,597
Albion	$131,536
Algona	$698,623
Almira	$60,977
Arlington	$4,469,399
Asotin	$280,712
Bainbridge Island	$5,509,276
Battle Ground	$4,628,157
Beaux Arts Village	$70,559
Benton City	$761,124
Bingen	$161,589
Black Diamond	$1,041,183
Blaine	$1,221,065
Bonney Lake	$4,605,509
Bothell	$10,325,808
Brewster	$513,296
Bridgeport	$569,046
Brier	$1,517,893
Buckley	$1,101,507
Bucoda	$128,923
Burien	$11,215,420
Burlington	$2,008,758
Camas	$5,317,633
Carbonado	$160,065
Carnation	$496,963
Cashmere	$690,783
Castle Rock	$500,447
Cathlamet	$124,567
Centralia	$3,864,420
Chehalis	$1,666,851
Chelan	$922,713

These estimates are not official values from the U.S. Treasury and are subject to change.

Cheney	$2,726,980
Chewelah	$582,766
Clarkston	$1,606,092
Cle Elum	$443,608
Clyde Hill	$737,387
Colfax	$625,450
College Place	$2,029,011
Colton	$99,741
Colville	$1,052,289
Conconully	$45,297
Concrete	$160,718
Connell	$1,207,563
Cosmopolis	$361,942
Coulee City	$122,825
Coulee Dam	$235,197
Coupeville	$429,453
Covington	$4,611,389
Creston	$49,871
Cusick	$47,257
Darrington	$309,458
Davenport	$379,800
Dayton	$531,807
Deer Park	$950,371
Des Moines	$7,044,590
DuPont	$2,072,348
Duvall	$1,765,503
Eatonville	$658,988
Edgewood	$2,842,619
Edmonds	$9,278,310
Electric City	$218,211
Ellensburg	$4,597,451
Elma	$729,765
Elmer City	$54,008
Endicott	$66,421
Entiat	$278,752
Enumclaw	$2,654,679
Ephrata	$1,771,819
Everson	$618,699
Fairfield	$136,327
Farmington	$33,102
Ferndale	$3,244,196
Fife	$2,217,822
Fircrest	$1,488,493
Forks	$844,968
Friday Harbor	$557,940

These estimates are not official values from the U.S. Treasury and are subject to change.

Garfield	$132,625
George	$112,372
Gig Harbor	$2,333,896
Gold Bar	$512,207
Goldendale	$763,302
Grand Coulee	$228,228
Grandview	$2,412,513
Granger	$834,079
Granite Falls	$922,060
Hamilton	$67,510
Harrah	$139,376
Harrington	$91,030
Hartline	$33,537
Hatton	$22,649
Hoquiam	$1,884,844
Hunts Point	$94,732
Ilwaco	$215,815
Index	$45,951
Ione	$102,790
Issaquah	$8,604,078
Kahlotus	$42,031
Kalama	$609,335
Kelso	$2,704,114
Kenmore	$5,029,952
Kettle Falls	$356,062
Kirkland	$20,255,266
Kittitas	$326,009
Krupp	$11,324
La Center	$741,307
La Conner	$206,669
LaCrosse	$69,470
Lacey	$11,453,230
Lake Forest Park	$2,940,836
Lake Stevens	$7,384,973
Lamont	$16,115
Langley	$248,264
Latah	$40,724
Leavenworth	$441,866
Liberty Lake	$2,385,944
Lind	$122,607
Long Beach	$325,792
Lyman	$103,008
Lynden	$3,315,191
Lynnwood	$8,523,937
Mabton	$493,914

These estimates are not official values from the U.S. Treasury and are subject to change.

Malden	$44,862
Mansfield	$74,697
Maple Valley	$5,923,919
Marcus	$37,457
Mattawa	$1,036,174
McCleary	$384,155
Medical Lake	$1,081,471
Medina	$716,045
Mercer Island	$5,639,070
Mesa	$110,630
Metaline Falls	$54,662
Metaline	$39,853
Mill Creek	$4,550,847
Millwood	$391,995
Milton	$1,807,316
Monroe	$4,306,721
Montesano	$882,425
Morton	$261,112
Moses Lake	$5,245,332
Mossyrock	$178,576
Mountlake Terrace	$4,646,886
Moxee	$893,749
Mukilteo	$4,669,317
Naches	$184,456
Napavine	$435,768
Nespelem	$85,368
Newcastle	$2,676,892
Newport	$478,888
Nooksack	$355,191
Normandy Park	$1,438,187
North Bend	$1,616,545
North Bonneville	$219,300
Northport	$65,550
Oak Harbor	$5,131,871
Oakesdale	$95,603
Oakville	$150,700
Ocean Shores	$1,414,232
Odessa	$194,691
Okanogan	$563,602
Omak	$1,040,530
Oroville	$364,773
Orting	$1,875,044
Othello	$1,826,262
Pacific	$1,563,190
Palouse	$234,108

These estimates are not official values from the U.S. Treasury and are subject to change.

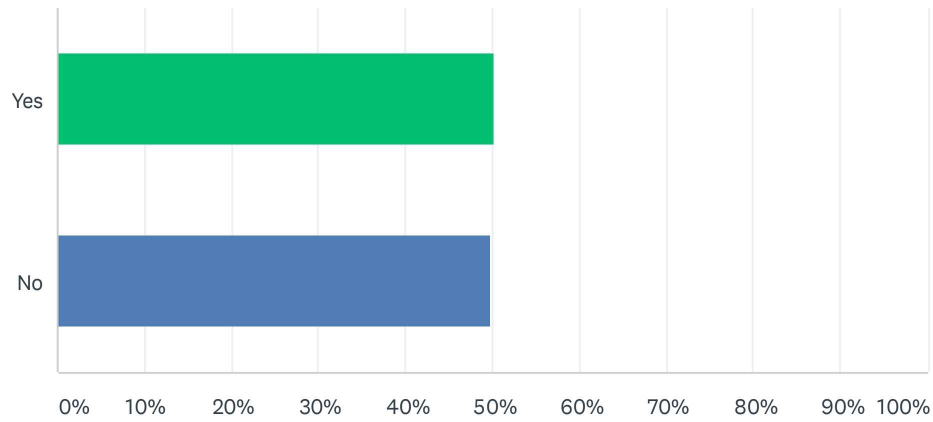
Pateros	$155,491
Pe Ell	$146,998
Pomeroy	$303,796
Port Angeles	$4,405,373
Port Orchard	$3,178,864
Port Townsend	$2,140,947
Poulsbo	$2,432,113
Prescott	$66,421
Prosser	$1,389,405
Pullman	$7,514,549
Puyallup	$9,225,173
Quincy	$1,749,388
Rainier	$498,052
Raymond	$652,019
Reardan	$132,843
Redmond	$15,664,348
Renton	$22,158,839
Republic	$232,148
Ridgefield	$1,993,296
Ritzville	$360,200
Riverside	$59,453
Rock Island	$244,779
Rockford	$105,839
Rosalia	$121,519
Roslyn	$208,629
Roy	$179,011
Royal City	$487,163
Ruston	$184,020
Sammamish	$14,349,640
SeaTac	$6,325,061
Sedro-Woolley	$2,628,982
Selah	$1,761,148
Sequim	$1,663,802
Shelton	$2,320,394
Shoreline	$12,419,063
Skykomish	$47,911
Snohomish	$2,211,289
Snoqualmie	$2,966,533
Soap Lake	$349,094
South Bend	$369,782
South Cle Elum	$121,736
South Prairie	$96,474
Spangle	$69,470
Spokane Valley	$22,008,356
Sprague	$100,177

These estimates are not official values from the U.S. Treasury and are subject to change.

Springdale	$65,333
St. John	$121,736
Stanwood	$1,586,927
Starbuck	$27,875
Steilacoom	$1,391,583
Stevenson	$348,658
Sultan	$1,173,372
Sumas	$334,067
Sumner	$2,270,741
Sunnyside	$3,657,751
Tekoa	$174,002
Tenino	$406,151
Tieton	$284,850
Toledo	$167,905
Tonasket	$244,126
Toppenish	$1,918,381
Tukwila	$4,431,071
Tumwater	$5,231,830
Twisp	$209,717
Union Gap	$1,350,206
Uniontown	$74,915
University Place	$7,404,573
Vader	$145,909
Waitsburg	$268,081
Wapato	$1,091,053
Warden	$612,384
Washougal	$3,507,704
Washtucna	$45,297
Waterville	$264,161
Waverly	$23,737
West Richland	$3,282,960
Westport	$457,328
White Salmon	$586,033
Wilbur	$187,504
Wilkeson	$111,936
Wilson Creek	$46,822
Winlock	$310,983
Winthrop	$102,790
Woodinville	$2,888,352
Woodland	$1,414,450
Woodway	$302,925
Yacolt	$391,124
Yarrow Point	$250,224
Yelm	$2,059,282
Zillah	$683,814

Q1 Should the current rules remain the same. July 1 – 4th between 9:00 and 11:00, and on December 31 between 6:00 pm and 1:00 AM?

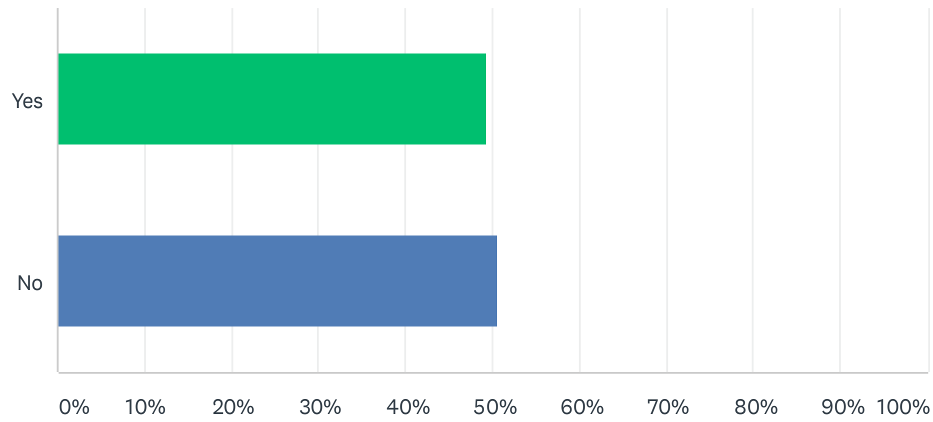
Answered: 163   Skipped: 3



ANSWER CHOICES	RESPONSES	
Yes	50.31%	82
No	49.69%	81
TOTAL		163

Q2 Would you like an amendment to allow fireworks only on the day of July 4th from 9:00 AM until Midnight (matches city of Walla Walla)?

