

**City of Prosser**  
**CITY COUNCIL**  
**WORK SESSION MEETING AGENDA**  
Council Chambers, 601 7<sup>th</sup> Street, Prosser WA 99350  
Tuesday, June 2, 2015 at 7:00 P.M.

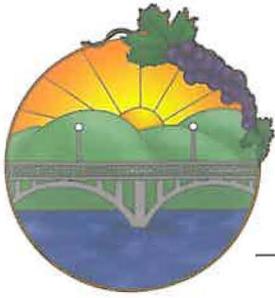
1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **MAYOR AND CITY COUNCIL REPORTS AND COMMENTS**
  - a) **Prosser Aquatic Center Opening Day** (*Mayor Warden*)
  - b) **Sacred Heart Parish Special Event Permit Application** (*Mayor Warden*)
  - c) **Boys and Girls Club Quarterly Report** (*Dena Lodahl, Executive Director*)
  - d) **Mid Columbia Libraries Quarterly Report** (*Katy McLaughlin, Prosser Branch Manager*)
  - e) **Program Updates and Use Trends** (*Jen Dorsett, CIA Community Coordinator*)
5. **COUNCIL DISCUSSION**
  - a) **Large Vehicle and RV Parking and Storage.....Page 2**
  - b) **iCompass Technologies Inc., Service Agreement.....Page 16**
6. **ADJOURNMENT**

**CITY OF PROSSER, WASHINGTON**

**AGENDA BILL**

<b>Agenda Title:</b> Recreational Vehicle (RV) Parking and Storage in the City of Prosser Discussion and Presentation.		<b>Meeting Date:</b> June 2, 2015 Work Session	
<b>Department:</b> Code Enforcement Planning Department Police Department	<b>Director:</b> Barry Morrow Steve Zetz Chief Giles	<b>Contact Person:</b> Barry Morrow Steve Zetz	<b>Phone Number:</b> (509) 786-2332
<b>Cost of Proposal:</b> NA		<b>Account Number:</b>	
<b>Amount Budgeted:</b> NA		<b>Name and Fund#</b>	
<b>Reviewed by Finance Department:</b> 			
<b>Attachments to Agenda Packet Item:</b>  <ol style="list-style-type: none"> <li>1. Letter from the Planning Commission Chair dated April 20, 2015</li> <li>2. Survey Results (from City Newsletter)</li> <li>3. Staff Report</li> </ol>			
<b>Summary Statement:</b>  <p>At the January 13, 2015 City Council meeting, Council directed the Planning Department to take PMC 18.60.070 to the Planning Commission for review and possible changes. The Planning Commission has reviewed the existing ordinance and finds that it is adequate as written and should be enforced.</p> <p>During the May 5, 2015 City Council meeting, staff presented Council the Planning Department's findings and discussed options for changing the Code. During that meeting Council directed the Planning Department to review the 20 foot set-back requirement and report back staff's findings on additional options.</p> <p>As directed staff has additional materials contained in a power point presentation for further review and discussion.</p>			
<b>Consistent with or Comparison to:</b>  EXISTING ADOPTED OR PREVIOUS PLANS, POLICIES OR ACTIONS TAKEN BY THE COUNCIL			
<b>Recommended City Council Action/Suggested Motion:</b>  Review and discuss staff's findings. No action at this time, discussion only			

<u>Reviewed by Department Director:</u>  Date: 5/29/15	<u>Reviewed by City Attorney:</u>  Date: 5/28/15	<u>Approved by Mayor:</u>  Date: 5-29-15
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# City of Prosser

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**To:** Prosser City Council

**Date:** April 20, 2015

**Reference:** RV and Boat Parking

The Planning Commission has spent several months reviewing the Ordinances regarding RV and Boat Parking. A survey was sent out to the community in the City Newsletter. Based on the Planning Commission's review and the survey results the Planning Commission finds that the existing ordinance adequately provides for the storage of boats and RV's as written while protecting the residential character of Prosser Neighborhoods. The Planning Commission recommends continued enforcement of the existing ordinances.

A handwritten signature in blue ink that reads "Glenda Schmidt". The signature is fluid and cursive.

