

**ORDINANCE NO. 2808**

**AN ORDINANCE OF THE CITY OF PUYALLUP, WASHINGTON**, providing for the annexation of certain real property known as the Fruitland Avenue Annexation Area, subject to assumption of indebtedness, and adopting preannexation zoning controls for such property as provided in PMC 20.05.050.

**WHEREAS**, on February 29, 2004, the Washington Supreme Court reversed its previous decision, from March of 2002, issued in Grant County Fire Protection District No. 5 v. City of Moses Lake, affirming the constitutionality and legality of the assessed valuation petition method of annexation as specifically described in RCW 35A.14.120; and

**WHEREAS**, the matter at issue in this ordinance, known as the “Fruitland Avenue Annexation Area”, has been processed under the assessed valuation petition method of annexation; and

**WHEREAS**, having received a legally sufficient request to commence annexation proceedings from the individuals whose ownership represents well in excess of ten percent (10%) of the assessed valuation of the Annexation Area, the Puyallup City Council passed Resolution No. 1860 on May 3, 2004, authorizing circulation of annexation petitions in an area known as the Fruitland Avenue Annexation Area; declaring the City Council’s intent to annex such Area; and directing the City’s Administration to prepare and file a Notice of Intent to Annex with the Pierce County Boundary Review Board, seeking the Board’s approval pursuant to the provisions of Chapter 36.93 RCW; and

**WHEREAS**, following passage of Resolution No. 1860, the annexation proponents presented the City with petitions reflecting the signatures of parties whose ownership represents more than sixty percent (60%) of the assessed valuation of the Fruitland Avenue Annexation Area; and

**WHEREAS**, on June 22, 2004, the Pierce County Assessor-Treasurer officially certified the sufficiency of petitions filed in the Fruitland Avenue Annexation matter, finding that the parties signing the petitions owned the entirety of the annexation area; and

**WHEREAS**, the Annexation Area is approximately 9.12 acres of unincorporated Pierce County, representing 10 legal parcels contiguous to and generally located on the east side of Fruitland Avenue, between Pioneer Way East and 7<sup>th</sup> Avenue SW; and

**WHEREAS**, the Fruitland Avenue Annexation Area is situated within the City of Puyallup’s designated Urban Service Area, sometimes referenced as the City’s Urban Growth Area, and Pierce County’s overlapping comprehensive Urban Growth Area; and

**WHEREAS**, consistent with pre-annexation zoning Ordinance No. 2800, adopted for this area by City Council on October 4, 2004, the City Council finds that the annexation area should be zoned RS-08 at the time of annexation; and

**WHEREAS**, Puyallup City utilities, police, fire and other services are adequate and available to support the area upon annexation; and

**WHEREAS**, the proposed annexation is consistent with the intent and purpose of the Growth Management Act, which reads in relevant part: “[i]n general, cities are the units of local government most appropriate to provide urban governmental services.” RCW 36.70A.110(4); and

**WHEREAS**, the City of Puyallup seeks to fulfill its obligations and responsibilities under the Growth Management Act through annexation of the Fruitland Avenue Annexation Area; and

**WHEREAS**, August 26, 2004 was the deadline set by the Boundary Review Board for interested parties to invoke jurisdiction of the Board and challenge the proposed annexation, and, because the deadline passed without the Board’s jurisdiction having been invoked, the proposed annexation is deemed approved by the Board as provided in RCW 36.93.100; and

**WHEREAS**, by regular motion adopted at its regular meeting on October 4, 2004, the City Council set a public hearing on the subject of this ordinance to occur at its regular meeting on October 18, 2004, which hearing was continued to its regular meeting on November 15, 2004, and such hearing was duly noticed by the City Clerk through publication in a newspaper of general circulation in the city and the proposed annexation area, and through posting of a hearing notice in three (3) public places within the territory proposed for annexation, which notices specified the time and place of the hearing and interested persons were given an opportunity to appear and voice approval or disapproval of the annexation; and