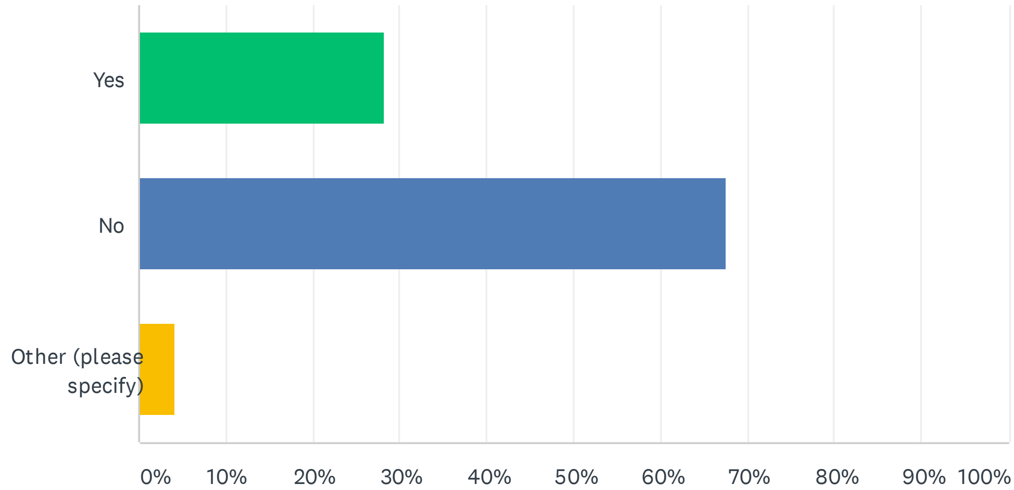
Answered: 164 Skipped: 2



ANSWER CHOICES	RESPONSES	
Yes	49.39%	81
No	50.61%	83
TOTAL		164

Q3 Would you like to ban the use of fireworks in the City of College Place?

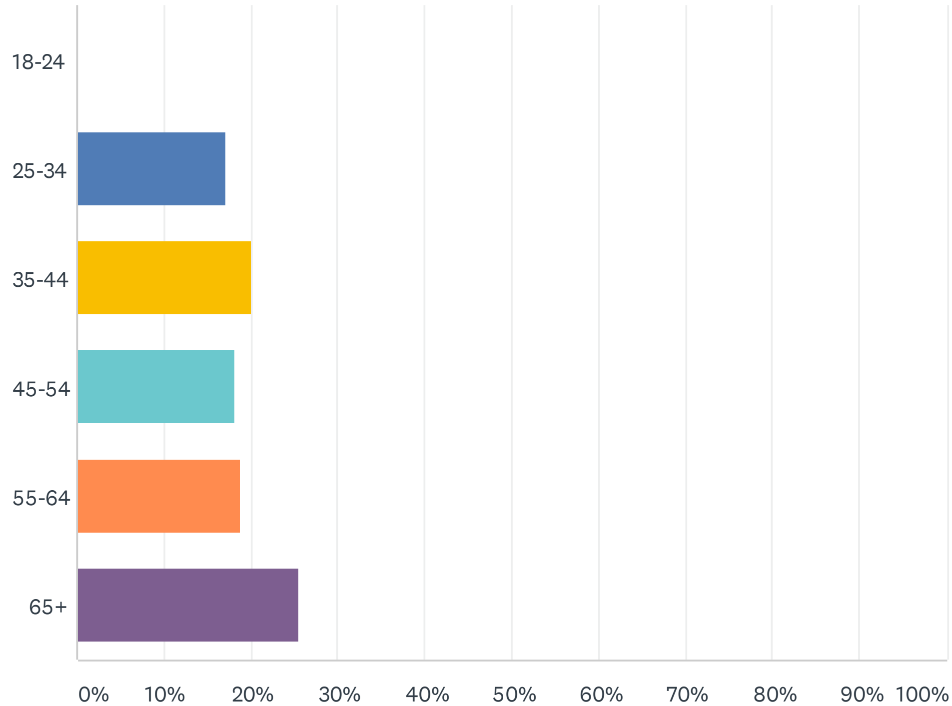
Answered: 166 Skipped: 0



ANSWER CHOICES	RESPONSES	
Yes	28.31%	47
No	67.47%	112
Other (please specify)	4.22%	7
TOTAL		166

Q4 What is your age?

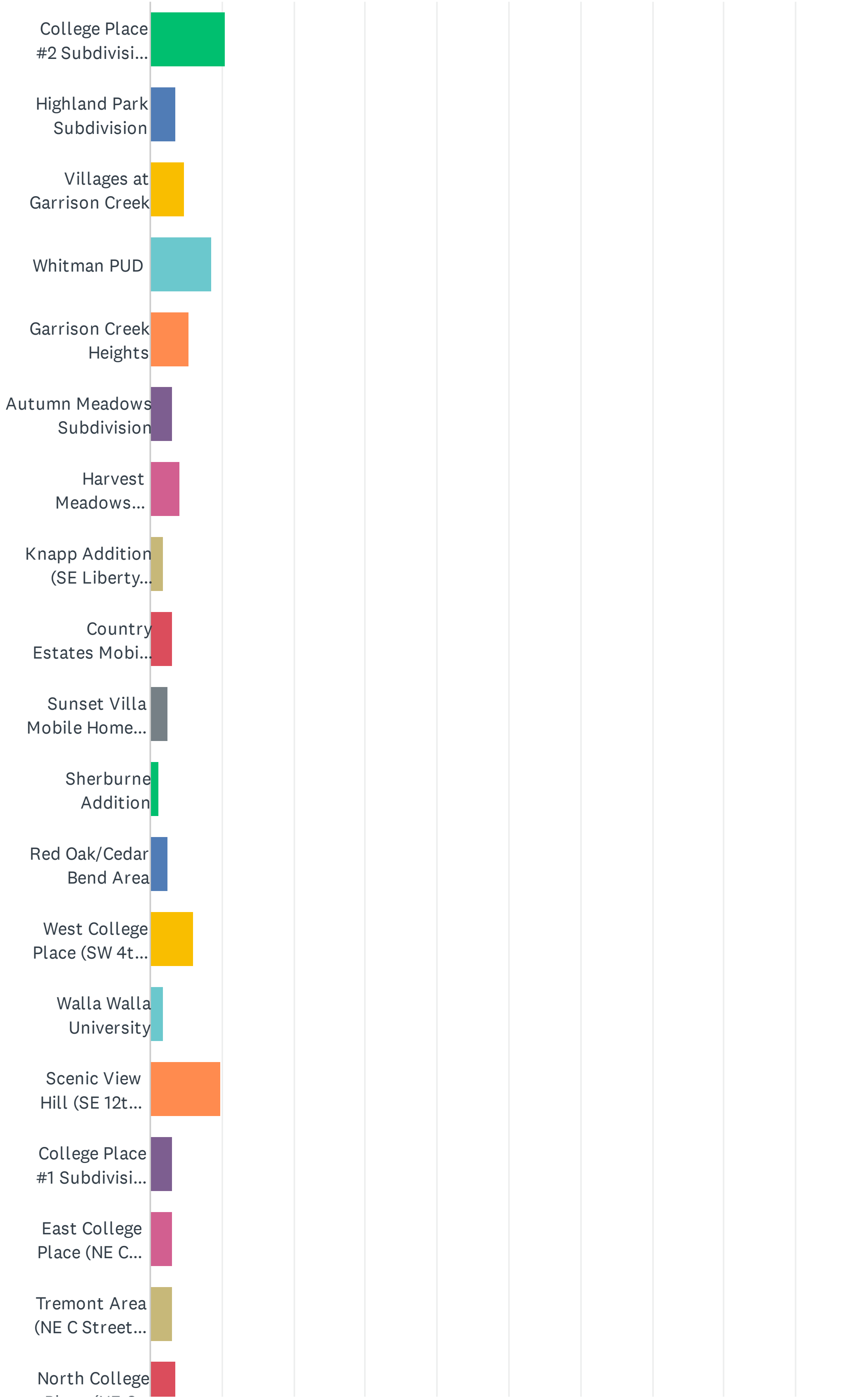
Answered: 164   Skipped: 2

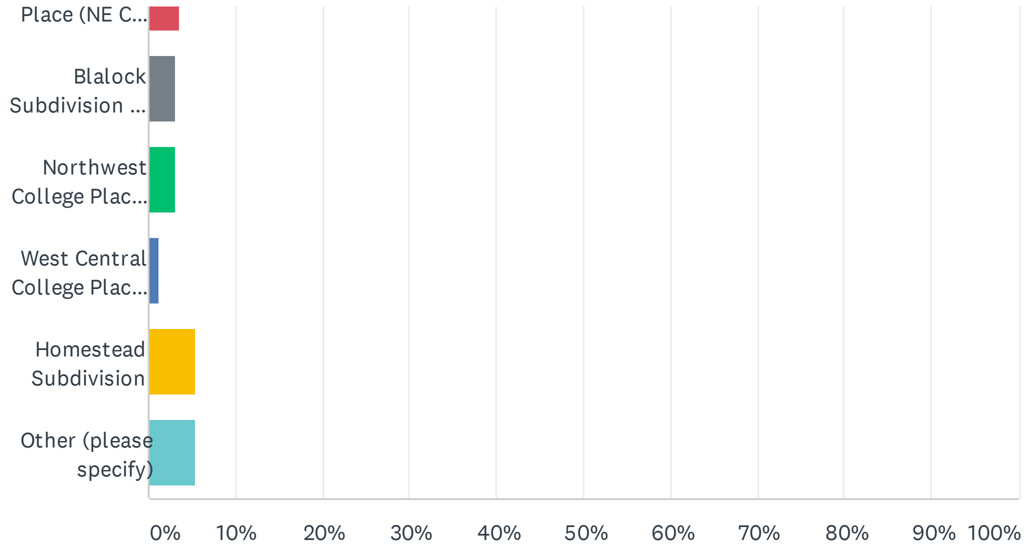


ANSWER CHOICES	RESPONSES	
18-24	0.00%	0
25-34	17.07%	28
35-44	20.12%	33
45-54	18.29%	30
55-64	18.90%	31
65+	25.61%	42
TOTAL		164

Q5 What neighborhood do you reside in?

