

Ordinance No. 696-09

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EVERSON, WASHINGTON, ANNEXING APPROXIMATELY 34 ACRES OF REAL PROPERTY, COMMONLY KNOWN AS THE “TIGER-VAN BOVEN ANNEXATION,” TO SAID CITY PURSUANT TO PROPERTY OWNER PETITION, REQUIRING SAID PROPERTY TO BE ASSESSED AND TAXED AT THE SAME RATE AND BASIS AS OTHER PROPERTY WITHIN SAID CITY, AND ESTABLISHING LIGHT INDUSTRIAL ZONING FOR SAID PROPERTY CONSISTENT WITH THE COMPREHENSIVE PLAN

WHEREAS, on September 26, 2008, the City of Everson, Washington (the “City”) received a Petition for Annexation (the “Petition”) of certain real property, the legal description of which is set forth on Exhibit “A” attached hereto (the “Annexation Area”); and

WHEREAS, said Petition was signed by the property owners of not less than sixty percent (60%) of the assessed valuation for general taxation purposes of the Annexation Area; and

WHEREAS, on October 16, 2008, the Whatcom County Assessor signed a Certificate of Sufficiency pursuant to RCW 35A.01.040 with respect to the Petition; and

WHEREAS, on October 22, 2008, the City provided public notice to neighboring property owners and on October 29, 2008, provided public notice in the Lynden Tribune as to the holding of a public hearing regarding the proposed annexation on November 10, 2008; and

WHEREAS, a public hearing regarding the proposed annexation was held before the Everson City Council on November 10, 2008, where opportunity for public comment was provided and testimony was received; and

WHEREAS, the City Council, having considered the merits of the proposed annexation, adopted Resolution No. 485-09 resolving to annex the Annexation Area subject to conditions in said Resolution, including approval of the action by the Whatcom County Boundary Review Board (the “Board”) and amendment of the Interlocal Agreement between the City and Whatcom County, and further subject to final action through adoption of an ordinance by the Everson City Council; and

WHEREAS, said Annexation Area lies within the Urban Growth Area and within the Short Term Planning Area for the City, as established by ordinance of Whatcom County; and

WHEREAS, the proposed annexation was submitted to the Board and was deemed approved by the Board in a letter dated June 30, 2009; and

WHEREAS, an amendment to the “Interlocal Agreement Between the City of Everson and Whatcom County Concerning Annexation” was approved by Whatcom County and the City on July 14, 2009; and

WHEREAS, the Everson City Council has determined that the City will require the assumption of any and all portions thereof of existing City indebtedness by the Annexation Area and will require the assignment of zoning designations and regulations consistent with the City Comprehensive Plan and this Ordinance; and

WHEREAS, the Everson Comprehensive Plan identifies the future zoning designation for the proposed annexation area as being Light Industrial; and

WHEREAS, on October 7, 2009, the City provided public notice in the Lynden Tribune regarding the holding of a public hearing regarding the proposed annexation on October 27, 2009; and

WHEREAS, a public hearing regarding the proposed annexation was held before the Everson City Council on October 27, 2009, where opportunity for public comment was provided and testimony was received; and

WHEREAS, the proposed Annexation Area is identified in the Everson Comprehensive Plan as being located within the wellhead protection area, 10-year time-of-travel zone, associated with the City's wellfield that is the source of the municipal drinking water supply; and

WHEREAS, major industrial developments within the City's wellhead protection area could pose a threat to public health unless such developments are connected to the public sanitary sewer system; and

WHEREAS, available capacity in the City's sewer treatment plant is sufficient to accommodate planned residential development and limited commercial and industrial development, but may not be sufficient to accommodate a major industrial development; and

WHEREAS, capacity in the City's sewer treatment plant is insufficient to serve a large industrial development until a major expansion of the City's sewer treatment plant has been completed; and

WHEREAS, the property owners within the Annexation Area have executed an Annexation Agreement affirmatively accepting the limitation on development and connection to the City's sewer system as set forth in this Ordinance; and

WHEREAS, subject to the conditions and limitations on development set forth in this Ordinance and the express acceptance of these conditions and limitations on development by the property owners within the Annexation Area, the Everson City Council has agreed to accept the annexation as petitioned for.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EVERSON, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. The territory commonly known as the "Tiger-Van Boven Annexation", legally described on Exhibit "A" attached hereto (the "Annexation Area"), is hereby annexed and incorporated into the City.