Glenda Schmidt

Planning Commission Chair

# City of Prosser 2015 Survey Results

## RV's and Boats Ordinance

### Current Code

#### *PMC 18.60.070*

*Parking campers, boats, trailers, and the like in public right-of-way. Trailers, boats, camper tops, recreational vehicles, modular structures, portable structures, commercial trucks in excess of one ton gross weight, and the like, owned by a person residing on the premises may be stored in an R district but not within a public right-of-way or street frontage setback area. (Ord. 1917 § 1 (part), 1997).*

### Survey Question.

## POLL

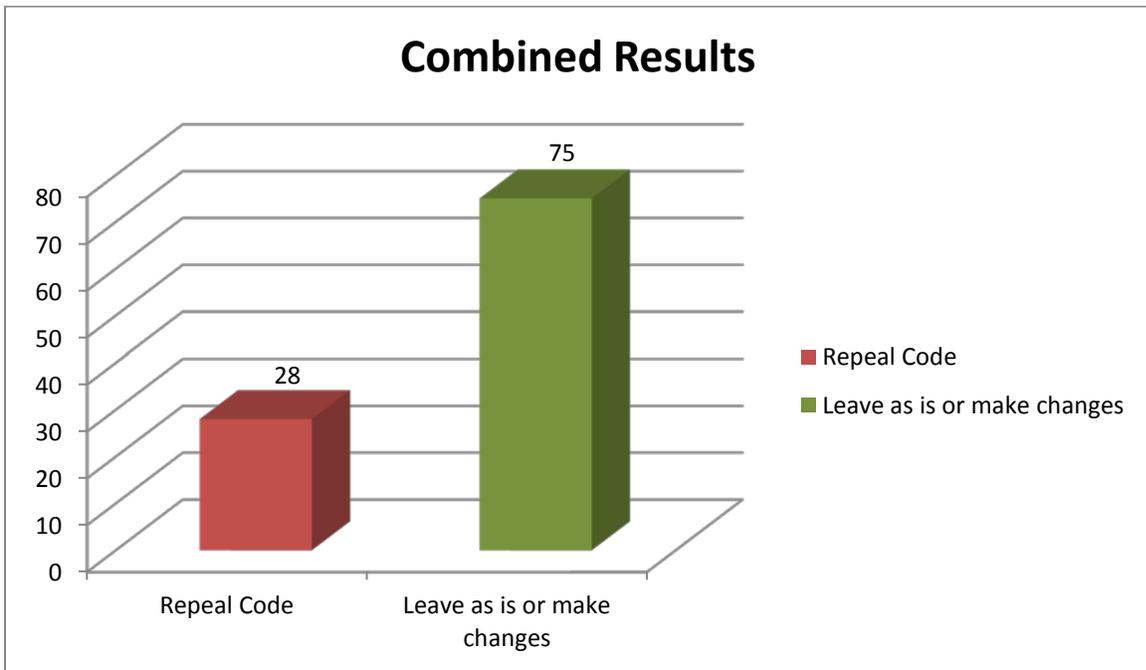
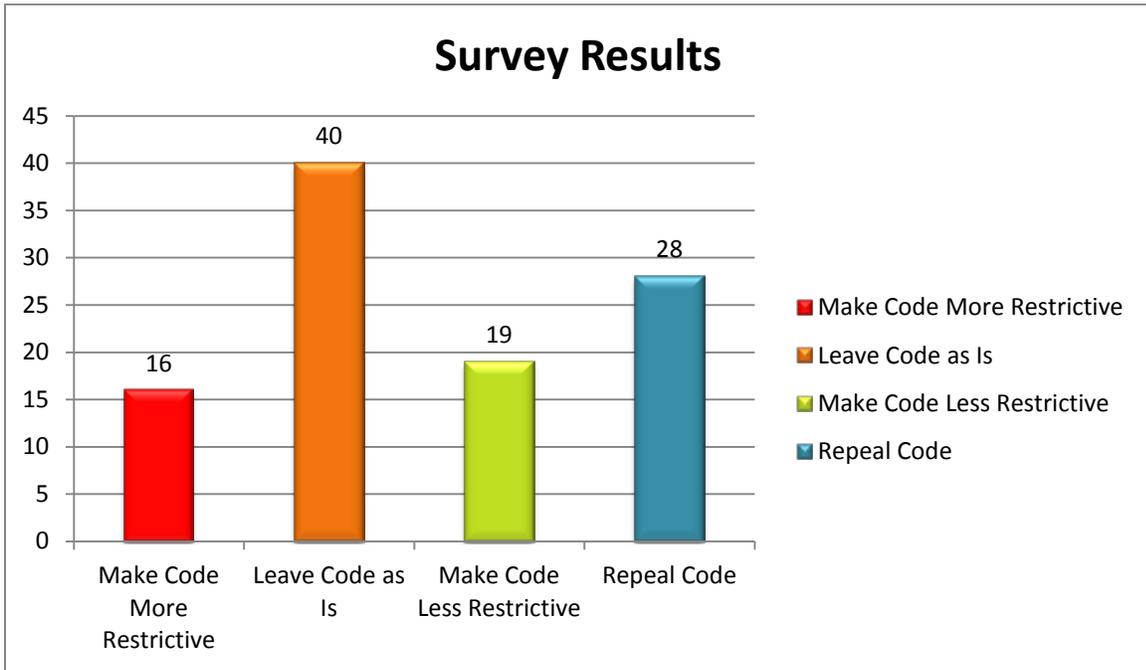
**Question:** Should PMC 18.60.070 be left as is, modified to be more or less restrictive, or repealed? Please check one box and return to City Hall. Feel free to use the night deposit box or return it with along with your utilities payment. Only original newsletters will be counted in the polling numbers, photo copies will not accepted.

