# ORDINANCE TEXT

**An ORDINANCE to recognize rights for the Snohomish River Watershed.**

**WHEREAS**, the health and vitality of the Snohomish River Watershed benefits the Everett community, economy, environment, government, and future generations by providing good water quality, supporting habitat and wildlife biodiversity, increasing resilience to environmental challenges, reducing costs associated with water treatment, and enhancing the quality of life of Everett Citizens; and,

**WHEREAS**, current legal frameworks may not adequately protect the Watershed's ability to exist and flourish; and

**WHEREAS**, granting legal standing to the Snohomish River Watershed would allow for the Watershed's rights to be represented and enforced in court; and

**WHEREAS**, local residents and entities who rely on the Watershed's health should have the ability to advocate for its protection.

**We the undersigned Citizens of Everett acknowledge** that the protection and conservation of our watershed is vital for sustaining both human communities and natural ecosystems;

**Therefore THE CITY OF EVERETT DOES ORDAIN:**

**A. Rights of the Snohomish River Watershed.** The Snohomish River Watershed possesses the rights to exist, regenerate, and flourish, which shall include the right to naturally recharge, the right to naturally flow, the right to water quality necessary to provide habitat for native plants and animals, the right to provide clean water, and the right to restoration. The Snohomish River Watershed shall also have the right to be free from activities or projects which violate those rights.

**B. Prohibitions.** It shall be unlawful for any person to violate any of the rights recognized by this Ordinance.

**C. Implementation and Enforcement.**

**(1) Enforcement by the Snohomish River Watershed.** The Snohomish River Watershed may enforce or defend the rights recognized by this Ordinance through an action brought by any person with legal standing in the City of Everett in the name of the Snohomish River Watershed as the real party in interest, in any court of competent jurisdiction.

**(2) Damages and Fees.** Any person that violates any rights recognized by this Ordinance shall be liable for any damages caused to the Snohomish River Watershed as a result of that violation. Damages shall be measured by the cost of fully restoring the Snohomish River Watershed to its natural state before the violation, and shall be paid to the City of Everett to be

used exclusively for the full and complete restoration of the Snohomish River Watershed as affected by the violation. A prevailing plaintiff, in an enforcement action, shall be entitled to recover all costs of litigation, including, without limitation, expert and attorney's fees.
**(3) Duties and Obligations.** The rights of the Snohomish River Watershed secured within this Ordinance shall not be interpreted to confer liabilities, duties, obligations, or responsibilities on the Snohomish River Watershed.
**(4) Enforcement Actions and Burden of Proof.** Where probable violations of the rights protected in this Ordinance are shown to exist, lack of full scientific certainty shall not be used as a reason for denying or postponing enforcement or defense of these rights.

**D. Authority.** This Ordinance is adopted under the authority of the Municipal Code of the City of Everett, pursuant to the authority provided to code cities in the Revised Code of Washington, and by the inherent right of the people of the City of Everett to make laws which recognize and expand civil and environmental rights at the municipal level, under the authority as recognized by, but not limited to, Article I, Section 1 and Article I, Section 4 of the Washington State Constitution, and the 10th Amendment and 14th Amendment, Section 1 of the United States Constitution.

**E. Preemption and Severability.**

**(1) Preemption.** This ordinance shall not be applicable to areas of law that have been validly preempted by state or federal law.
**(2) Severability.** Should any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance, or its application to any person, entity, or circumstance, be declared unconstitutional or otherwise invalid or unenforceable for any reason, or should any portion of this Ordinance be validly preempted by state or federal law or regulations, such decision or preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons, entities, or circumstances.

**F. Definitions.**

**(1) "Snohomish River Watershed"** as used within this Ordinance, shall include the Snohomish River and the watershed of the Snohomish River within the boundaries of the City of Everett in the State of Washington; and shall include, but not be limited to, Port Gardner Bay and the East Waterway, Union Slough, Mile Creek, Langus Riverfront Park Creek, tributaries of Pilchuk and Allen creek, and any other wetlands, tributaries and contributors to the Snohomish River Watershed within the boundaries of the City of Everett.
**(2) "Clean Water"** means water that is free from any non-natural presence of substances, contaminants, noise, or pollutants in quantities that may pose actual or potential harm to human health or welfare, animals, fish, plant life, or water quality, or that may unreasonably interfere with the enjoyment of life or property, including outdoor recreation.
**(3) "Exist"** as used within this Ordinance, shall mean that the Snohomish River Watershed has the capacity to naturally perform basic functions historically common to the Snohomish River Watershed.

**(4) “Flourish”** as used within this Ordinance, shall mean that the Snohomish River Watershed has the capacity to naturally prosper by vigorously growing and developing, which, in turn, allows it to robustly perform its basic functions.
**(5) “Person”** as used within this Ordinance, shall mean an individual, partnership, association, public or private corporation, city or other municipality, county, state, or federal agency.
**(6) “Regenerate”** as used within this Ordinance, shall mean that the Snohomish River Watershed has the capacity to regain its historically basic functions following a natural or manmade interference with those functions.