Section 2. The Annexation Area set forth in this Ordinance was all included as part of the property in said Petition as filed, and should be and is hereby made a part of the City, subject to the development limitations and conditions upon development set forth herein.

Section 3. Pursuant to the terms of the Petition, all property within the Annexation Area shall be assessed and taxed at the same rate and on the same basis as property within the City, including assessment of taxes and payment of any and all portions of outstanding indebtedness of the City that was contracted, incurred prior to, or existing on the date of the annexation.

Section 4. The Annexation Area shall be classified in the Light Industrial Zone pursuant to the Everson Municipal Code, in conformance with the City's Comprehensive Plan, and subject to the development limitations set forth in this Ordinance.

Section 5. Limitation on Development. No development shall be permitted and no application shall be accepted by the City for industrial development within the Annexation Area that involves or requires the construction of an on-site sewage disposal system larger than a system sized to serve one four-bedroom, single-family residence per legal lot of record existing at the time of annexation, provided that this limitation shall not apply to developments that utilize alternative systems approved by the City that provide for the quantity of effluent discharged into the 10-year time-of-travel zone to be less than or equal to the discharge resulting from a standard on-site sewer system sized to serve a four-bedroom, single-family residence. Furthermore, applications for industrial developments within the Annexation Area with effluent discharges larger than that of a four-bedroom, single-family residence as determined by the City shall not be accepted by the City until the City first determines that adequate capacity in the City's sewer treatment plant is available.

Section 6. Limitation on Connection to City Sewer Treatment Plant. No connection to the City's sewer system for any industrial development within the Annexation Area shall be made where the effluent discharges of such development is larger than that of a four-bedroom, single-family residence as determined by the City until the City first determines that adequate capacity in the City's sewer treatment plant is available for such development.

Section 7. Contemporaneous Updates. The City's Comprehensive Plan, zoning maps and development regulations are hereby amended to conform to the annexation approved in this Ordinance and the conditions of development set forth herein.

Section 8. Severability-Construction. If a section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is declared unconstitutional or invalid for any reason by any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. If provisions of this Ordinance are found to be inconsistent with other provisions of the Everson Municipal Code, then this Ordinance and the provisions herein are deemed to control.

Section 9. This Ordinance shall take effect five (5) days following the date of its publication.

PASSED by the City Council and approved by the Mayor of the City of Everson, Washington, this 26th day of January, 2010.

CITY OF EVERSON, WASHINGTON

John Perry, Mayor

Attested/Authenticated

Debbie Sandberg, Clerk Treasurer/City Administrator

Approved as to Form

Jonathan Sitkin, City Attorney

EXHIBIT "A"
LEGAL DESCRIPTION
CITY OF EVERSON
TIGER-VAN BOVEN ANNEXATION

THAT PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 1, TOWNSHIP 39 NORTH, RANGE 3 EAST OF W.M. EXCEPT THE FOLLOWING DESCRIBED TRACT:

BEGINNING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER; THENCE NORTH ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, 301 FEET; RUNNING THENCE WEST PARALLEL WITH THE SOUTH LINE OF SAID NORTHEAST QUARTER, 890 FEET; THENCE SOUTH TO THE SOUTH LINE OF SAID NORTHEAST QUARTER, 301 FEET; THENCE EAST ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER, 890 FEET TO THE POINT OF BEGINNING.

TOGETHER WITH THE FULL RIGHT OF WAY WIDTH OF MISSION ROAD ABUTTING.

SITUATE IN WHATCOM COUNTY, WASHINGTON.