The Code is fine and should be left as is restricting RV's, boats, and trailers from parking in the front setback in residential neighborhoods.

The Code should be repealed allowing RV's, boats, and trailers to park anywhere on a persons own property.

The Code should be modified to be more restrictive, RV's, boats, and trailers should not be stored in residential neighborhoods.

The code should be modified to be less restrictive and allow more of the front setback to be used for storage of RV's, boats, and trailers.



**Sample of comments received on surveys**

Survey Response	Comment
Leave Code As Is	"Please Enforce"
Leave Code As Is	"Check Spokane Ave Boat on street always"
Leave Code As Is	"Please enforce"
Repeal Code	"Micro-managing"
Make Code More Restrictive	"place in backyard"
Make Code Less Restrictive	"could be parked in set back for one week or less. Time to get ready for trip charge batteries etc."
Leave Code As Is	"otherwise it looks junky"

**Additional Information**

- 103 total returns as of April 16, 2015
- Majority of responses favor leaving code as is
- 2 letters submitted
- 2 polls not counted due to multiple checked boxes

**Staff Recommendation**

Based on the survey staff recommends keeping the existing code as is and enforcing it. The current code allows for residents to park boats and RV's on the side and rear of their yards. This is the best approach that balances the rights of RV and boat owners to use their property with the rights of neighbors to enjoy their property free from unsightly commercial/industrial storage uses within residential zones.



## Planning Commission Staff Report

**Meeting Date:** February 19, 2015

**Prepared by:** Steve Zetz

**Description:** Prosser City Council has directed the Planning Commission to review sections of the Prosser Municipal Code specific to Recreational Vehicle parking and storage.

*18.60.070 Parking campers, boats, trailers, and the like in public right-of-way.*

*Trailers, boats, camper tops, recreational vehicles, modular structures, portable structures, commercial trucks in excess of one ton gross weight, and the like, owned by a person residing on the premises may be stored in an R district but not within a public right-of-way or street frontage setback area. (Ord. 1917 § 1 (part), 1997).*

In 2014 citizens complained about the storage of RV's and trailer's in front setbacks and on streets. Code Enforcement began addressing these issues on a complaint basis. While attempting to gain voluntary compliance some offending persons began pointing fingers at other violators as a defense. In order to address the issue Code Enforcement canvassed the City and identified 72 (As of December 2014) violations and sent out letters giving them 6 months to correct the violation. To date the majority of violators have complied by removing or relocating trailers and RV's from public streets and front setbacks.

The Prosser City Council heard from a few citizens that had not yet complied with the Municipal Code. They have asked the Council to repeal or alter the municipal code to allow them to continue to store their trailers or RV's on public streets or in front setbacks.





## Planning Commission Staff Report

### Comment Letter:

It is my understanding that the above ordinance will be discussed during the February 26th Planning Commission meeting. I would like the following concerns and comments be considered at that time:

- 1.) This ordinance is not being addressed city wide. Only 56 letters were sent out. I feel we are being discriminated against.
- 2.) Corner lots can be in violation of the ordinance by parking in the 20' set sack of the side street.
- 3.) Parking in driveways and off the street doesn't cause any safety issues. The visual impact doesn't negatively affect the neighborhood addressed by the Mayor in the July 2013 newsletter.
- 4.) This ordinance has created a financial impact on property owners who want to live in the city limits and have a RV, trailers, and etc. but with limited space to park.
- 5.) To make it fare and easier to enforce with current staffing the ordinance should be amended to read:

Trailers, boats, camper tops, recreational vehicles, modular structures, portable structures, commercial trucks in excess of one ton gross weight, and the like, owned by a person residing on the premises may be stored in an R district by not on the street and shall be well maintained.