Answered: 164 Skipped: 2




Place (NE C...
Blalock Subdivision ...
Northwest College Plac...
West Central College Plac...
Homestead Subdivision
Other (please specify)
0%
10%
20%
30%
40%
50%
60%
70%
80%
90%
100%

ANSWER CHOICES	RESPONSES	
College Place #2 Subdivision (Bounded by SE 4th, SE 12th, College Ave, SE Larch Ave)	10.37%	17
Highland Park Subdivision	3.66%	6
Villages at Garrison Creek	4.88%	8
Whitman PUD	8.54%	14
Garrison Creek Heights	5.49%	9
Autumn Meadows Subdivision	3.05%	5
Harvest Meadows Subdivision	4.27%	7
Knapp Addition (SE Liberty Way, SE Constitution Ave, SE Justice Ave area)	1.83%	3
Country Estates Mobile Home Community	3.05%	5
Sunset Villa Mobile Home Community	2.44%	4
Sherburne Addition	1.22%	2
Red Oak/Cedar Bend Area	2.44%	4
West College Place (SW 4th, SW Mojonnier, College Ave, Western City Limits)	6.10%	10
Walla Walla University	1.83%	3
Scenic View Hill (SE 12th, SE Larch, SE Lamperti, College Ave)	9.76%	16
College Place #1 Subdivision (College Ave, Whitman Drive, SE Elm Ave, SE 4th Street)	3.05%	5
East College Place (NE C Street, SE Tamarack, NE Larch, Myra Rd)	3.05%	5
Tremont Area (NE C Street, Whitman Drive, College Ave, NE Larch Ave)	3.05%	5
North College Place (NE C Street, North City Limits, College Ave, NE Myra Rd)	3.66%	6
Blalock Subdivision (NW Maria, NW Blalock)	3.05%	5
Northwest College Place (Whitman Drive, College Avenue, Railroad Tracks, NW Hussey)	3.05%	5
West Central College Place (SW 4th, SW Academy Way, Whitman Drive, SW Davis)	1.22%	2
Homestead Subdivision	5.49%	9
Other (please specify)	5.49%	9
TOTAL		164

Community Council

Affordable Housing Implementation Task Force
Group B: Local Policies & Regulations Subcommittee

Report on Policies to Help Preserve Manufactured Home Parks

The Affordable Housing Implementation Task Force Local Policies and Regulations Subcommittee is advocating for the preservation of manufactured housing communities. The following report explains several policy options that could be implemented locally to help preserve the manufactured home parks in our region. This report explores:

- Manufactured home park Opportunity to Purchase (OTP) legislation
- Non-profit organizations that support residents' ability to purchase the manufactured home parks in which they live
- Tax policies that incentivize the sale of manufactured home parks to residents
- Manufactured housing zoning
- Zoning ordinances placing conditions on manufactured home park closure
- A moratorium on manufactured home park redevelopment

The following stakeholders were consulted:

- Randy Chapman, Association of Manufactured Home Owners (AMHO) Board Member
- Ishbel Dickens, the lawyer who drafted HB 2610 and founder of AMHO
- Sam Green, Northwest Cooperative Development Center Financial Officer
- Rose Ojeda, CASA of Oregon Program Manager
- Miles Nowlin, ROC Northwest Development Specialist
- Anne Sadler, President of Association of Manufactured Home Owners
- Craig Rongey, Manufactured Housing Communities of Washington (MHCW) Southeast WA Chapter President and owner of Country Estates Manufactured Housing Community in College Place and Golden West Estates Manufactured Housing Community in Walla Walla
- Skyler Rude, 16th District Representative

Opportunity to Purchase Legislation

WA State House Bill 2610

Washington State House Bill 2610, "Concerning the sale or lease of manufactured/mobile home communities and the property on which they sit," would amend the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA) as follows:

- require landlords to provide notices of opportunity to purchase to residents in the event of the sale or lease of manufactured/mobile home community;
- provide certain organizations (homeowners' associations, local governments, local housing authorities, nonprofit community organizations, federally recognized Indian tribes, regional or statewide housing assistance organizations, community land trusts, and resident nonprofit cooperatives) 45 days to express intent to purchase or lease and 120 days to make an offer, during which time the landlord shall not make a final unconditional acceptance of an offer from others;
- require, rather than encourage, landlords to negotiate in good faith; and
- impose civil penalties for failure to comply.

In 2019-2020, HB 2610 passed the State House of Representatives. The bill did not make it out of Senate committee and was not presented for a vote in the Senate. The 2019-2020 legislative session was a short session, and advocates of the bill intend to resubmit it during the next session.

Arguments against HB 2610

- Craig Rongey, local chapter president of the Manufactured Housing Communities of Washington (MCHW) opposed the bill because he considers it to be a 'right of first refusal' for manufactured homeowners, and as such constitutes an unacceptable level of government interference in a private transaction.
    - Rongey said that government does not have the right to "dictate" to an owner how they should conduct their business, but he is ok with the government "encouraging" owners to negotiate with residents.
- Rongey did not like the 120-day period which residents would be granted to make an offer, because he thought that was too much time for the exchange of property.
- Rongey believes that MHCW is generally supportive of ROC purchases, if residents are prepared in advance for when a park is for sale.
- Representative Skyler Rude opposed the bill because from a "philosophical property rights point,… restricting the ability to sell… is problematic."
- Rude thinks the 45-day period in which manufactured homeowners would have to notify the park owner of their intent to purchase is too long.

Arguments for HB 2610

- Ishbel Dickens, who wrote HB 2610, states that the proposed law does not constitute a 'right of first refusal' for manufactured housing park residents. The legislation would enable their opportunity to purchase the park where they live, because it would require park owners to "negotiate in good faith" with resident organizations; it would not require them to sell to residents. The intent of HB 2610 is to incentivize the park's sale to residents, not require it, or narrow the owners' selling options.
- Legal precedent supports HB 2610:
    - In 1993, Washington State enacted a manufactured housing resident opportunity to purchase (OTP) law. In 2000, the WA State Supreme Court ruled it unconstitutional. According to Dickens, the current Washington State Supreme Court would rule differently on a manufactured housing resident OTP law, because in 2019 the court unanimously upheld Seattle's First-in-Time ordinance (Yim vs. City of Seattle). That

ruling reframed the state's takings jurisprudence and gives state and local lawmakers more room to regulate housing and land use.

- Cities that have enacted zoning and/or ordinances protecting manufactured housing communities and residents in Washington have not triggered legal problems, because case law supports such local zoning and ordinances. For example, Tumwater's 2009 manufactured housing zoning ordinance was upheld in a state appeals court in 2012.
- In addition, several cities (e.g., Seattle, Berkeley, and Washington, D.C.) and several states (e.g., Maine, Massachusetts, New Hampshire, Oregon, Rhode Island, and Vermont) have enacted resident OTP ordinances/laws, some of which are for not just manufactured housing residents, but also for apartment building residents. OTP legislation can be pursued at local levels as well as state levels. Advocates and city council members in Olympia are currently pursuing a manufactured housing resident OTP ordinance and are willing to share their process, ordinance, and knowledge with Walla Walla.

Oregon Opportunity to Purchase Law

Oregon's OTP law (Statute 90.842, Notice of sale of manufactured dwelling park) gives residents 10 days to organize a tenants' committee and notify the owner of their intent to purchase the park, should the owner want to sell. The law does not set a date by which the tenants would have to close the purchase.

Non-profits that support resident purchase of manufactured home parks

ROC Northwest

ROC Northwest is a non-profit and receives its funding from ROC USA. The organization works in Washington State with "manufactured home park owners interested in selling their investment at a fair market price to the residents." They do this "with competitive pricing, dedicated financing, and resident training." Their goal is to work with city and state agencies to preserve manufactured housing communities through resident ownership. ROC Northwest "helps residents form cooperatives to secure financing and purchase the land under their homes." With each park conversion, ROC Northwest commits to providing 10 years of ongoing technical assistance to the cooperative. They work with non-profit lenders to not only secure acquisition funding but also to finance major infrastructure improvements. ROC Northwest can provide education to local manufactured housing park residents.

AMHO

AMHO works with park residents to form homeowners' associations so that they are organized in the event that a park goes on sale. AMHO does "know your rights" trainings with residents in spaces outside parks because some park owners intimidate and/or threaten residents when they organize. Just a few residents in a park can start a homeowners' association. AMHO would be happy to provide training and education to park residents, should they want it.

CASA of Oregon

CASA of Oregon plays the same role in Oregon as ROC Northwest plays in Washington. CASA: "organizes residents and prepares them to purchase the manufactured housing community cooperatively; negotiates the terms of the sale on behalf of the cooperative; conducts the required due diligence; and secures the financing for purchase." It appears that because Oregon has an OTP law, some park owners contact CASA directly if and when they want to sell their parks.

Tax Incentives

In Washington State, manufactured housing park owners who want to sell their parks can benefit from a newly-enacted real estate tax exemption (of approximately 1.67%) when they sell to a cooperative or a non-profit. This should make selling to resident owned communities (ROCs) a more attractive option.

Oregon provides a capital gains tax exclusion for community owners who sell their parks to the residents, a nonprofit, or a housing authority. To encourage low-cost loans, Oregon offers a tax credit equal to the value of a four percentage point reduction in the loan interest rate for lenders who finance a purchase by a resident group, nonprofit or housing authority. While the borrower benefits from a below-market loan, the credit provides the lender with a market-rate return, offsetting the reduced interest rate.

Manufactured Housing Zoning

To preserve manufactured housing, some cities have enacted manufactured housing-only zoning or limited range of use zoning in areas where manufactured housing parks already exist. Tumwater's manufactured housing zoning was upheld by US appeals court. Tumwater's ordinance permits manufactured home parks, single manufactured homes on single lots, parks, open areas, recreation facilities, support facilities, and child care facilities, as well as accessory uses such as clubhouses and conditional uses such as churches, agriculture, and group foster homes. The intent with allowing a broader range of uses is to apply the zoning category to a larger area than just already existing manufactured home communities.

A manufactured housing zoning ordinance can be written to allow owners to petition for future zoning changes. In such instances, the ordinance should include a requirement that residents be given advance notice of any petition for zoning changes or variances by owners.

More recently, Marysville, Lynwood, and Snohomish County have adopted manufactured housing community zoning overlays.

Zoning Ordinance Placing Conditions on Closure of Manufactured Home Communities

Cities can enact ordinances that place conditions on manufactured home park closure. Such ordinances can stipulate that before the city approves a zoning change that will result in a manufactured home community closure, the park owner must deal with relocation issues, such as:

- Present a relocation plan showing nearby communities where residents can move their homes;
- Move the residents homes and pay for the disposal of homes that cannot be moved;
- Pay residents' relocation expenses;
- Compensate homeowners for the value of homes that cannot be moved; and
- Allow the residents the opportunity to match the sales price, if the community is being sold to a developer. A requirement of a resident OTP could be built into the zoning change.

By putting such requirements in place before any community closes, the city can make sure that if a community closes, it will be orderly and follow a plan to relocate households. Such rezoning conditions may also deter owners from closing parks, because they would require owners to bear many costs associated with closures.

Kent, WA has an ordinance requiring a relocation plan in the event that a manufactured home park is closed or redeveloped.

Moratorium on Manufactured Housing Community Redevelopment

A moratorium freezes redevelopment of manufactured housing communities for a fixed period of time, while a local government considers new land use regulations. During that time, the moratorium preserves the status quo for landowners and residents. A temporary moratorium on manufactured housing community redevelopment, if coupled with a long-term plan, can effectively preserve manufactured housing communities.

Bellingham and Seattle both have moratoriums on manufactured housing community redevelopment, enacted prior to the COVID-19 crisis.

