

Title 8

HEALTH AND SAFETY

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Chapter 8.04**SOLID WASTE¹**

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8.04.010 Purpose.

The provisions of this chapter are adopted for the safety, health and general welfare of the public. (Ord. A-81 § 1, 1990).

8.04.020 Definitions.

The following definitions apply in this chapter:

A. “Contractor” means any person, firm, partnership, association, institution, or corporation who has contracted with or been issued a license by the city for the collection, handling and transportation of solid waste, which includes garbage, refuse, recyclables, and yard and garden waste within the city.

B. “Garbage” means and includes all accumulations of waste matters discarded as of no further value to the owner, and are not recyclable, including but not limited to vegetable waste, wrappings, small discarded containers, but shall exclude yard and garden waste, recy-

clables, sewage, dead animals, cleanings from public and private catch basins, wash racks, stumps, hazardous and special waste as defined by Washington State Department of Ecology.

C. “Garbage can” means a watertight, impervious, raised-bottom container not exceeding four cubic feet or 32 gallons in capacity, weighing not over 12 pounds when empty, fitted with two sturdy handles, one on each side, and a tight cover equipped with a handle. Where the term garbage can is used herein it shall also include 90-gallon, 60-gallon, and 20-gallon totes and other containers furnished by the contractor.

D. “Garbage units” means secure and tight bundles, none of which shall exceed three feet in longest dimension, and shall not exceed 65 pounds in weight. Such “garbage units” may be packed in small boxes, barrels, or bags, or in securely tight cartons or other receptacles reasonably easy to be handled and loaded by one person onto a collection vehicle.

E. “Person” means every person, firm, partnership, association, institution, or corporation in the city accumulating garbage, refuse, yard and garden waste, or recyclables requiring disposal. The term also means the occupant and/or the owner of the premises for which service herein mentioned is rendered.

F. “Recyclables” include but are not limited to those materials listed in the King County comprehensive solid waste plan and any amendments thereto.

G. “Refuse” means and includes nonrecyclable waste matter discarded as of no further value, including ashes, cinders, clinkers, broken-up household furnishings and equipment, discarded hot water tanks, barrels, cartons, and pieces of wooden crates and boxes; but shall exclude yard and garden waste, large trees, earth, sand, gravel, rock, broken concrete, plaster, bricks, and other building materials, automobile bodies, large auto parts, building waste and fire refuse and waste.

H. “Yard and garden waste” means grass clippings, leaves, branches (not to exceed three inches in diameter), brush, bushes, weeds, sod and dirt and trees not to exceed three inches in diameter and/or three feet in

1. Prior legislation: Ord. 513.

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length; but does not include rocks, bricks, hazardous materials, scrap metals, garbage or refuse. (Ord. A-81 § 1, 1990).

8.04.030 Disposal of garbage, refuse, recyclables and yard and garden waste – Use of garbage cans.

A. All persons accumulating garbage, refuse, recyclables, or yard and garden waste in the city shall place and accumulate the same in garbage cans or garbage units as defined heretofore in this chapter or in approved containers.

B. It is unlawful to deposit, throw, or place any garbage, refuse, recyclables, or yard and garden waste in any lane, alley, street or other public place, or to deposit, throw or place any garbage, refuse, recyclables, on any private property regardless of ownership, unless said garbage, refuse, recyclables, garden waste is placed in garbage cans, garbage units or other approved containers, the covers of which shall not be removed except when necessary for the depositing or removing of garbage, refuse, recyclables, or yard and garden waste; provided that yard and garden waste may be deposited on the property from which it originated, or on other private property with the permission of the property owner; and provided further, that boxes, broken-up household furniture and equipment, paper, and rubbish in general, may be broken up or cut up and placed in garbage or recycling units as defined heretofore in this chapter.

C. No garbage can with the exception of approved toters shall weigh more than 65 pounds and shall be so packed that the contents thereof will dump out readily when the can is inverted. All garbage cans and units shall be placed in convenient accessible locations on the ground level or ground floor or near the street or road, whether public or private, at which collection trucks are to be loaded; all walks, paths and driveways to the place of loading shall have an overhead clearance of not less than eight feet; garbage cans or units must be placed no farther than five feet from the edge of the traveled portion of the roadway except in cases where the customer is unable to comply because of a physical disability.