Thank you  
Karen Rumsey  
705 Main St  
Prosser, WA  
[509-786-3645](tel:509-786-3645)

### Testimony before council

- It doesn't block views
- It's not hurting anyone
- Storage is expensive
- It's unfair
- It's my property
- It's City property but it's a dead end street



# Planning Commission Staff Report

## Other Jurisdictions:

City	On Street	Off Street	Notes
Sunnyside	Prohibited-Up to 7 days allowed for visitors however it may not be used as RV.	Allowed no restrictions	
Grandview	Prohibited-Up to 7 days allowed for visitors however it may not be used as RV.	Unknown	
Kennewick	Prohibited	Prohibited	
Richland	Prohibited	Prohibited	
West Richland	Prohibited -36 hours allowed for visitors	Prohibited	

## Pros:

- Property rights
- Reduces cost of ownership and storage for RV's and trailers

## Cons:

- Mixes residential use with industrial/commercial use
- Likely to change character of neighborhood
- Likely to reduce curb appeal of surrounding properties.
- "Well maintained" may not be used as a standard for allowing therefore all would be allowed regardless of condition





# Planning Commission Staff Report

## Staff Analysis:

Code Enforcement has done a comprehensive job of identifying violations in regards to RV parking. It is unclear why or how anyone feels discriminated against and on what basis such a claim is made.



[Location of violations-Notices sent]



# Planning Commission Staff Report

Blight is always a contributing factor in home sales and curb appeal.

## Which one looks better?





## Planning Commission Staff Report

Staff can find no compelling argument that supports the statement that the current ordinance causes a financial burden that is excessive. It is not unreasonable to expect a person who spends thousands of dollars on a boat or RV to also make appropriate accommodations for its storage in order to preserve the character of a neighborhood so that neighbors are not negatively impacted. The cost of RV and boat ownership includes insurance, winterization, licensing, fueling, and maintenance costs, and it should come as no surprise that appropriate storage should also be considered.

Q: Should a reasonable person purchasing a boat or RV have known at the time that there were other costs associated with ownership beyond the initial cost?

A: YES. When purchasing any big ticket item such as a car there are many factors that come into play for most consumers, insurance costs, reliability, ownership costs, fuel efficiency. These are in addition to price. When it comes to boats and RV's these are primarily luxury items that are not considered necessary. Based on this it is reasonable to conclude that a reasonable person should know that there are additional costs associated with RV's and other non essential luxury items, to include insurance, taxes, and storage.

### Prosser Violations





# Planning Commission Staff Report





## Planning Commission Staff Report

### **Conclusion**

Code Enforcement has reported that the majority of those that were contacted have complied by moving their boat, RV, or trailer to the appropriate location or to outside storage facilities.

The issue is one of aesthetics and land use versus individual property rights. Both sides have compelling arguments however the Growth Management Act (GMA) recognizes that the uses employed by one property owner can impact and detract from another property owner's enjoyment of their property.

It is likely that those proposing changes to the Municipal Code to allow for the storage of RV's, trailers and the like (Industrial / Commercial Use) would they themselves not approve of other industrial or commercial uses locating next to them. For example an adult book store, bar, or paint shop locating next door. There is no question that the same arguments could be employed on behalf of allowing such a use. It is for this very reason that the State of Washington and the Courts have recognized the need for zoning and the distinct separation of uses.

The Prosser Municipal Code as currently written has struck a balance between individual property rights and segregating commercial and industrial uses from residential zones by targeting the most likely impact, visual blight. By requiring the RV, boat or trailer to be stored alongside or behind the home the property owner is afforded the opportunity to store the vehicle on their property but does so in such a manner as to not change the visual character of the neighborhood.

### **Recommendation**

Staff will comply with the direction given by Planning Commissioners.

### **Planning Commission**

The Planning Commission may at its discretion direct staff to do the following

1. Make changes to the ordinance and bring back to Planning Commission for action
2. Make a recommendation to keep the existing ordinance
3. Make a recommendation to repeal the existing ordinance

**CITY OF PROSSER, WASHINGTON**

**AGENDA BILL**

<b>Agenda Title:</b> Review and Discuss a Service Agreement Between the City of Prosser and iCompass Technologies Inc., for a Records Management and Automated Agenda Solution.		<b>Meeting Date:</b> June 2, 2015 Work Session	
<b>Department:</b> City Clerk	<b>Director:</b> Rachel Shaw	<b>Contact Person:</b> Rachel Shaw	<b>Phone Number:</b> (509) 786-8218
<b>Cost of Proposal:</b> \$11,900		<b>Account Number:</b>	
<b>Amount Budgeted:</b> General Fund (001) = \$6,250 Street Fund (102) = \$6,250 Water Fund (403) = \$6,250 Sewer Fund (407) = \$6,250 Total Budget \$25,000		<b>Name and Fund#</b> General Fund (001) Street Fund (102) Water Fund (403) Sewer Fund (407)	
<b>Reviewed by Finance Department:</b>			
			