RCW 36.70A.390

Moratoria, interim zoning controls—Public hearing—Limitation on length—Exceptions.

A county or city governing body that adopts a moratorium, interim zoning map, interim zoning ordinance, or interim official control without holding a public hearing on the proposed moratorium, interim zoning map, interim zoning ordinance, or interim official control, shall hold a public hearing on the adopted moratorium, interim zoning map, interim zoning ordinance, or interim official control within at least sixty days of its adoption, whether or not the governing body received a recommendation on the matter from the planning commission or department. If the governing body does not adopt findings of fact justifying its action before this hearing, then the governing body shall do so immediately after this public hearing. A moratorium, interim zoning map, interim zoning ordinance, or interim official control adopted under this section may be effective for not longer than six months, but may be effective for up to one year if a work plan is developed for related studies providing for such a longer period. A moratorium, interim zoning map, interim zoning ordinance, or interim official control may be renewed for one or more six-month periods if a subsequent public hearing is held and findings of fact are made prior to each renewal.

This section does not apply to the designation of critical areas, agricultural lands, forestlands, and mineral resource lands, under RCW **36.70A.170**, and the conservation of these lands and protection of these areas under RCW **36.70A.060**, prior to such actions being taken in a comprehensive plan adopted under RCW **36.70A.070** and implementing development regulations adopted under RCW **36.70A.120**, if a public hearing is held on such proposed actions.

[**1992 c 207 § 6**.]

SEATTLE CITY COUNCIL

Legislative Summary

CB 119451

Record No.:	CB 119451	**Type:**	Ordinance (Ord)	**Status:**	Passed
Version:	2	**Ord. no:**	Ord 125764	**In Control:**	City Clerk
				File Created:	01/18/2019
				Final Action:	02/06/2019

Title: AN ORDINANCE relating to land use and zoning; adopting a moratorium on the filing, acceptance, processing, and/or approval of applications for development in areas currently used as mobile home parks; declaring an emergency; and establishing an immediate effective date; all by a 3/4 vote of the City Council.

Date

Notes:

Filed with City Clerk:

Mayor's Signature:

Sponsors: Sawant,O'Brien

Vetoed by Mayor:

Veto Overridden:

Veto Sustained:

Attachments: Mayor's Letter on Returning Bill Unsigned

Drafter: Emilia.Sanchez@seattle.gov

Filing Requirements/Dept Action:

History of Legislative File

Legal Notice Published: ☐ Yes ☐ No

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Clerk	01/22/2019	sent for review	Council President's Office			

Action Text: The Council Bill (CB) was sent for review. to the Council President's Office

Notes:

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Council President's Office	01/22/2019	sent for review	City Council			

Action Text: The Council Bill (CB) was sent for review. to the City Council

Notes:

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	01/22/2019	referred	City Council			

Action Text: The Council Bill (CB) was referred. to the City Council

Notes:

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	01/28/2019	passed as amended				Pass

Action Text: The Motion carried, the Council Bill (CB) was passed as amended by the following vote, and the President signed the Bill:

Notes: ACTION 1:

Motion was made and duly seconded to pass Council Bill 119451.

ACTION 2:

Motion was made by Councilmember Johnson and duly seconded, to amend Council Bill 119451 by substituting Section 5, as shown in Attachment 1 to the Minutes.

ACTION 3:

Motion was made and duly seconded to pass Council Bill 119451 as amended.

In Favor: 8 Councilmember Bagshaw, Council President Harrell, Councilmember Herbold, Councilmember Johnson, Councilmember Juarez, Councilmember Mosqueda, Councilmember O'Brien, Councilmember Sawant

Opposed: 0

2	City Clerk	01/28/2019	submitted for Mayor's signature	Mayor

Action Text: The Council Bill (CB) was submitted for Mayor's signature. to the Mayor
Notes:

2	Mayor	02/06/2019	returned unsigned	

Action Text: The Council Bill (CB) was returned unsigned.
Notes:

2	Mayor	02/06/2019	returned	City Clerk

Action Text: The Council Bill (CB) was returned. to the City Clerk
Notes:

2	City Clerk	02/06/2019	attested by City Clerk	

Action Text: The Ordinance (Ord) was attested by City Clerk.
Notes:

City of Seattle

February 7, 2019

Monica Martinez Simmons
Seattle City Clerk
600 4th Avenue, 3rd Floor
Seattle, WA 98124

Dear Ms. Martinez Simmons,

I have returned Council Bill 119451 unsigned, understanding it will become law, with significant concerns that the bill does not sufficiently and equitably protect vulnerable communities at risk of displacement, and does not sufficiently protect the needs of the city to equitably add density. Additionally, the truncated consideration and enactment of the bill foreclosed the possibility of broader outreach to key stakeholders and the consideration of more holistic solutions.

This legislation establishes a one-year moratorium on development of areas currently used as mobile home parks. Although I share the Council's goal of protecting low-income and senior community members from displacement from affordable housing, this bill was unfortunately hastily conceived, written, and enacted without the range of thoughtful solutions being debated and considered. The moratorium does not preclude the current property owners from selling the property, evicting tenants, or raising rents.

We must create more affordable housing in order to make our city more equitable, diverse, and climate friendly, but an equally undeniable impact of growth in Seattle is that it has led to displacement and gentrification, particularly in communities of color and economically disadvantaged communities. This reality calls for deep community engagement and a holistic response. We should consider many tools, including using MHA funds to protect against displacement, incentivizing housing with a "right of return" for displaced households, working with owners of currently affordable housing to keep the housing in place and rents affordable, and improving protections against evictions. The moratorium does none of these things.

In recent days, my office has started a collaborative dialogue with interested parties in the hopes of forging a voluntary agreement whereby the owners forgo sale and redevelopment for a determined period of time, giving the City an opportunity to work with existing tenants and other stakeholders on longer term, broader solutions. The owners are willing and interested in exploring the options with us. They have been open to and willing to engage in a productive discussion.

Unfortunately, there is not enough time to meet with all parties, explore a range of options or put any agreement in place before the legislation takes effect. Had the prime sponsor of the legislation engaged the property owner several weeks ago when she introduced this legislation, there may have been sufficient time to put such an agreement in place that would have better protected residents from evictions or rent increases. In the coming weeks, I hope to continue the conversations with all interested parties to help resolve both the immediate issues and set a framework for longer term solutions.

The bill also purports to establish a work program for the Office of Planning and Community Development and the Seattle Department of Construction and Inspections. Because the City Charter vests certain powers exclusively in the Executive, I am considering the current proposed Council "workplan" outlined in Council Bill 119451 as only advisory in nature.

We will be devising a path forward after we have had the opportunity to consult with the affected tenants, the owners, other stakeholders, members of the City Council and a range of affected Executive Departments, including the Office of Planning and Community Development, the Office of Housing, the Seattle Department of Construction and Inspections and the Department of Neighborhoods (none of whom were consulted in this process).

In short, the City should be approaching displacement strategies comprehensively. Instead of one-off development moratoriums, we must look at how regulations, tenant protections, incentives and funding work together to increase housing affordability while preventing and mitigating displacement. We must promote neighborhood stability by continuing our commitment to building affordable housing in locations at high risk of displacement that may also include ground floor spaces for cultural, community and commercial anchors. We must be strategic in acquiring properties to preserve affordability that sometimes exists in the market. We must proactively help longtime residents remain in their neighborhoods while also increasing our supply of housing to mitigate the pressures our growing economy places on our housing stock. We must look at these strategies as a suite of strategies that work together in a balanced way, all with the input of the communities they are meant to serve.

I look forward to working with a broad range of stakeholders and the City Council in developing and implementing these strategies.

Sincerely,

Jenny A. Durkan

Jenny A. Durkan
Mayor of Seattle

CITY OF SEATTLE

ORDINANCE 125764

COUNCIL BILL 119451

AN ORDINANCE relating to land use and zoning; adopting a moratorium on the filing, acceptance, processing, and/or approval of applications for development in areas currently used as mobile home parks; declaring an emergency; and establishing an immediate effective date; all by a 3/4 vote of the City Council.

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council ("Council") hereby makes the following legislative findings of fact and declarations:

A. Seattle is facing increasing affordability challenges and many Seattle residents are cost-burdened;

B. Severe housing cost burdens disproportionately impact low-income households;

C. Mobile homes provide affordable shelter for a substantial number of elderly and low-income residents;

D. The few remaining mobile home parks within Seattle are under increased development pressure and the residents of those parks are at risk of being displaced;

E. Similar pressures within the county and region are reducing the number of available sites within and outside Seattle to which mobile homes can relocate;

F. With respect to the affordable housing provided by mobile homes, current development regulations may need to be amended to better advance the housing affordability policies of the City's Comprehensive Plan;

G. A work plan to develop alternative development regulations encouraging preservation of affordable housing provided by the market will inform how the City mitigates development pressure and potential displacement of low-income mobile home residents; and

H. A temporary moratorium is necessary to allow the City to develop that work plan and alternative development regulations.

Section 2. The Council hereby adopts a moratorium on the filing, acceptance, processing, and/or approval of any application to establish a new principal or accessory use, or change a principal or accessory use, for any site currently used as a mobile home park, as defined in Section 23.84A.032 of the Seattle Municipal Code.

Section 3. The moratorium set forth in this ordinance shall be in effect for a period of one year from the date this ordinance is effective and shall automatically expire after the one-year period unless the same is extended as provided by statute, or unless terminated sooner by the Council.

Section 4. Pursuant to RCW 36.70A.390, the Council will hold a public hearing within 60 days of adoption of this moratorium to take public testimony and consider adopting further findings.

Section 5. Under RCW 36.70A.390, the Council approves the following work plan for the development of regulations to address the issues in this ordinance and directs the Office of Planning and Community Development and the Seattle Department of Construction and Inspections to transmit proposed legislation for referral to the Planning, Land Use and Zoning (PLUZ) Committee of the Council by September 30, 2019.

Analyze Current Land Uses and Development Trends, Draft Legislation, and Conduct State Environmental Policy Act (SEPA) Review on Proposed Regulations	February 2019 to May 2019
Report to PLUZ Committee on Preliminary Options for Consideration	April 2019
Publish SEPA Threshold Determination	June 2019
Mayor Transmits Legislation to Council	September 2019

Council Deliberations and Public Hearing on Proposed Permanent Controls	October 2019 to December 2019
Permanent Controls Effective	January 2020

Section 6. Under Seattle Municipal Code Section 25.05.880, the Council finds that an exemption from conducting State Environmental Protection Act (SEPA) review before adopting a moratorium is necessary to prevent new vesting of development rights leading to development that would displace existing mobile home park tenants. SEPA review of any permanent regulations modifying existing regulations will be conducted according to the work plan in Section 5 of this ordinance.

Section 7. Based on the authority of RCW 36.70A.390 and the findings in Section 1 of this ordinance, Section 23.76.062 of the Seattle Municipal Code is waived for the adoption of this ordinance.