D. Any person who accumulates garbage, refuse or yard and garden waste in the business areas whose location requires the placing of cans or units on sidewalks or alleys for collection shall not place the same on any sidewalk or alley until the close of each business day, and shall remove cans from the sidewalk or alley immediately after opening for business each morning.

E. No hot ashes or hot clinkers shall be placed in any garbage can or container for collection or removal. All kitchen, table, cooking, animal and vegetable waste and offal, before being deposited in garbage cans or containers as hereinbefore provided, shall be drained and wrapped in paper or other material in such a manner as to prevent, as nearly as possible, moisture from such garbage from coming in contact with sides or bottoms of the cans or containers.

F. Sufficient garbage cans or units must be provided by the person accumulating garbage, refuse, recyclables and yard and garden waste for its collection. Worn out and improper cans shall be discarded and the decision of the city manager or his designee, as hereinafter provided, shall be final in any dispute regarding the type, number, and condition of garbage cans.

G. It is unlawful, except as authorized by the owner or the city, to deposit any garbage, refuse, recyclables, yard and garden waste, or other material in any garbage can, garbage unit or container, or to remove the cover therefrom; said cover shall be securely placed on each can or unit as defined in this chapter at all times, except when it is necessary to remove same for deposit or at times of collection.

H. While garbage and refuse may be placed in the same garbage can or garbage unit, it is unlawful to place yard and garden waste in a can or unit which contains garbage and/or refuse or recyclables. Yard and garden waste must be placed in a separate can or unit. Recyclables may be placed in a separate can or unit or placed in same can or unit as garbage.

I. No garbage cans or garbage units for residential garbage, refuse, recyclables or yard or garden waste shall be placed along a public street, on a public sidewalk, or on other public

property any sooner than 24 hours before the time of collection. All residential garbage cans and garbage units shall be removed from public areas within 24 hours of the time of collection. (Ord. A-107 §§ 1, 2, 1993; Ord. A-81 § 1, 1990).

8.04.040 Contract – License – Insurance.

A. No person shall engage in the business of collection, handling, or transportation of solid waste within the city without first contracting with the city or having obtained a solid waste collection, handling and transportation license and agreeing to comply with such regulations as may be issued under the authority of this chapter and amendments thereof, and further, without first obtaining such license, permits, or franchises, if any, which may be required by the state of Washington, or King County.

B. The mayor and city clerk shall be authorized from time to time by the city council to execute in the name of the city an exclusive contract or license to a particular contractor for the curbside collection, handling, and transportation of solid waste within the city. The term of such contract or license shall be as established by the city council.

C. Before any such contract or license shall take effect, there shall be filed with the city clerk and kept in full force and effect during the term of any contract or license, a bond approved as to form by the city attorney and as to surety by the city manager in the penal sum of \$250,000 conditioned upon the full and faithful performance by the contractor of the terms and conditions of the contract or license, and payment by such contractor to all laborers, mechanics and materialmen, and all persons who shall supply the contractor with provisions, equipment and supplies for his performance.

D. The contractor shall at all times protect and hold harmless and defend the city from all claims, actions, suits, liability, loss, expense, or damage of every kind and description, including court costs and attorneys' fees which may accrue to or be suffered or claimed by any person or persons or the city itself arising out of the contractor's operations or by reason of any license, copyright, property right, or other

intangible or patent or any article or system used in the contractor's operation. The contractor shall also pay all costs, expenses, and reasonable attorneys' fees which may be incurred or paid by the city in enforcing any provisions of this chapter or amendments thereof.

E. In addition, the contractor shall provide and maintain in full force and effect during the entire term of the contract or license or any renewal thereof a comprehensive liability insurance policy naming the city as an additional insured providing for limits as follows:

1. Public liability for bodily injury, \$1,000,000;
2. Public liability for property damage, \$1,000,000;
3. Automobile public liability for bodily injury, \$1,000,000;
4. Automobile public liability for property damage, \$1,000,000.