<b>Attachments to Agenda Packet Item:</b>			
1. Agreement 2. iCompass Video Resources			
<b>Summary Statement:</b>			
<p>As Council is aware, during the budget discussions, the Clerk's Office requested funding in the amount of \$25,000 to pay for a Records Management Solution that would be implemented city-wide. Upon further discussion with the company it was discovered that the funding Council approved would not fully cover the entire cost for the project or necessary hardware and would require several years of phasing along with increased on-going costs. After further research staff discovered an alternative solution that is more cost effective and fully meets the City's needs for not only a Records Management Solution but also an Automated Agenda Solution streamlining the City Council agenda packet process. The implementation of a robust records and meeting management solution will alleviate the impact on staff time and delay the need for additional staff.</p> <p>The proposed agreement with iCompass Technologies Inc., is to acquire a cloud-based Records and Meeting Management Solution. This system will enable staff to automate the internal business processes used to prepare, track, modify, approve/disapprove and monitor the progress of individual agenda items for City Council meeting agenda packets, as well as manage records. Key benefits to the City of Prosser for implementing Records and Meeting Management Software include:</p>			

- Automation of the agenda process has been estimated to reduce costs by approximately \$10,700 per year with total potential savings of \$53,500 over 5 years.
- Reduce staff workload throughout the meeting cycle and managing records.
- A central system to track and manage follow-up items across the organization.
- Improve transparency by providing online access to public meeting information and records, thereby reducing staff involvement for public records requests.
- User-friendly experience for City Council to access the agenda via the iPad or other electronic devices.

Currently the City follows a mostly manual process for agenda packet creation and records management. The collection of the content for packet creation and distribution costs approximately over \$10,000 in paper and labor costs annually. In an effort to improve the agenda preparation process, the department would like to implement the iCompass Meeting and Records Management Solution city-wide, in order to automate the manual processes used for all of the City's public meetings and records. Automation of these processes will ultimately save the City money and free up staff to work on other projects.

The following features are standard with the iCompass Records Manager and Meeting Management Pro solutions:

- Records Management Features:
  - Automate classification of records, including retention and destruction schedules
  - Manage both electronic and paper records
  - Manage Public Records Requests
  - Web based public access for records
  - Enable full word/text searching
  - Be fully integrated with agenda automation/meeting management solution.
- Public Web Portal Features
  - Online public access to agendas, minutes, meeting calendar and historical and archived records.
  - Automatically OCR documents as they are inputted into the system.
  - Document searching, sharing and destruction logging.
  - Access on smart phones, tablets and computers.
- Meeting Management Features
  - An integrated application for the iPad and other electronic devices, with full annotation capabilities.
  - The system easily assembles documents into a single cohesive agenda packet for distribution to the City Council members, City staff and public website.
  - An automated workflow to prepare, track, modify and monitor the

progress of individual items for a specific agenda date.

- Access the Meeting Management Solution from any operating system or browser.
- Distribute the agenda packet to all recipients and mediums with one click.
- Easily make last minute changes to agenda items and republish/redistribute the packet.
- Support unlimited users, meeting types, and templates.

This request has no budget impact. Funding for this item can be derived from existing appropriations within the General Fund budget for Fiscal Year 2015. A budget amendment will not be necessary. The cost savings that will be recognized can better serve the City by being redirected towards iCompass Records Manager and Meeting Manager Pro and Solutions and to reallocate the remaining funds towards a much needed new phone system.

Staff would like to bring this agreement back to the June 9, 2015 City Council meeting for Council's consideration and approval.

**Consistent with or Comparison to:**

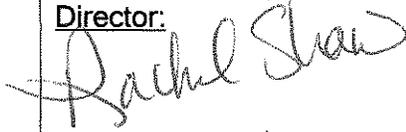
**EXISTING ADOPTED OR PREVIOUS PLANS, POLICIES OR ACTIONS TAKEN BY THE COUNCIL**

**Recommended City Council Action/Suggested Motion:**

Review and Discuss a Service Agreement Between the City of Prosser and iCompass Technologies Inc., for a Records Management and Automated Agenda Solution.

**Reviewed by Department**

**Director:**



**Date:** 5/29/2015

**Reviewed by City Attorney:**



**Date:** 5/29/15

**Approved by Mayor:**



**Date:** 5-29-15

**Today's Date:**

May 27, 2015

**Revision Number/Date:**

**File Name and Path:**



## iCompass Services Agreement

THIS SERVICES AGREEMENT (the "Agreement") is entered into as of the 30th day of June 2015 (the "Effective Date"), between iCompass Technologies Inc. ("iCompass") and City of Prosser, with an address at 601 – 7<sup>th</sup> Street, Prosser, WA, 99350 (the "Customer").