Section 8. Based on the findings of fact set forth in Section 1 of this ordinance, the City Council hereby finds and declares that this ordinance is a public emergency ordinance, which shall take effect immediately and is necessary for the protection of the public health, safety, and welfare. The City Council may, in its sole discretion, renew said moratorium for one or more six-month period in accordance with state law.

Section 9. The provisions of this ordinance are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section, or portion of this ordinance, or the invalidity of its application to any person or circumstance, does not affect the validity of the remainder of this ordinance or the validity of its application to other persons or circumstances.

Section 10. By reason of the findings set out in this ordinance, and the emergency that is declared to exist, this ordinance shall become effective immediately upon its passage by a 3/4 vote of the Council, and its approval by the Mayor, as provided by Article 4, subsection 1(I) of the Charter of the City.

Passed by a 3/4 vote of all members of the City Council the 28th day of January, 2019, and signed by me in open session in authentication of its passage this 28th day of January, 2019.

Bruce A Harrell

President ____________ of the City Council

Approved by me this ________ day of ________________________, 2019.

Returned Unsigned by Mayor

Jenny A. Durkan, Mayor

Filed by me this 6th day of February, 2019.

Monica M. Simmons

Monica Martinez Simmons, City Clerk

(Seal)

From:	Elizabeth Brochu
To:	Michael Cleveland; Lisa Neissl
Subject:	EMERGENCY MORATORIUM
Date:	Thursday, April 1, 2021 9:35:54 AM

April 1, 2021

Dear Mayor Hernandez and Members of the City Council,

Imagine sitting down to the watch the evening news where dozens of senior citizens are helplessly standing at the roadside with a few remaining possessions, as their homes are towed to a landfill. It's not Seattle, it's not Portland and it's not San Francisco, in fact it is College Place, Washington. That is a very real and looming possibility, therefore we are asking that you and the City Council impose an **emergency moratorium** that will preserve and protect the homes of hundreds of the city's most vulnerable residents.

We reside at Country Estates Manufactured Home Community, which provides affordable housing to senior citizens. Our oldest resident is 96 years old. We recently learned that zoning for Mobile Home Parks (MHP) has been eliminated; it is now zoned as Multi-Family Residential (MFR). For decades MHP zoning had preserved and protected our park from being sold for redevelopment. Elimination of MHP zoning now places 193 senior citizens at Country Estates at risk of being displaced. (There are an additional 180 lots at Sunset Villa, which is also a 55+ park). Displacement happens across the state and across the country more often than you might think. The Union-Bulletin recently ran an extensive front-page report on what is now a very real concern here in College Place. Residents urge preserving manufactured home communities in College Place | News | union-bulletin.com (union-bulletin.com)

Our landlord, Mr. Craig Rongey has in the past expressed a desire to sell Country Estates. For that very reason, as the president of the Manufactured Housing Communities of Washington (MHCW) he has vehemently opposed MHP zoning, even going all the way to the 9th circuit court where his request for review was denied. In other words, MHP zoning has been upheld repeatedly by the courts. And in fact many communities across the state and country have implemented MHP zoning precisely as a way to protect and preserve affordable housing.

We have asked the Planning Commission to consider re-establishing the MHP zone and Jon Rickard has agreed to do so. In fact, at the March 16, 2021 Planning Commission meeting Mr. Rickard stated that he had "not considered that eliminating the MHP zoning would make existing parks more vulnerable". However, he also noted that it could take as long as two years to re-instate the MHP zone. This means that for two long years 193 senior citizens are left vulnerable to a landlord who has stated that MHP zoning is, "a devastating scenario for someone who has for decades, expected they would be able to sell their property at its highest real value."

At the March 16, 2021 meeting Mr. Rickard also stated that the city has the option to impose a 1-

year moratorium, (RCW 36.70A. 390) much as they did with the hemp farm. He also stated that the moratorium may be extended as needed. Seattle City Council adopts emergency moratorium on redevelopment of mobile-home parks | The Seattle Times. A moratorium would freeze redevelopment of Country Estates for a fixed period of time while you work towards re-establishing the MHP zone. It simply preserves the status quo for landowners and residents alike. It is our understanding that our landlord receives regular inquiries from developers and knowing that the city is considering re-establishing the MHP zone, it is our fear that he may act quickly to "sell his property at its highest real value", therefore we ask you and the council city council to convene an emergency session so that an "emergency moratorium" may be imposed.

Thank you for your attention to our pressing concerns. We hope to hear from you at your earliest possible convenience.

Regards,

Elizabeth Brochu & Brian Thorne
[redacted]
College Place, WA 99324

Sent from Mail for Windows 10

From:	Elizabeth Brochu
To:	Lisa Neissl
Subject:	MHCW - Rongey.pdf
Date:	Tuesday, April 6, 2021 8:34:37 AM
Attachments:	MHCW - Rongey.pdf

STOP and VERIFY - This message came from **outside** of the City of College Place.

Dear Mayor Hernandez,

This article authored by our landlord lays bare Mr. Rongey's intentions. It was published at a time when Country Estates was still zoned as a MPH, therefore, we were not particularly concerned at that time. Moreover, because the courts had repeatedly ruled against the MHCW, we never imagined that the MPH zone which had protected us would be removed.

Elizabeth Brochu

file:///C:/Users/Elizabeth/Pictures/ControlCenter4/Scan/MHCW%20-%20Rongey.pdf
Sent from Mail for Windows 10

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COMMUNITIES OF WASHINGTON

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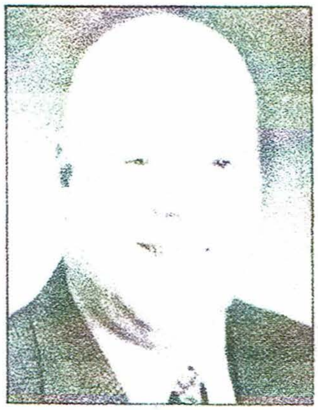
Editing and Graphic Design: Michelle Pate
Cover Photo: Theresa Hermanson

Articles or advertising for future publications can be emailed to Theresa@mhcw.org or call 360-753-8730



President's Message

Craig Rongey
MHCW State President

We live in a great country where we have all come to expect certain rights and protections, including property rights. We have watched those property rights erode, bit by bit, year after year, as our government and courts either restrict what we can do with our property, or transfer our rights to others. One major issue currently at the forefront is the imposing of exclusive Manufactured Housing Community Zones by city and county government.

Preservation of affordable housing is a high-priority issue for state and local government. Unfortunately some jurisdictions see manufactured housing communities as an easy solution to preserving affordable housing. By changing your current zone to an exclusive Manufactured Housing Community Zone, they feel they are providing long-term security to those renting home spaces, while also guaranteeing the availability of affordable housing for years to come. And all this is accomplished with the stroke of a pen, and at no cost to taxpayers!

One obvious problem with this approach is that it transfers the financial burden for providing government-mandated affordable housing to existing private property/business owners. It is also frighteningly obvious that the property value will be significantly reduced if it cannot be converted to other uses when it is no longer viable as a manufactured housing community, or when other factors result in there being better uses for the property. This is a devastating scenario for someone who has, for years or decades, expected they would be able to sell their property at its highest real value, only to find the government has taken away a large portion of that value.

MHCW had been pursuing a legal challenge to the practice of imposing exclusive zones, but our request for review was denied by the 9th Circuit Court. As a result there is an immediate need for "boots on the ground" at the local level, and that is where you can help. Association of Mobile Home Owners (AMHO) has been actively lobbying building and planning departments at the local level to establish exclusive MHC zones. The Spokane City Council recently voted 4-3 against requesting that the Planning Commission recommend the creation of exclusive MHC zones, and this was only after one council member who had previously been in favor of the proposal reversed their position. The City of Spokane Valley has also been heavily lobbied to create MHC zones. The city of Tumwater and Snohomish County have already imposed this type of zoning, and other jurisdictions are considering it.

To fight this trend, every MHC owner needs to keep a close eye on the activities of his or her city and/or county government. Let your local planning officials know this is an extremely unfair and unrealistic approach to preserving affordable housing, and check the agenda for upcoming council or planning commission meetings to see if they are considering MHC zoning changes. If they are, do everything you can to represent your interests!

MHCW Board Actions, October 24, 2012

1. **APPROVED** the minutes of the Quarterly Board Meeting held July 27, 2012 , as presented.
2. **APPROVED** additional signers on the Association bank accounts, to total five.
3. **APPROVED** the Treasurer's Report as presented.
4. **APPROVED** the preliminary budget for 2013 as presented.

Respectfully Submitted, Theresa Janzen, MHCW Secretary

108 Assumption Drive
Walla Walla, WA 99362
509-301-1068

Life Law pllc

Rea L Culwell, Attorney
rea@wwlifelaw.com
Victoria Van Mierlo,
Legal Assistant
victoria@wwlifelaw.com

TO: **College Place City Council; Mayor Norma Hernadez; Police Chief Troy Tomaras; City Administrator Mike Rizitiello**

FROM: **Rea Culwell, City Prosecutor/Attorney**

DATE: **April 2, 2021**

RE: **Peddler/Solicitor Code update**

As previously briefed to Council, CPPD Chief, Administrator Rizzitiello and City Attorney recommend Council consider the following changes to the CPMP as it applies to peddlers and the like.

The draft below was intended to provide Council with a relatively exhaustive governance of peddlers and is not intended as a recommendation to adopt all recommendations. For instance, the City may not want to require canvassers to obtain a license.

<u>Proposed amendment to Chapter 5.04:</u>

NOTE: code to be removed are struck through; additions are underlined.

Title 5 - BUSINESS TAXES, LICENSES AND REGULATIONS

CHAPTER 5.04 - BUSINESS LICENSES

<u>5.04.015 – Immunity.</u>
<u>A. It is the specific intent of this chapter to place the obligation of complying with its terms on the licensee, and no provision of this chapter is intended to impose any duty upon the city or its employees or volunteers.</u>

<u>B. Nothing contained in this chapter is intended to be nor shall be construed to create any liability on the part of the City or its employees or volunteers for any injury or damage</u>

resulting from the failure of the licensee to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter on the part of the City or employees.

5.04.020 - Definitions.

The following definitions shall apply in construing the provisions of this chapter, except where otherwise declared or clearly apparent from the context:

~~A. "Breach of the peace" means a public disturbance or engaging in disorderly conduct, particularly by making an unnecessary or disturbing noise.~~

~~B.~~ A. "Business licensing services (BLS)" means the section of the State of Washington Department of Revenue authorized to provide business licensing services to the city pursuant to RCW Chapter 19.02 as now codified or as hereafter amended.

~~C.~~ B. "City" means the city of College Place.

~~D.~~ C. "Engaging in business."

(1) The term "engaging in business" means commencing, conducting, or continuing in business, and also the exercise of corporate or franchise powers, as well as liquidating a business when the liquidators thereof hold themselves out to the public as conducting such business.