**WHEREAS**, the City Council conducted its public hearing on the subject of this ordinance during its regular meeting on October 18, 2004, and November 15, 2004, and all persons wishing to be heard or submit written comments were afforded an opportunity to do so; and

**WHEREAS**, the City Council has been fully advised and finds that all statutory requirements have been satisfied in order to accomplish the proposed annexation;

**NOW THEREFORE**, THE CITY COUNCIL OF THE CITY OF PUYALLUP ORDAINS AS FOLLOWS:

**Section 1.** **Annexation of the Fruitland Avenue Area.** The real property known as the Fruitland Avenue Annexation Area, which is more particularly described on Exhibit “A”, a copy of which is attached hereto and incorporated by this reference as if set forth in full, is hereby annexed to and made a part of the City of Puyallup.

**Section 2.** **Assumption of Existing City Indebtedness.** Pursuant to the terms of the annexation petition and consistent with Resolution No. 1860, upon annexation, all property within the Fruitland Avenue Annexation Area shall be assessed and taxed at the same rate and on the same basis as other property within the City of Puyallup including assessments or taxes in payment of all or any portion of the outstanding indebtedness of the City contracted, incurred prior to, or existing on the date of annexation.

**Section 3.** **Zoning Controls Adopted for Annexation Area.** Under the authority of RCW 35A.14.330, pursuant to Ordinance #2800 pre-annexation zoning of RS-08 has been established for this annexation area. Therefore, all property annexed by this ordinance is hereby zoned RS-

08 and shall be subject to all development regulations of the City of Puyallup in effect at the time of annexation.

**Section 4. Duties of the City Clerk.** Upon passage of this annexation ordinance, the City clerk is directed to file a certified copy of such document with the Pierce County Council and the Boundary Review Board. The Clerk is further directed to file a certificate of annexation with the State Office of Financial Management as directed by RCW 35A.14.700.

**Section 5. Contemporaneous Updates.** The City's Comprehensive Plan and zoning map are hereby amended to conform to the annexation approved in this ordinance.

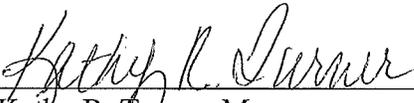
**Section 6. Severability – Construction.**

(1) 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.

(2) If the provisions of this ordinance are found to be inconsistent with the other provisions of the Puyallup Municipal code, this ordinance is deemed to control.

**Section 7. Effective Date.** This Ordinance, being the exercise of a power specifically delegated to the legislative body of the City of Puyallup, is not subject to referendum, and shall take effect from and after its passage, which date shall be Wednesday December 1, 2004.

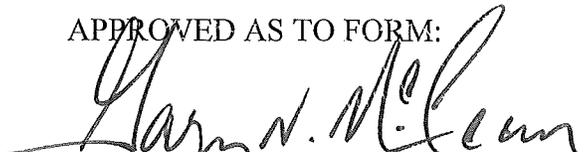
**PASSED** by the City Council of the City of Puyallup this 15TH day of November 2004 and signed in authentication this 15TH day of November 2004.

  
Kathy R. Turner, Mayor

ATTEST:

  
Barbara J. Price, City Clerk

APPROVED AS TO FORM:

  
Gary N. McLean, City Attorney

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PUBLISHED: THURSDAY, NOVEMBER 18, 2004

## EXHIBIT A

That portion of the Southwest quarter of Section 29, Township 20 North, Range 4 East of the Willamette Meridian in Pierce County, Washington; lying south of the north right of way line of Pioneer Avenue, and lying east of the west right of way line of Fruitland Avenue and its north extension to the north right of way line of Pioneer Avenue, and lying north of the north right of way line of 7<sup>th</sup> Avenue S.W. and its west extension to the west right of way line of Fruitland Avenue.

Together with that portion of Fruitland Avenue lying between the west extensions of the north and the south right of way lines of 7<sup>th</sup> Avenue SW.  
Except any portion thereof previously annexed to the City of Puyallup.