F. Certificate of such insurance shall be filed with the city clerk and shall provide for 30 days' written notice to the city of any material, change, cancellation, or lapse of such policy. The insurance shall include completed operations and blanket contractibility. (Ord. A-81 § 1, 1990).

8.04.050 Discontinuing service during vacancy.

Whenever any person determines to leave his premises vacant for a period of more than one month and thus shall not need solid waste collection service during said period, he may cancel garbage collection and service fees therefor for said vacated premises by giving written notice of said vacancy to the contractor and in the written notice the person shall state the period of said vacancy and the street address of the premises; provided, that upon receipt of said written notice said service will be discontinued on the first calendar day of the next succeeding month for not less than 30 days. (Ord. A-81 § 1, 1990).

8.04.060 Charges Collection – Delinquency.

The contractor shall collect the charges for services rendered hereunder from the person from whom collection services are furnished

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as set forth in the contract or license between the city and the contractor. All charges for collection services rendered and billed hereunder shall be payable to the contractor and, if not paid on or before the tenth day of the month following the month for which said services are rendered, such charge shall become delinquent. Upon failure to pay such charges and upon delinquency, the contractor may pursue his civil remedies in a court of competent jurisdiction. (Ord. A-81 § 1, 1990).

8.04.070 Hours of collection.

All solid waste as hereinbefore defined will be collected within the boundaries of the city as follows:

A. Regular collections from business firms and commercial enterprises will be made as often as required, with a minimum of not less than one pickup per week, but shall not exceed one pickup per day, five days per week, Monday through Friday, between the hours of 4 am and 4 pm.

B. Regular collection of garbage from residential dwellings shall be made one day per week, Monday through Friday, between the hours of 7 am and 4 pm.

C. Curbside collection of recyclables from residential dwellings shall be made a minimum of one day per month, between the hours of 7 am and 4 pm.

D. Curbside collection of yard and garden waste from residential dwellings shall be made a minimum of two days per month March through October and one day per month November through February, between the hours of 7 am and 4 pm.

E. The regular collection period between Monday through Friday may be extended by one day to include Saturday if during that particular week the official and/or authorized dump site and/or transfer station has been closed in recognition of a holiday.

F. The regular collection period Monday through Friday may be extended by one day to include Saturday if during that particular week a recognized holiday, as defined in the contractor's labor contract, falls on one of the regular collection days of Monday through Friday. (Ord. A-81 § 1, 1990).

8.04.080 Contractor – Business license.

A. The contractor shall make application to the clerk-treasurer of the city for a business license and shall pay such fees that may be due for the issuance of such license.

B. The contractor shall be responsible for keeping his business license current. (Ord. A-81 § 1, 1990).

8.04.090 Contractor – Books and records.

A. The contractor shall keep books and records on all business transactions pertaining to his business conducted within the city.

B. Such books and records shall be so kept as to be readily identifiable with only that portion of the contractor's business conducted within the city.

C. Such books and records shall be open for examination at all reasonable times by the city clerk or a duly authorized agent. In the case where such books and records are not kept within the city for examination, it shall be sufficient if the contractor produces within the city such books and records as may be required by the city clerk or bears the cost of examination by the city clerk's agent at the place where such books and records are kept; provided that if the contractor elects to bear such cost, the costs shall be advanced to the city clerk, including round trip fare, lodging, meals, and incidental expenses, subject to adjustment upon completion of the examination.

D. On or before the fifth day of each month, the contractor shall submit weight slips (transfer station receipts) and recycling tonnage or true copies thereof for all solid waste collected by him from within the city during the previous month. Such weight slips shall be submitted on a regular monthly basis and shall represent as closely as possible the actual weight of garbage, refuse, recyclables, and yard or garden waste collected during the applicable one-month period. (Ord. A-81 § 1, 1990).

8.04.100 Contractor – Compliance requirements.

A. The contractor shall comply with all provisions of this chapter and amendments thereof.

B. The contractor shall comply with all provisions of the contract or license with the city.

C. The contractor shall comply with all applicable federal, state and county laws and regulations pertaining to the collection, handling, transportation and disposal of solid waste. (Ord. A-81 § 1, 1990).