(2) This section sets forth examples of activities that constitute engaging in business in the city, and establishes safe harbors for certain of those activities so that a person who meets the criteria may engage in de minimus business activities in the City without having to pay a business license fee. The activities listed in this section are illustrative only and are not intended to narrow the definition of "engaging in business" in subsection (1). If an activity is not listed, whether it constitutes engaging in business in the city shall be determined by considering all the facts and circumstances and applicable law.

(3) Without being all inclusive, any one of the following activities conducted within the city by a person, or its employee, agent, representative, independent contractor, broker or another acting on its behalf constitutes engaging in business and requires a person to register and obtain a business license.

(a) Owning, renting, leasing, maintaining, or having the right to use, or using, tangible personal property, intangible personal property, or real property permanently or temporarily located in the city.

(b) Owning, renting, leasing, using, or maintaining, an office, place of business, or other establishment in the city.

(c) Soliciting sales.

(d) Making repairs or providing maintenance or service to real or tangible personal property, including warranty work and property maintenance.

(e) Providing technical assistance or service, including quality control, product inspections, warranty work, or similar services on or in connection with tangible personal property sold by the person or on its behalf.

(f) Installing, constructing, or supervising installation or construction of, real or tangible personal property.

(g) Soliciting, negotiating, or approving franchise, license, or other similar agreements.

(h) Collecting current or delinquent accounts.

(i) Picking up and transporting tangible personal property, solid waste, construction debris, or excavated materials.

(j) Providing disinfecting and pest control services, employment and labor pool services, home nursing care, janitorial services, appraising, landscape architectural services, security system services, surveying, and real estate services including the listing of homes and managing real property.

(k) Rendering professional services such as those provided by accountants, architects, attorneys, auctioneers, consultants, engineers, professional athletes, barbers, baseball clubs and other sports organizations, chemists, consultants, psychologists, court reporters, dentists, doctors, detectives, laboratory operators, teachers, veterinarians.

(l) Meeting with customers or potential customers, even when no sales or orders are solicited at the meetings.

(m) Training or recruiting agents, representatives, independent contractors, brokers or others, domiciled or operating on a job in the city, acting on its behalf, or for customers or potential customers.

(n) Investigating, resolving, or otherwise assisting in resolving customer complaints.

(o) In-store stocking or manipulating products or goods, sold to and owned by a customer, regardless of where sale and delivery of the goods took place.

(p) Delivering goods in vehicles owned, rented, leased, used, or maintained by the person or another acting on its behalf.

~~E.~~ D. "Fraud" means a knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment.

~~F.~~ E. "Moral turpitude" means an act or behavior that gravely violates the moral sentiments or the accepted moral standards of the community. Crimes of moral turpitude include, but are by no means limited to, misdemeanor offenses involving the following sorts of conduct, namely, assault, false advertising, false representation, fraud, harassment, theft, sexual exploitation of children, swindles and unlawful possession of a firearm.

~~G. "Pedder/solicitor."The terms "peddler" and "solicitor" and the terms "peddle" and "solicit" are used interchangeably in this chapter. A "peddler/solictor" is defined as follows:~~

~~1. All persons, both principals and agents, as well as employers and employees, who shall sell, offer for or expose for sale, or who shall trade, deal or traffic in any personal property or services in the city by going from house to house, from place to place, or by indiscriminately approaching individuals from a location on any street, alley, sidewalk or other public thoroughfare and are otherwise not prohibited by local, state or federal law.~~

~~2. Any person, both principals and agents, as well as employers and employees, who, while selling or offering for sale, any goods, wares, merchandise or anything of value, stands in a doorway or on any unenclosed vacant lot, parcel of land, or in any other place not used by such person as a permanent place of business. This definition is not intended to apply to yard sales or other selling related activities by the owners of property where such sales are being conducted and are otherwise not prohibited by local, state or federal law.~~

~~H.~~ F. "Person" means any individual, firm, partnership, limited liability company, corporation, association, receiver, assignee, trustee in bankruptcy, trust, estate, joint venture, club, joint stock company, business trust, society, or any group of individuals acting as a unit.

~~I. "Registrant" means any person who engages in business or who is required to have a business license, or who performs any act for which a license fee is imposed by this chapter.~~

5.04.100 - Exception—Applicability of provisions.

This chapter shall not be applicable to:

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

B. Any fraternal, charitable or social entity or organization whose sole purpose is charitable and nonprofit and not organized or operated for the benefit of private interests, other than those operating pursuant to Chapter 69.51A RCW, included, but not limited to educational, scientific, literary, fostering local, national or international amateur sports competition, preventing cruelty to children or animals, relief of the poor, distressed, or underprivileged, erecting or maintaining public buildings, monuments, or works, eliminating prejudice and discrimination, defending human and civil rights secured by law, and combating community deterioration and juvenile delinquency.

C. Any organization or assemblage whose sole purpose is religious and is not organized or operated for the benefit of private interests.

D. Any municipality or political subdivision of the United States or the State of Washington.

E. Any person who is exempt from paying the license fee by the laws of the United States of America or by the State of Washington.

F. Artisans who produce their own art or craftwork, or sellers of prepared foods participating in a special event permit in which the sponsor has a city business license.

G. Artisans who produce their own art or craftwork or sellers of prepared foods participating in a special event permitted by a lease entered into with the city.

H. A person or business whose annual value of products, gross proceeds of sales, or gross income of the business in the city is equal to or less than $2,000 and who does not maintain a place of business within the city, shall be exempt from the general business license requirements of this chapter. The exemption does not apply to regulatory license requirements or activities that require a specialized permit.

I. Persons selling trees solely used to celebrate a holiday.

J. A seller located outside the city merely delivering goods into the city by means of a common carrier provided that it engages in no other business activities in the city.

K. Minors engaged in babysitting, newspaper delivery, lemonade stands, lawn mowing, and similar activities.

L. Farmers, agriculturer, or gardeners selling their own farm products raised and grown exclusively upon lands owned or occupied by them. This exclusion is not applicable to the sale of value added products or prepared foods.

M. Individuals who own or rent/lease property or otherwise use real property for their personal residence.

N. Individuals who own real property that is rented/leased to others for residential use. Provided the individual rents/leases no more than two properties. Persons/entities that own three or more separate real properties that is leased/rented for residential use must obtain a license.

O. Peddlers/Solicitors as defined in this Title.

P. Commercial Solicitors, Transient and Itinerant Merchants, and Canvassers as defined in this Title.

5.04.150 - ~~Use of streets (peddler/solicitor).~~

~~No peddler shall have any exclusive right to any location in the public streets or publicly owned right-of-way, or be permitted a stationary location, nor be permitted to operate in any congested area where operations might impede or inconvenience the public. For purposes of this section, the judgment of a police officer, exercised in good faith, shall be conclusive as to whether the area is congested or the public impeded or inconvenienced.~~

5.04.160 - ~~Hours and notice (peddler/solicitor).~~

~~No person shall engage in the business of peddling between the hours of 8:00 p.m. and 8:00 a.m.~~

5.04.170 - Violation—Penalty.

Any person violating or failing to comply with any provision of this chapter shall be deemed to have committed a civil infraction as prescribed in CPMC Chapter 1.20. Any person violating or failing to comply with any provision of this chapter within 6 months of being cited with a civil infraction hereunder shall be guilty of a misdemeanor, as prescribed in CPMC Chapter 1.20. The City shall have the discretion to issue a civil infraction rather than file criminal charges, but is not obligated to do so.

NEW CHAPTER:

5.0[ ] – Peddlers or Solicitors, Itinerant Vendors, and Canvassers.

5.0[ ].010 – Purpose

A. The purpose of this chapter is to regulate the activities of peddlers, solicitors, itinerant vendors and canvassers to provide for and promote the health, safety and general welfare of the general public and not to create or designate any particular class of persons who will or should be specially protected by its terms.

B. The investigation and licensing fees provided herein are levied to defray the costs of regulation and not to place an undue burden on interstate commerce.

5.0[ ].020 – Immunity

A. It is the specific intent of this chapter to place the obligation of complying with its terms on the licensee, and no provision of this chapter is intended to impose any duty upon the City or its employees.

B. Nothing contained in this chapter is intended to be nor shall be construed to create any liability on the part of the City or its employees for any injury, death, or damage resulting from the failure of the licensee to comply with the provisions of this chapter, or by reason or in consequence of any act or omission in connection with the implementation or enforcement of this chapter on the part of the City or its employees.

C. The City and its councilmembers, employees, and agents are immune from suit in law or equity, or any action under the administrative procedure act based upon its exercise of discretion in this Chapter.

5.0.[ ].030 – Definition and Terms

The following definitions shall apply in construing the provisions of this chapter, except where otherwise declared or clearly apparent from the context.

A. "Canvassers" means any person who, by going door to door, residence to residence, or business to business, soliciting information, opinions or sentiments or while soliciting information, opinions or sentiments, does so at any place other than the canvasser's principle place of business or residence. Canvassing does not include soliciting opinions or sentiments regarding an election, vote or voting, religion, charity or purpose or activity of a non-profit entity. Canvassing does not include soliciting information by or on behalf of a federal, state, or local government. Canvasser does not include candidates for elected government positions and their campaign workers.

B. "City" means the city of College Place.

C. “Itinerant vendors” means a person who sells or offers for sale, hawks, barters, or auctions any goods, services or anything of value, while standing in a doorway or on any unenclosed vacant lot, parcel of land, or in any other place not used by such person as a permanent place of business. This definition is not intended to apply to yard sales or other selling related activities by the owners of property where such sales are being conducted and are otherwise not prohibited by local, state or federal law.

D. “Peddler” and “Solicitor” means a person who peddles, sells, offers for sale, hawks, barters, or auctions goods, services, or anything of value by going from residence to residence, business to business, place to place and are otherwise not prohibited by local, state or federal law.

E. "Person" means any individual, firm, partnership, limited liability company, corporation, association, receiver, assignee, trustee in bankruptcy, trust, estate, joint venture, club, joint stock company, business trust, society, any group of individuals acting as a unit or any agent or employee thereof.

5.0[ ].030 – City License required.

It is unlawful for a person to conduct the business of a peddler or solicitor, itinerant vendor or canvasser within the City without a current valid City Peddler’s License.

5.0.[ ].040 – Exemptions.

This chapter shall not apply to:

A. Yard or garage sales or other selling related activities by the owners or occupants of property where such sales are being conducted and are otherwise not prohibited by local law.

B. Farmers, growers, or gardeners selling their own farm products procured exclusively upon lands owned or occupied by them are excluded from this chapter. This exclusion is not applicable to the sale of value-added products.