### 1.0 Services.

- 1.1 **Provision of Services.** Customer's and Customer's end-users ("End Users") may access and use the services described in Section 9.0 of this Agreement and any other services that may be ordered by the Customer from time to time pursuant to a valid subscription (the "Services") in accordance with the terms of this Agreement.
- 1.2 **Facilities and Data Processing.** iCompass will use, at a minimum, industry standard technical and organizational security measures to store data provided by Customer in connection with the Services ("Customer Data"). These measures are designed to protect the integrity of Customer Data and guard against unauthorized or unlawful access.
- 1.3 **Modifications to the Services.** iCompass may update the Services from time to time. If iCompass updates the Services in a manner that materially improves functionality, iCompass will inform the Customer.

### 2.0 Customer Obligations.

- 2.1 **Customer Administration of the Services.** Customer may specify End Users as "Administrators". Administrators have the ability to monitor, restrict, or terminate access to Services. iCompass' responsibilities do not extend to internal management or administration of the Services. Customer is responsible for: (i) maintaining the confidentiality of passwords and Administrator accounts; (ii) managing access to Administrator accounts; and (iii) ensuring that Administrators' use of the Services complies with this Agreement.
- 2.2 **Compliance.** Customer is responsible for use of the Services by its End Users. Customer will obtain from End Users any consents necessary to allow Administrators to engage in the activities described in this Agreement and to allow iCompass to provide the Services. Customer will comply with laws and regulations applicable to customer's use of Services, if any.
- 2.3 **Unauthorized Use & Access.** Customer will prevent unauthorized use of the Services by its End Users and terminate any unauthorized use of or access to the Services. Customer will promptly notify iCompass of any unauthorized use of or access to the Services.
- 2.4 **Restricted Uses.** Customer will not and will ensure that its End Users do not: (i) sell, resell, or lease the Services; or (ii) reverse engineer or attempt to reverse engineer the Services, nor assist anyone else to do so.
- 2.5 **Third Party Requests.**
  - 2.5.1 "Third Party Request" means a request from a third party for records relating to an End User's use of the Services including information regarding an End User. Third Party Requests may include valid search warrants, court orders, or subpoenas, or any other request for which there is written consent from End Users permitting a disclosure.
  - 2.5.2 Customer is responsible for responding to Third Party Requests via its own access to information policies. Customer will seek to obtain information required to respond to Third Party Requests and will contact iCompass only if it cannot obtain such information despite diligent efforts.
  - 2.5.3 iCompass will make reasonable efforts, to the extent allowed by law and by the terms of the Third Party Request, to: (A) promptly notify Customer of iCompass; receipt of a Third Party Request; (B) comply with Customer's reasonable requests regarding efforts to oppose a Third Party Request; and (C) provide Customer with information or tools required for Customer to respond to the Third Party Request (if Customer is otherwise unable to obtain the information). If Customer fails to promptly respond to any Third Party Request, then iCompass may, but will not be obligated to do so.

### 3.0 Intellectual Property Rights; Confidentiality

- 3.1 **Reservation of Rights.** Except as expressly set forth herein, this Agreement does not grant (i) iCompass any intellectual Property Rights in the Customer Data or (ii) Customer any Intellectual Property Rights in the Services, any other products or offerings of iCompass, iCompass trademarks and brand features, or any improvements, modifications or derivative works of any of the foregoing. "Intellectual Property Rights" means current and future worldwide rights under patents, copyright, trade secret, trademark, moral rights and other similar rights.
- 3.2 **Suggestions.** iCompass may, at its discretion and for any purpose, use, modify, and incorporate into its products and services, and license and sublicense, any feedback, comments, or suggestions Customer or End Users send iCompass or post in iCompass' online forums without any obligation to Customer.
- 3.3 **Confidential Information.** Customer understands and agrees that it will not reveal, publish or otherwise disclose to any person, firm or corporation, without written authorization of iCompass, or except as required by law, any Confidential Information of iCompass, including without limitation any trade secrets, confidential knowledge, data or other proprietary information relating to the Services. "Confidential Information" means all information, written or oral, relating to the business, operations, services, facilities, processes, methodology, technologies, intellectual property, research and development, customers, strategy or other confidential or proprietary materials of iCompass.



#### 4.0 Fees & Payment.

##### 4.1 Fees.

- 4.1.1 Customer will pay iCompass for all applicable fees upfront annually.
- 4.1.2 Customer will pay any amounts related to the Services as per payment terms detailed on the applicable invoice. Unless otherwise indicated, all dollar amounts referred to in the Agreement are in U.S. funds.
- 4.1.3 Customer acknowledges that while it may choose to delay the implementation of the Services, this is not a valid reason for withholding payment on any invoices. Furthermore, the Customer will not withhold payment on any invoices for any other reason.
- 4.1.4 iCompass reserves the right to request an increase to the annual fees, as listed, on an annual basis. Increases will be the larger of the 12-Month Consumer Price Index (not seasonally adjusted), as published by the United States Department of Labor, or five (5) percent.