8.04.110 Contract or license cancellation or revocation.

The contract or license shall be subject to cancellation or revocation after a hearing before the city council based upon charges brought by the city manager alleging willful or repeated violations of laws of the city or upon charges alleging noncompliance with provisions of the contract or license. (Ord. A-81 § 1, 1990).

8.04.120 Violation designated a civil infraction and subject to civil penalty.

A. Except as set forth below pertaining to the violation of the provisions pertaining to location of garbage cans set forth in MICC 8.04.030C and I, any person who violates any provision of this chapter shall be liable for the payment of a civil penalty in the amount of \$500 for each violation. A violation of this chapter is designated to be a civil infraction and is not classified as a criminal offense, provided that a warning notice shall be given for the first violation and all subsequent violations shall be subject to the civil penalty.

B. The civil penalty for a violation of the provisions pertaining to location of garbage cans found in MICC 8.04.030C and I is established as follows:

1. There shall be a warning notice given for the first violation;
2. For the second violation the penalty shall be \$25;
3. For the third violation the penalty shall be \$50;
4. For the fourth and subsequent violations the penalty shall be \$100.

C. Whenever any person is arrested for any violation of this chapter, the arresting officer may serve upon him/her a citation and notice to appear in court. The arrested person, in

order to secure release, and when permitted by the arresting officer, must give his written promise to appear in court, as required by the citation and notice by signing in the appropriate place on the written citation and notice served by the arresting officer. Upon the arrested person's failing or refusing to sign such written promise to appear in court, he/she may be taken into the custody of such arresting officer and so remain or be placed in confinement. The failure to sign a written promise to appear shall constitute a criminal offense under the provisions of the Mercer Island City Code.

D. Any person violating his/her written promise to appear in court or his/her written and signed promise to respond to a notice of infraction issued as provided in this title, is guilty of a misdemeanor regardless of the disposition of the charge upon which he/she was originally cited or arrested or the disposition of a notice of infraction; provided, that a written promise to appear in court or a written promise to respond to a notice of infraction may be complied with by an appearance of counsel representing the person charged. (Ord. A-112 § 1, 1993; Ord. A-107 § 3, 1993).

Chapter 8.10

**ALARMS RESPONDED TO BY THE
POLICE AND FIRE DEPARTMENTS**

Sections:

- 8.10.010 Purpose.
- 8.10.020 Definitions.
- 8.10.030 Emergency response card required.
- 8.10.040 Proper alarm systems operation and maintenance.
- 8.10.050 Monitoring procedures.
- 8.10.060 Alarm system operating instructions.
- 8.10.070 Alarm dispatch request records.
- 8.10.080 False alarm user awareness class.
- 8.10.090 Fines and penalties.
- 8.10.100 Appeal from fines and penalties.
- 8.10.110 Exceptions.

8.10.010 Purpose.

A. The purpose of this chapter is to encourage alarm users and alarm businesses to maintain the operational reliability and to properly use alarm systems and to reduce or eliminate false alarm dispatch requests.

B. This chapter governs systems intended to summon emergency response, establishes fees, provides for penalties for violations and establishes a system of administration. (Ord. 99C-02 § 1).

8.10.020 Definitions.

A. "Alarm administrator" means a person designated by the police chief and/or fire chief to review emergency response cards, alarm dispatch requests, respond to inquiries, and schedule and conduct alarm fine appeal hearings.

B. "Alarm business" means the business, by an individual, partnership, corporation or other entity of selling, leasing, maintaining, servicing, repairing, altering, replacing, moving, installing or monitoring an alarm system.

C. "Alarm dispatch request" means a notification to the dispatch center by the alarm business that an alarm, either manual or automatic, has been activated at a particular alarm site.

D. "Alarm hearing examiner" shall be appointed by the chief to rule on alarm fine appeals.

E. "Alarm site" means a single premises or location served by an alarm system or systems. each tenancy, if served by a separate alarm system in a multitenant building or complex, shall be considered a separate alarm site.