C. Newspaper carriers and delivery of subscription goods or services.

D. Business conducted outside of a principle place of a licensed business if located in the Downtown Mixed Use zone.

E. Food trucks or carts, or Food truck/cart pods which are governed by CPMC Chapter 5.0[ ]

F. Any sale pursuant to a court order or governmental actor who is discharging their duties.

G. Officers or members acting on behalf of any fraternal, nonprofit, charitable, fraternal or social entity or organization whose sole purpose is charitable and nonprofit, who are unpaid for their services and not organized or operated for the benefit of private interests, including entities registered as nonprofit corporations under RCW Title 24 or an entity exempt from federal income tax under Section 501(c) of the Federal Income Tax Code, other than those operating pursuant to Chapter 69.51A RCW.

H. Duly organized and operating in good faith and entitled to receive a declaration of current tax exempt status for religious purposes from the United States government, and the duly organized branches or chapters of those organizations.

I. Persons dealing only with merchants, businesses, or commercial entities. [**??? -eg advertising business soliciting ad sales from business]**

J. Persons permitted to conduct business pursuant to a special use permit.

5.0[ ].050 – Application - Fee.

Every peddler or solicitor, itinerant vendor, and canvasser must obtain a City Peddler's License on an annual basis before commencing business or canvassing in the City by application in writing and under oath, on the form provided by the City, to the appropriate City official. The application shall be accompanied with the required fee(s) as set by the City Council. The application must contain the following information:

A. Name, date of birth, permanent residential address, mailing address if different than residential address, phone number, and social security number of the applicant.

B. If conducting activities on behalf of an entity, name, principle place of business address and phone number, Unified Business Identifier number, and registered agent's name and address.

C. Description and license plate number of any vehicle(s) to be used to conduct activities.

D. Brief description of the nature of the activity.

E. Address or addresses of place or places where activities will be conducted.

F. Signature of applicant authorizing the police department to conduct an investigation of the applicant, including, any criminal background check.

G. Such other information as may be reasonable required by the City.

5.0.[ ].060 – Applicant Investigation – Criminal History Check – Recommendation

A. By completing an application for a Peddler's License, the applicant gives express permission for the City to investigate the applicant, including permission to review the applicant's felony and misdemeanor convictions and committed civil infractions for the last 10 years. The City may charge an applicant a fee for conducting a criminal history check.

B. The City shall investigate the applicant pursuant to the policy established by the City Police Department and approved by City Council and in compliance with Chapter 9.96A RCW and as amended.

C. An investigation shall be conducted for each application regardless of whether one was performed for an application or applicant for a prior year.

D. Upon completion of investigation the Police Department shall recommend approval or disapproval based on its findings. Recommendation of disapproval must be for good cause, including but not limited to, unsatisfactory criminal history of convictions or committed civil infractions directly relating to fitness for a license; discovery of facts supporting lack of business responsibility; or any legitimate reason that the applicant presents a risk to public health, safety or general welfare.

E. The Police Department recommendation shall be made to the finance department no later than ten days from date of application. This period may be extended by the City for good cause.

5.0[ ].070 – Issuance or denial of license.

Within 10 business days of the police department recommendation, the finance department shall:

A. When approval is recommended, issue a license to the applicant.

B. When denial is recommended, notify, in writing, the applicant of the denial and procedures for appeal.

5.0[ ].080 – Denial or Revocation of Application

A. The City may deny or revoke an application for good cause, including but not limited to the following reasons:

1. Incomplete application.
2. Fraud, misrepresentation, or false information provided in the application for license.
3. Fraud, misrepresentation, or false statement made in the course of carrying on the business, including, but not limited to misrepresenting items as authentic or of a certain brand.
4. Conducting activities different than for which the license was intended.
5. Any violation of this Chapter or any applicable law.
6. Felony or misdemeanor conviction directly related to the fitness of licensee to carry on the activities of canvassing or soliciting.
7. Conducting activities in such a manner as to constitute a breach of the peace or to the detriment of the health, safety, or general welfare of the public.
8. Any grounds listed in CPMC 5.04.140 and as amended.

B. Any denial or revocation is in addition to civil infraction issued, criminal charges filed, fine or imprisonment, and action in equity.

5.0[ ].090 – Appeal procedure.

An applicant may appeal a license denial or revocation. The appeal must be in writing and must be received by the City within 10 days of the denial or revocation. Upon appeal, the City Administrator will review the reason(s) for the denial or revocation and the information provided in the appeal and, within 10 days of the appeal, either affirm the denial or revocation, or overturn the denial or revocation. The City Administrator's decision shall be in writing and shall state the reasons for affirming or overturning the denial or revocation. An applicant may appeal the City Administrator's decision to affirm the denial or revocation. An appeal of the City Administrator's decision shall be governed by CPMC Chapter 2.50.

5.0[ ].100 – Restriction on time and place.

A. No person shall engage or attempt to engage in any peddling, auctioning, or canvassing activity before sunrise and after sunset. **[or do we want to do hours? 9:00am to 7:00pm?]**

B. No person shall engage or attempt to engage in any peddling, auctioning, or canvassing that obstructs vehicular or pedestrian traffic or otherwise obstructs the publics use of any government owned property, sidewalks, roadways, trails, or other public recreational area.

C. No person shall engage or attempt to engage in any peddling, auctioning, or canvassing at any residence, business, or other building that displays a "no solicitor" or "no solicitation" or similar type sign.

D. Nothing in this section is intended to affect any permissible act in accordance with a City Special Use Permit.

5.0[ ].110 – Exhibition of license required.

Solicitors, peddlers, itinerant vendors, and canvassers shall exhibit their license upon the request of any citizen.

5.0[ ].120 – Rights not given

Nothing in this Chapter grants any right or permission for any person to:

A. Go onto or over any property from which the applicant has been trespassed or barred from entry by the owner or occupant.

B. Go onto or over or approach any property with a "no solicitation/no solicitor" posted sign.

C. Go onto or over or enter any property that is not commonly accessible to the public.

5.0[ ].130 – Violation

Any person violating or failing to comply with any provision of this chapter shall be deemed to have committed a civil infraction as prescribed in CPMC Chapter 1.20. Any person violating or failing to comply with any provision of this chapter within 6 months of being cited with a civil infraction hereunder shall be guilty of a misdemeanor, as prescribed in CPMC Chapter 1.20. The City shall have the discretion to issue a civil infraction rather than file criminal charges but is not obligated to do so.

5.0[ ].140 – Severability - Waiver

A. If any provision of this chapter or its application or circumstances is held invalid, the remainder of the title or the application of the provision to other persons or circumstances is not affected, and the remaining provisions are in full force and effect.

B. The City's failure to implement or enforce this Chapter does not alleviate any person from complying herewith.

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TO: College Place City Council; Mayor Norma Hernadez; Police Chief Troy Tomaras; City Administrator Mike Rizitiello

FROM: Rea Culwell, City Prosecutor/Attorney

DATE: April 2, 2021

CC: College Place DIAB (upon City direction)

RE: Local "fix" to VUCSA violations in response to *State v. Blake*

Blake decision:

Questioned answered by the Court: Does strict liability drug possession statute exceed the legislature's police power?

Answer: Yes

State legislatures have the police power to criminalize and punish conduct. The due process clauses of the state and federal constitutions limit this power. The limit in the *Blake* case is that these due process clauses generally bar state legislatures from taking innocent and passive conduct with no criminal intent at all and punishing it as a serious crime.

Statute at issue:

RCW 69.50.4013 – aka "VUCSA", Violation of the Uniform Controlled Substance Act (Chapter 69.50 RCW)

Generally, the statute makes it a crime to possess a controlled substance unless proscribed or dispensed by a person who has the authority to do so – e.g. medical doctor.

"Controlled substance" is defined as a "drug, substance, or immediate precursor included in Schedules I through V as set forth in federal or state laws, . . . , but does not include hemp or industrial hemp . . ." RCW 69.50.101(g).

Generally, a VUCSA is a class C felony, punishable by incarceration in DOC up to five years and/or a criminal fine up to $10,000. Marijuana is excepted out if medical or personal possession.

Drug offenses are designated by a "seriousness level", with I being the least serious to III being the most serious.

Washington State Sentencing Guidelines mandate judges sentence drug offenders as follows:

> Level I, with offender score [generally, 1 point for every felony conviction], 0-2, must be sentenced to 0-6 months
>
> Level I, score 3-5, 6+-18 months
>
> Level I, score 6-9+, 12+-24 months

So, depending on one's offender score, a VUCSA Level I results in a sentence of 0-24 months;

> Level II, score 0-2, 12+-20 months
>
> Level II, score 3-5, 20+-60 months
>
> Level II, score 6-9+, 60+-120 months

Depending on one's offender score, a VUCSA Level II results in a sentence of 12+-120 months;

> Level III, score of 0-2, 51-68 months
>
> Level III, score of 3-5, 68+-100 months
>
> Level III, score of 6-9+, 100+ - 120 months

VUCSA Level III results in a sentence of 51-120 months

Example of level I drug crime: Possession of Controlled Substance that is a Narcotic from [federal] Schedule III, IV or V. Example of Schedule III drugs include anabolic steroids, hydrocodone with aspirin or Tylenol; Example of Schedule IV drugs include Valium, Xanax; Example of Schedule V drug is cough medicines with codeine.

Example of level I drug crime: Possession of Controlled Substance that is either Heroin or Narcotics from Schedule I or II. Example of Narcotics from Schedule I include LSD, MDMA (ecstasy). Examples of Narcotics from Schedule II include fentanyl, oxycodone, methamphetamine, Vicodin, and cocaine.

Certain offenders are eligible for Drug Offender Sentencing Alternative (DOSA) administered by DOC; most counties have a "drug court" for offenses that do not qualify for DOSA (sentence is one year or less).

Violation of RCW 69.50.4013, the statue addressed in *Blake*, is a Level I offense.

At trial in an RCW 69.50.4013 offense, the judge instructs the jury as follows:

> To convict the defendant of the crime of possession with of a controlled substance, each of the following elements of the crime must be proved beyond a reasonable doubt:

(1) That on or about [date], the defendant possessed a controlled substance [fill in controlled substance]; and

(2) That this act occurred in Washington State.

If you find from the evidence that each of these elements has been proved beyond a reasonable doubt, then it will be your duty to return a verdict of guilty.

On the other hand, if, after weighing all the evidence, you have a reasonable doubt as to any one of these elements, then it will be your duty to return a verdict of not guilty.

The judge also instructs:

> Possession means having a substance in one's custody or control. [It may be either actual or constructive. Actual possession occurs when the item is in the actual physical custody of the person charged with possession. Constructive possession occurs when there is no actual physical possession but there is dominion and control over the substance.]
>
> [Proximity alone without proof of dominion and control is insufficient to establish constructive possession. Dominion and control need not be exclusive to support a finding of constructive possession.]
>
> [In deciding whether the defendant had dominion and control over a substance, you are to consider all the relevant circumstances in the case. Factors that you may consider, among others, include [whether the defendant had the [immediate] ability to take actual possession of the substance,] [whether the defendant had the capacity to exclude others from possession of the substance,] [and] [whether the defendant had dominion and control over the premises where the substance was located. No single one of these factors necessarily controls your decision.]