**4.2 Taxes.** Customer is responsible for all taxes. iCompass will charge tax when required to do so. If Customer is required by law to withhold any taxes, Customer must provide iCompass with an official tax receipt or other appropriate documentation.

**4.3 Purchase Orders.** If Customer requires the use of a purchase order or purchase order number, Customer (i) must provide the purchase number at the time of purchase and (ii) agrees that any terms and conditions on a Customer purchase order will not apply to this Agreement or the Services provided hereunder and are null and void.

#### 5.0 Term & Termination.

- 5.1 **Term.** The initial term of this Agreement shall be one year commencing on the Effective Date, which shall automatically renew for a further period of one year upon each expiry of the then current term, unless either party provides written notice to the other party of its intention not to renew at least 45 days prior to the end of the then current term.
- 5.2 **Termination for Breach.** If, for any reason during the first 6 months after purchase, the Customer is dissatisfied with the Services or the implementation or other professional services provided by iCompass, all funds paid under this Agreement will be refunded and future commitments waived. Following the first 6 months, either party may terminate this Agreement, at its option, with 45 days' written notice.
- 5.3 **Effects of Termination.** If this Agreement terminates: (i) the rights granted by iCompass to Customer will cease immediately (except as set forth in this section); (ii) iCompass may provide Customer access to its account at then-current fees so the Customer may export its Customer Data; and (iii) after a reasonable period of time, iCompass may delete any Customer Data relating to Customer's account. The following sections will survive expiration or termination of this Agreement: 2.5 (Third Party Requests), 3.0 (Intellectual Property Rights; Confidentiality), 4.0 (Fees & Payments), 5.3 (Effects of Termination), 6.0 (Indemnification), 7.0 (Exclusion of Warranties; Limitation of Liability), and 8.0 (Miscellaneous).

#### 6.0 Indemnification.

- 6.1 **By Customer.** Customer will indemnify, defend, and hold harmless iCompass from and against all liabilities, damages, and costs (including settlement costs and reasonable attorney's fees) arising out of any claim by a third party against iCompass regarding: (i) Customer Data; (ii) Customer's use of the Services in violation of this Agreement; or (iii) End Users' use of the Services in violation of this Agreement.
- 6.2 **By iCompass.** iCompass will indemnify, defend and hold harmless Customer from and against all liabilities, damages, and costs (including settlement costs and reasonable attorney's fees) arising out of any claim by a third party against Customer to the extent based on an allegation that iCompass' technology used to provide the Services to the Customer infringes or misappropriates any copyright, trade secret, patent or trademark right of the third party. In no event will iCompass have any obligations or liability under this section arising from: (i) use of any Services in a modified form or in combination with materials not furnished by iCompass and (ii) any content, information, or data provided by Customers, End Users, or other third parties.
- 6.3 **Possible Infringement.** If iCompass believes the Services infringe or may be alleged to infringe a third party's Intellectual Property Rights, then iCompass may (i) obtain the right for Customer, at iCompass' expense, to continue using the Services; (ii) provide a non-infringing functionally equivalent replacement for the Services; or (iii) modify the Services so that they no longer infringe. If iCompass does not believe the options described in this section are reasonable then iCompass may suspend or terminate this Agreement and/or Customer's use of the affected Services with no further liability or obligation to the Customer other than the obligation to provide the Customer with a pro-rata refund of pre-paid fees for the affected portion of the Services.
- 6.4 **General.** The party seeking indemnification will promptly notify the other party of the claim and cooperate with the other party in defending the claim. The indemnifying party will have full control and authority over the defense, except that: (i) any settlement requiring the party seeking indemnification to admit liability requires prior written consent, not to be unreasonably withheld or delayed and (ii) the other party may join in the defense with its own counsel at its own expense. The indemnities above are iCompass' and Customer's only remedy under this Agreement for violation by the other party of a third party's Intellectual Property Rights.

#### 7.0 Exclusion of Warranties; Limitation of Liability.

- 7.1 **Exclusion of Warranties.** Except as explicitly set forth in this Agreement, iCompass makes no other representation, warranty or condition, express or implied, and expressly excludes all implied or statutory warranties or conditions of merchantability, merchantable quality, durability or fitness for a particular purpose, and those arising by statute or otherwise in law or from a course of dealing or usage of trade with respect to the Services. iCompass does not make any representations or warranties of any kind to client with respect to any third party software forming part of the Services.