F. "Alarm system" means a device or series of devices including, but not limited to, systems interconnected with radio frequency signals, which are designed to discourage crime, report fires or water flow from fire sprinklers by emitting or transmitting a remote or local audible, visual or electronic signal indicating an alarm condition. "Alarm system" does not include:

1. An alarm installed on a vehicle unless the vehicle is permanently located at a site; or
2. An alarm designed to alert only the inhabitants of a premises that does not have a sounding device that can be heard on the exterior of the alarm site.

G. "Alarm user" means any person, firm, partnership, corporation or other entity using an alarm system at its alarm site.

H. "Chief" means the director of the police and/or fire departments of the city or an authorized representative.

I. "Duress alarm" means a silent alarm signal generated by the manual activation of a device intended to signal a crisis situation requiring police/fire response.

J. "False alarm dispatch" means an alarm dispatch request to the police and/or fire departments when the responding officer/firefighter who, after completing a timely investigation of the alarm site, finds no evidence of a criminal or attempted criminal offense or risk from fire, heat, water or smoke. An alarm dispatch request that is canceled by the alarm business or the alarm user prior to the time the responding officer reaches the alarm site shall not be considered a false alarm dispatch.

K. "False alarm user awareness class" means a class operated by the Mercer Island police and/or fire departments for the purpose of educating alarm users about the problems created by false alarm dispatches and in the responsible use of their alarm system.

L. "Holdup alarm" means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

M. "Keypad" means a device that allows control of an alarm system by the manual entering of a coded sequence of numbers or letters.

N. "Monitoring" means the process by which an alarm business receives signals from alarm systems and relays an alarm dispatch request to the city for the purpose of summoning police or fire response to the alarm site.

O. "One plus duress alarm" means the manual activation of a silent alarm signal by entering at a keypad a code that adds one to the last digit of the normal arm/disarm code (Normal code – 1234, One Plus Duress Code – 1235).

P. "Person" means an individual, corporation, partnership, association, organization or similar entity.

Q. "Six-month period" is computed as follows: A response at which no other false alarm has occurred within the preceding six months is referred to as "first response". A "second response" occurs within six months of the "first response". A "third response" occurs within six months of the "second response". A "fourth response" occurs within six months of the "third response" and so on.

R. "Verify" means an attempt, by the alarm business, or its representative, to contact the alarm site by telephonic or other electronic means, whether or not actual contact with a person is made, before requesting a police dispatch, in an attempt to avoid an unnecessary alarm dispatch request. (Ord. 06C-06 § 2; Ord. 99C-02 § 1).

8.10.030 Emergency response card required.

A. No alarm user shall operate, or cause to be operated, an alarm system at its alarm site without an emergency response card on file with the alarm administrator. A separate card is required for each alarm site.

B. Each emergency response card must include the following information:

1. The names, address, and telephone numbers of the person who will be responsible for the proper maintenance and operation of the alarm system.

2. The classification of the alarm site as either residential, commercial or apartment.

3. For each alarm system located at the alarm site, the purpose of the alarm system, i.e., burglary, holdup, duress, fire or other.

4. The names, address, and phone number of the alarm business monitoring the alarm system if different from the installing alarm business.

5. Whether the alarm site is equipped or non-equipped for duress alarm.

C. All employees or representatives of the city shall hold information contained in emergency response card in confidence. (Ord. 99C-02 § 1).

8.10.040 Proper alarm systems operation and maintenance.

A. An alarm user shall:

1. Maintain the premises and the alarm system in a manner that will minimize or eliminate false alarm dispatches; and

2. Make every reasonable effort to respond or cause a representative to respond to the alarm system's location within one hour when notified by the city to deactivate a malfunctioning alarm system, to provide access to the premises, or to provide security for the premises; and

3. Not manually activate an alarm for any reason other than an occurrence of an event that the alarm system was intended to report; and

4. Make every reasonable effort to insure that the alarm will not be activated due to transient pressure changes, electrical power surges or failures, short flashes of light, normal room temperature changes, wind noises, rattling or vibrating door or windows, vehicular noises, or other causes unrelated to genuine signals. Other causes can include animals, birds, balloons, in proper food preparation, construction dust or steam in bath/kitchen areas; and

5. Notify any workers on the premises of the existence of an alarm system and/or take precautions so they will not activate the alarm; and

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6. Notify police department dispatch prior to and after having work done on the alarm system.