For cases involving actual possession, only the first sentence is instructed. For cases involving constructive possession, the entire first paragraph is instructed. The rest of the instruction use depends on the facts of a particular case. An example of constructive possession would be drugs found in a container on nightstand in a home where only one person sleeps.

If an accused claims that they did not know that they possessed the drug – called "unwitting possession", the judge instructs:

> A person is not guilty of possession of a controlled substance if the possession is unwitting. Possession of a controlled substance is unwitting if a person [did not know that the substance was in [his] [her] possession] [or] [did not know the nature of the substance].
>
> The burden is on the defendant to prove by a preponderance of the evidence that the substance was possessed unwittingly. Preponderance of the evidence means

that you must be persuaded, considering all of the evidence in the case, that it is more probably true than not.

Basically, Washington law provides for an affirmative defense to illegal drug possession. An affirmative defense is a defense which the defendant introduces evidence, which if proven, negates criminal liability, even if it is proven that the defendant committed the alleged acts. This writer calls it the "Lindsay Lohan" defense; she claimed the jeans she was wearing that had cocaine in the pocket were her friend's.

Violation of RCW 69.50.4013 is a strict liability crime. The state is not required to prove either knowledge or intent to possess, nor knowledge as to the nature of the substance.

State of Washington v. Blake, No. 96873-0, decided February 25, 2021, en banc (all justices heard and decided the case).

<u>Facts:</u>

- In 2016, police executed a search warrant in Spokane, looking for stolen vehicles;
- 3 people were arrested, including Shannon Blake;
- Jail officers found a small baggy containing meth in the coin pocket of Blake's jeans;

<u>Charges:</u>

- State charged Blake with possession of a controlled substance under RCW 69.50.4013;

<u>Evidence at Trial:</u>

- Blake asserted unwitting possession, testifying that a friend had bought the jeans secondhand and given them to Blake two days before her arrest;
- Blake admitted that she was wearing the jeans with the meth in the pocket on the day she was arrested, but testified that she had never used meth and didn't know the jeans had drugs in the pocket;
- Blake's boyfriend also testified that Blake didn't use drugs and that she had received the jeans from a friend.

<u>Trial Court:</u>

- Matter was tried to the judge (no jury);
- Judge found that Blake possessed meth on the day in question;
- Consistent with the law, the judge did not make any findings as to whether the State had proved that Blake's possession was intentional or knowing;
- Judge did conclude that Blake had not met her burden to prove that her possession was unwitting.

<u>Verdict:</u>

- Guilty

Appeal:

- Blake appealed the verdict arguing "requiring her to prove unwitting possession violates due process."
- Relying on caselaw claiming the same violation, the Court of Appeals affirmed the conviction finding that the "crime of possession of a controlled substance does not require a mens rea [intent/guilty mind/state of mind] element.";
- Also, the Court of Appeals ruled that placing the burden on a defendant to prove unwitting possession does not violate due process.

Supreme Court:

- Blake argued that the constitution bars the legislature from penalizing her conduct without requiring the State to prove she had a guilty mind.
- Supremes recognized the State's ability to criminalize certain conduct through its police powers.
- Under both federal and state constitutions, a statute must have "a reasonable and substantial relation to the accomplishment of some purpose fairly within the legitimate range or scope of the police power and must not violate a constitutional mandate."
- Limits of the police power is rooted in "the guaranty of due process" that "the law shall not be unreasonable, arbitrary or capricious" and "the means selected shall have a real and substantial relation to the object sought to be attained.
- In other words, the police power is limited by due process clause;
- Due process clause protects certain personal liberties, including:
    - the principle that "the existence of a *mens rea* is the rule of, rather than the exception to, the principles of Anglo-American criminal jurisprudence; and
    - the rule that the government cannot criminalize essentially innocent conduct.
- Requiring a *mens rea* has exceptions in recognition that putting the burden of care on those in the best position to avoid harms protects the public; people are charged with taking care. For example, the crime of rape of a child requires proof that the defendant had sexual intercourse with a person under a particular age; the state need not prove that the defendant knew the victim's age. The burden is placed on the defendant to determine the age of the person.
- There are no exceptions to the due process requirement that government cannot criminalize essentially innocent conduct.
- Test to determine if a criminal law complies with constitutional due process requirements:
    - Is the area of regulation within the government's scope of authority? and
    - Is the particular ordinance a reasonable regulatory measure in support of the area of concern?
- If criminalization of passive nonconduct without *means rea* makes no distinction between conduct calculated to harm and that which is essentially innocent, it exceeds the State's police power.

- An example of a law that exceeds a government's police power is curfew laws; Seattle used to prohibit "accompanying a child during curfew hours" which resulted in any minor under the age of 18 being subject to arrest for standing or playing on the sidewalk in front of his or her home at 10:01 pm. While the government has an interest in the well-being of youth and has authority to enact laws to "assist" those whose primary responsibility is for the well-being of minors. The law was challenged, and the Supreme Court struck it down as it criminalized innocent activity and wasn't sufficiently related to safeguarding minors.
- Washington State was the only state that did not require intent to commit the crime of drug possession.
- Supremes gave examples of criminal activity under RCW 69.50.4013:
    - Letter carrier who delivers a package containing unprescribed Adderall;
    - A roommate who is unaware that the person who shares his apartment has hidden illegal drugs in the common areas of the home;
    - A mother who carries a prescription bill bottle in her purse, unaware that the pills have been substituted for illegally obtained drugs by her teenage daughter who placed them in the bottle to avoid detection;
    - A person who picks up the wrong bag at the airport.
- Majority opinion placed particular emphasis on the significant penalties associated with conviction under RCW 69.50.4013, including beyond incarceration and criminal fines, such as loss of right to vote and possess a firearm, loss of government benefits and professional licenses.

<u>Holding</u>:

Conviction was vacated. RCW 69.50.4013, Washington's strict liability drug possession statute is unconstitutional in that it criminalizes unknowing, and hence innocent, passivity and therefore has an insufficient relationship to the objective of regulating drugs; it goes beyond the scope of legitimate police power.

Overturned all prior caselaw that held RCW 69.50.4013 constitutional despite being a strict liability crime.

Four justices joined the author of the opinion.

<u>Concurring and Dissenting in Part:</u>

Concurs that RCW 69.50.4013 should have a *mens rea* element.

Disagrees with the majority's declaration that the Court doesn't have the ability to interpret RCW 69.50.4013 to include a *mens rea* or a knowledge element. The Court has previously "read" into laws a *mens rea* element and should have done so in this case. Other states have the same or similar law and courts have interpreted them to include a *mens rea* element.

Disagrees with the majority's "broad constitutional holding" test of "passive nonconduct versus active criminal conduct"; that this new test will bring a slew of constitutional challenges to passive versus active conduct in criminal statutes. Unknowing possession is not equally as innocent and passive as staying out late with a juvenile.

Dissent:

The legislature has the power to enact strict liability crimes and the court's prior rulings of constitutionality should be adhered to and the Court of Appeal's decision affirmed.

Two justices agreed with the dissent.

Impact of Decision:

- All convictions for violation of RCW 69.50.4013 were immediately vacated.
- Those incarcerated for violating RCW 69.50.4013 have been released.
- Those who are on probation or community custody pursuant to a RCW 69.50.4013 conviction have been released, including those serving a DOSA sentence or are participating in local drug court.
- Those who's sentence was based upon counting of a prior or concurrent RCW 69.50.4013 conviction will be resentenced.

Legislative Fix:

- Senate Bill 5468 was introduced on the day after the decision was published to fix the statue by adding the word "knowingly"

Local Fix:

Chief Tomaras posited the question of whether the City should consider passing a local ordinance that would serve as a "fix" until the state legislature decides to act. Marysville passed such an ordinance.

69.50 RCW applies to City of College Place by reference.

A new section to Title 9 – Public Peace, Morals and Welfare

Chapter 9.17.010 Statutes incorporated by reference. The following statutes as adopted and further amended and/or recodified regarding controlled substances and drug paraphernalia are incorporated by reference: RCW: 69.41 RCW – Legend drugs – Prescription drugs 69.50.101 through .4012 and .4014 through .608 – Uniform Controlled Substance Act 69.50.4013 amended as follows: **Possession of controlled substance—Penalty—Possession of useable marijuana, marijuana concentrates, or marijuana-infused products—Delivery.**

(1) It is unlawful for any person to *knowingly* possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his or her professional practice, or except as otherwise authorized by this chapter.

(2) Except as provided in RCW **69.50.4014**, any person who violates this section is guilty of a class C felony punishable under chapter **9A.20** RCW.

(3)(a) The possession, by a person twenty-one years of age or older, of useable marijuana, marijuana concentrates, or marijuana-infused products in amounts that do not exceed those set forth in RCW **69.50.360**(3) is not a violation of this section, this chapter, or any other provision of Washington state law.

(b) The possession of marijuana, useable marijuana, marijuana concentrates, and marijuana-infused products being physically transported or delivered within the state, in amounts not exceeding those that may be established under RCW **69.50.385**(3), by a licensed employee of a common carrier when performing the duties authorized in accordance with RCW **69.50.382** and **69.50.385**, is not a violation of this section, this chapter, or any other provision of Washington state law.

(4)(a) The delivery by a person twenty-one years of age or older to one or more persons twenty-one years of age or older, during a single twenty-four hour period, for noncommercial purposes and not conditioned upon or done in connection with the provision or receipt of financial consideration, of any of the following marijuana products, is not a violation of this section, this chapter, or any other provisions of Washington state law:

(i) One-half ounce of useable marijuana;

(ii) Eight ounces of marijuana-infused product in solid form;

(iii) Thirty-six ounces of marijuana-infused product in liquid form; or

(iv) Three and one-half grams of marijuana concentrates.

(b) The act of delivering marijuana or a marijuana product as authorized under this subsection (4) must meet one of the following requirements:

(i) The delivery must be done in a location outside of the view of general public and in a nonpublic place; or

(ii) The marijuana or marijuana product must be in the original packaging as purchased from the marijuana retailer.

(5) No person under twenty-one years of age may *knowingly* possess, manufacture, sell, or distribute marijuana, marijuana-infused products, or marijuana concentrates, regardless of THC concentration. This does not include qualifying patients with a valid authorization.

(6) The possession by a qualifying patient or designated provider of marijuana concentrates, useable marijuana, marijuana-infused products, or plants in accordance with chapter **69.51A** RCW is not a violation of this section, this chapter, or any other provision of Washington state law.

NOTE: The City Code addresses marijuana in 9.16 CPMC which needs to be updated to accurately reflect current law but is not the subject of this memo at this time. In addition, it is recommended that the City review 5.08 CPMC – Medical Cannabis Operations to ensure that the regulations comply with the law.