- 7.2 Limitation on Indirect Liability.** To the fullest extent permitted by law, except for iCompass and Customer's indemnification obligations hereunder, neither Customer nor iCompass and its affiliates, suppliers, and distributors will be liable under this Agreement for (i) indirect, special, incidental, consequential, exemplary, or punitive damages, or (ii) loss of use, data, business, revenue, or profits (in each case whether direct or indirect), even if the party knew or should have known that such damages were possible and even if a remedy fails of its essential purpose.
- 7.3 Limitation on Amount of Liability.** To the fullest extent permitted by law, iCompass' aggregate liability under this Agreement will not exceed the amount paid by Customer to iCompass hereunder during the twelve months prior to the event giving rise to liability.

**8.0 Miscellaneous.**

- 8.1 Terms Modification.** iCompass may wish to revise this Agreement from time to time. If a revision, in iCompass' sole discretion, is material, iCompass will notify Customer and possibly request that an Amendment to this Agreement be agreed upon and signed. If Customer does not agree to the revised Agreement terms, Customer may terminate the Services within 45 days of receiving notice of the change.
- 8.2 Entire Agreement.** The Agreement including the invoice and order form provided by iCompass, constitutes the entire agreement between Customer and iCompass with respect to the subject matter of this Agreement and supersedes and replaces any prior or contemporaneous understandings and agreements, whether written or oral, with respect to the subject matter of this Agreement. If there is a conflict between the documents that make up this Agreement, the documents will control in the following order: this Agreement, then the invoice, then the order form.
- 8.3 Governing Law.** This Agreement will in all respects be governed exclusively by and construed in accordance with the laws of the State of Washington.
- 8.4 Severability.** Unenforceable provisions will be modified to reflect the parties' intention and only to the extent necessary to make them enforceable, and the remaining provisions of the Agreement will remain in full effect.
- 8.5 Waiver or Delay.** Any express waiver or failure to exercise promptly any right under the Agreement will not create a continuing waiver or any expectation of non-enforcement.
- 8.6 Assignment.** Customer may not assign or transfer this Agreement or any rights or obligations under this Agreement without the written consent of iCompass. iCompass may not assign this Agreement without providing notice to Customer, except iCompass may assign this Agreement or any rights or obligations under this Agreement to an affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets without providing notice. Any other attempt to transfer or assign is void.
- 8.7 Force Majeure.** Except for payment obligations, neither iCompass nor Customer will be liable for inadequate performance to the extent caused by a condition that was beyond the party's reasonable control (for example, natural disaster, act of war or terrorism, riot, labor condition, governmental action and Internet disturbance).

**9.0 Services.**

- 9.1** iCompass shall provide the following Services to the Customer for the Fees indicated:

Service	Annual Fee
Meeting Manager Pro (MMP) & Record Manager (RM)	\$11,900.00

- 9.2 Storage.** Unlimited meeting related content and up to 50GB of storage for non-meeting related content is included in the fees set out in this Agreement. Additional storage can be purchased as required.

IN WITNESS WHEREOF iCompass and the Customer have executed this Agreement as of the Effective Date.

City of Prosser by its authorized signatory:  <hr/> Name: <b>Paul Warden</b> Title: <b>Mayor</b> Date:  Billing Contact: Billing's Email:	iCompass Technologies Inc. by its authorized signatory:  <hr/> Name: <b>Rob Wycherley</b> Title: <b>Director of Finance &amp; Corporate Administration</b> Date:  Account Executive: <b>Leon Rogers</b> Account Executive's Email: <b>lrogers@icompassstech.com</b>
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City of Prosser by its authorized signatory:  <hr/> Name: <b>Rachel Shaw</b> Title: <b>City Clerk</b> Date:	
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iCompass Technologies Inc.  
 www.icompassstech.com  
 Toll Free: 1-800-260-7409

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 Suite 300-150 Victoria St  
 Kamloops, BC V2C 1Z7

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U.S. Office:  
 801 2nd Ave, Ste 800, PMB 8039  
 Seattle, WA, 98104

## **iCompass Video Resources -**

### **Meeting Management Solution Overview - 3 Minutes**

An overview of the capabilities of the iCompass Meeting Management Solution. See how Prosser will improve efficiency in the agenda process.

### **iCompass Records Management Solution - 3 Minutes**

An overview of the capabilities of the iCompass Records Management Solution. See how core records processes are automated and information is easier to access.

### **iCompass Transparency Video - 1 Minute**

Understand how iCompass' CivicWeb Portal simplifies getting meeting documents and records online, removing barriers to information access.