B. An alarm user shall adjust the mechanism or cause the mechanism to be adjusted so that an alarm signal audible on the exterior of an alarm site will sound for no longer than 10 minutes after being activated (or 15 minutes for systems operating under Underwriters Laboratories, Inc. Standards 365 or 609).

C. An alarm user shall have a properly licensed alarm business inspect his alarm system after two false alarm dispatches in a six-month period, and shall provide documentation of that inspection to the department. (Ord. 06C-06 § 2; Ord. 99C-02 § 1).

8.10.050 Monitoring procedures.

An alarm business performing monitoring services shall:

A. Not request dispatch for police/fire personnel response during the first week after installation of an alarm system, but rather use that week to train the alarm user on proper use of the alarm system unless extenuating circumstances necessitate immediate requests for response;

B. Attempt to verify every alarm signal, except a duress or hold up alarm activation before requesting a police/fire response to an alarm signal;

C. Ensure that all alarm users of alarm systems equipped with duress alarm are given adequate training as to the proper use of the duress alarm. (Ord. 99C-02 § 1).

8.10.060 Alarm system operating instructions.

An alarm user shall maintain a set of written operating instructions for each alarm system at each alarm site. (Ord. 99C-02 § 1).

8.10.070 Alarm dispatch request records.

A. The police officer/firefighter responding to an alarm dispatch request shall record such information as necessary to permit the alarm administrator to maintain records.

B. The responding police officer/firefighter shall indicate on the dispatch record whether the dispatch was caused by a criminal or

attempted criminal offense, or risk from fire, heat, water or smoke or was a false alarm dispatch.

C. In the case of an assumed false alarm dispatch, the responding police officer/firefighter shall leave notice at the alarm site that the police and/or fire department has responded to a false alarm dispatch. If there is reason to believe that an alarm system is not being used or maintained in a manner that ensures proper operation and suppresses false alarms, the alarm administrator may require a conference with an alarm user and the alarm business responsible for the repair of the alarm system to review the circumstances of each false alarm. (Ord. 06C-06 § 2; Ord. 99C-02 § 1).

8.10.080 False alarm user awareness class.

The alarm administrator shall oversee the creation and implementation of a false alarm user awareness class. The one-hour program shall inform alarm users of the problems created by false alarm dispatches and teach alarm users how to operate their alarm systems without generating false alarm dispatches. (Ord. 99C-02 § 1).

8.10.090 Fines and penalties.

A. An alarm user shall be subject to fines, warnings and penalties depending on the number of false alarm dispatches emitted from an alarm system within a six-month period based upon the following schedule:

Number of False Alarm Dispatches	Action Taken	Fines
1	On-Site Written Notice & Warning Letter #1	0
2	On-Site Written Notice & Notice of Fine	\$50
3	On-Site Written Notice & Notice of Fine	\$75
4 & up	On-Site Written Notice & Notice of Fine	\$100

B. An alarm user shall, after the second false alarm dispatch, have the option of attending a false alarm user awareness class in lieu of paying the prescribed fine.

C. A fine may be imposed on the first false alarm when such alarm is proven to have been caused by negligence or failure to use due care, i.e., failure to bag the alarm during construction. This section refers specifically to construction sites, including but not limited to new and/or remodel.

D. Alarm dispatch requests caused by actual criminal offense or with evidence of a criminal attempt, or risk from fire, heat, water or smoke, shall not be counted as a false alarm dispatch.

E. Any person violating any provision of this chapter is guilty of a misdemeanor except that repeated false alarms are infractions and are subject to civil penalties.

F. Any false alarms resulting from a failure to take the necessary corrective action to prevent reoccurrence and/or non payment of any false alarm fine assessment may result in the director providing a written notice ordering disconnection of such alarm until such corrective action or payment of fine assessment is made. The department will not respond to any alarm at this site unless it is a human-activated panic, medical or holdup alarm. (Ord. 99C-02 § 1).

8.10.100 Appeal from fines and penalties.

A. An alarm user may appeal assessment of a fine to the alarm administrator by filing a written request for hearing setting forth the reasons for the appeal within 10 days after receipt of notice of fine. The filing of a request for an appeal hearing with the alarm hearing examiner stays the assessment of the fine until the alarm hearing examiner makes a final decision.

B. The alarm administrator shall conduct a formal hearing with the alarm hearing examiner and appellant to consider the evidence by any interested person(s). The alarm hearing examiner shall make his decision on the basis of the preponderance of evidence presented at the hearing including, but not limited to, that an alarm dispatch request was caused by a criminal offense. The alarm hearing examiner shall affirm, reverse or modify the assessment of the fine. The decision of the alarm hearing examiner is final as to administrative remedies with the city.

C. The alarm administrator and alarm hearing examiner may waive the formal hearing and imposition of the fine if the alarm user submits written evidence that a false alarm dispatch was caused by a defective part that has been repaired or replaced. (Ord. 99C-02 § 1).

8.10.110 Exceptions.

This chapter shall not apply to the police chief or fire chief, members of the police and/or fire departments, or other persons duly authorized to activate an alarm when such may be deemed proper. (Ord. 06C-06 § 2; Ord. 99C-02 § 1).

Chapter 8.24

NUISANCE CONTROL CODE

Sections:

- 8.24.005 Short title.
- 8.24.010 Definitions.
- 8.24.020 Types of nuisances.
- 8.24.030 Prohibited conduct.
- 8.24.040 Disposal of diseased animal carcass – Violation a misdemeanor.
- 8.24.050 Enforcement notice.
- 8.24.060 Abatement by city.
- 8.24.070 Abatement by owner or other responsible person.
- 8.24.080 Immediate danger – Summary abatement.
- 8.24.090 Violation a misdemeanor.

8.24.005 Short title.

This chapter may be known and cited as the “Mercer Island nuisance control code.” (Ord. 486 § 1, 1979).

8.24.010 Definitions.

The words and phrases used in this chapter, unless the context otherwise indicates, shall have the following meanings:

A. “Abate” means to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such a manner and to such an extent as the enforcement officer, in his judgment, determines is necessary in the interest of the general health, safety and welfare of the community.

B. “Building materials” means and includes lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials.

C. “Enforcement officer” means the city manager or any alternate designated by him.

D. “Premises” means any building, lot, parcel, real estate or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips.

E. “Responsible person” means any agent, lessee or other person occupying or having charge or control of any premises, except the owner. (Ord. 486 § 1, 1979).

8.24.020 Types of nuisances.

Each of the following conditions, actions or activities, unless otherwise permitted by law, is declared to constitute a public nuisance, and is subject to criminal enforcement and penalties as provided in this chapter. In addition, or in the alternative, whenever the enforcement officer determines that any of these conditions, actions or activities exist upon any premises or in any lake, river, stream, drainage way or wetlands, the officer may require or provide for the abatement thereof pursuant to this chapter:

A. The existence of any offensive or dangerous accumulation of weeds, trash, dirt, filth, waste shrubs, lawn or yard trimmings, the carcass of any animal or other offensive matter;

B. The existence of any dead, diseased, infested or dying tree that may constitute a danger to street trees, streets or portions thereof;

C. The existence of any tree, shrub or foliage, unless by consent of the city, which is apt to destroy, impair, interfere or restrict:

- 1. Streets, sidewalks, sewers, utilities or other public improvements,
- 2. Visibility on, or free use of, or access to such improvements;

D. The existence of any vines or climbing plants growing into or over any street tree, or any public hydrant, pole or electrolier, or the existence of any shrub, vine or plant growing on, around or in front of any hydrant, standpipe, sprinkler system connection or any other appliance or facility provided for fire protection purposes in such a way as to obscure the view thereof or impair the access thereto;

E. The existence of any accumulation of materials or objects in a location when the same endangers property, safety or constitutes a fire hazard;

F. The existence of a sidewalk or a portion of a sidewalk adjacent to any premises which is out of repair, and in a condition to endanger persons or property, or in a condition to interfere with the public convenience in the use of such sidewalk;

G. The dumping or otherwise unlawful depositing of refuse, sawdust or any other material without a permit;

H. The existence of any obstruction to a street, alley, crossing or sidewalk, and any excavation in or under any street, alley, crossing or sidewalk, which is by ordinance prohibited, or which is made without lawful permission, or which, having been made by lawful permission, is kept and maintained after the purpose thereof has been accomplished, and for an unreasonable length of time;

I. The erecting, maintaining, using, placing, depositing, leaving or permitting to be or remain in or upon any private lot, building, structure or premises, or in or upon any street, alley, sidewalk, park, parkway or other public or private place in the city, any one or more of the following disorderly, disturbing, unsanitary, fly-producing, rat-harboring, disease-causing places, conditions or things:

1. Any putrid, unhealthy or unwholesome bones, meat, hides, skins, the whole or any part of any dead animal, fish or fowl, or waste parts of fish, vegetable or animal matter in any quantity, but nothing in this subsection shall prevent the temporary retention of waste in approved covered receptacles,

2. Any privies, vaults, cesspools, sumps, pits or like places which are not securely protected from flies and rats, or which are foul or malodorous,

3. Any filthy, littered or trash-covered dwellings, cellars, house yards, barnyards, stable yards, factory yards, vacant areas in the rear of stores, vacant lots, houses, buildings or premises,

4. Any animal manure in any quantity which is not securely protected from flies or weather conditions, or which is kept or handled in violation of any ordinance of the city,

5. Any poison oak or poison ivy, Russian thistle or other noxious weeds, whether growing or otherwise, but nothing in this subsection shall prevent the temporary retention of such weeds in approved covered receptacles,

6. Any inherently offensive or dangerous accumulation of bottles, cans, glass, ashes, paper or paper products, small pieces of scrap iron, wire, metal articles, household appliances, bric-a-brac or cement, broken concrete, broken glass, broken plaster and all such trash

or abandoned material unless it is kept in approved covered bins or appropriate containers,

7. Any trash, litter, rags, accumulations of empty barrels, boxes, crates, packing cases, mattresses, bedding, excelsior, packing hay, straw or other packing materials, lumber not neatly piled, scrap iron, tin or other metal not neatly piled, or anything whatsoever in which flies or rats may breed or multiply or which may be a fire hazard;

J. The depositing, or causing to be deposited in any street, alley, sidewalk, park, parkway or other public place which is open to travel, of any hay, straw, paper, wood, boards, boxes, leaves, manure or other rubbish or material;

K. The storage or keeping on any premises in public view for more than 30 days of any used or unused building materials as defined in MICC 8.24.010, whose retail cost new would exceed \$100 without a special permit from the building official; provided, that nothing in this subsection shall:

1. Prohibit such storage without a permit when done in conjunction with a construction project for which a building permit has been issued and which is being prosecuted diligently to completion,

2. Prohibit such storage without a permit upon the premises of a bona fide lumberyard, dealer in building materials or other commercial enterprise when the same is permitted under the zoning ordinance and other applicable laws,

3. Make lawful any such storage or keeping when it is prohibited by other ordinances or laws;

L. The existence of any fence or other structure or thing or private property abutting or fronting upon any public street, sidewalk or place which is in a sagging, leaning, fallen, decayed or otherwise dilapidated or unsafe condition;

M. The existence or maintenance on any premises of a storage area, junkyard or dumping ground for the wrecking or disassembling of automobiles, trucks, trailers, house trailers, boats, tractors or other vehicle or machinery of any kind, or for the storing or leaving of worn

8.24.030

out, wrecked, inoperative or abandoned automobiles, trucks, trailers, house trailers, boats, tractors or other vehicle or machinery of any kind or of any major parts thereof;

N. The existence on any premises of any abandoned or unused well, cistern or storage tank without first demolishing or removing from the city such storage tank or securely closing and barring any entrance or trapdoor thereto or without filling any well or cistern or capping the same with sufficient security to prevent access thereto by children;

O. The existence on any premises, in a place accessible to children, of any unattended and/or discarded icebox, refrigerator or other large appliance;

P. The existence of any drainage onto or over any sidewalk or public pedestrianway;

Q. Production of any of the following sounds or noises between the hours of 10 pm to 7 am on Mondays through Fridays, excluding legal holidays, and between the hours of 10 pm and 9 am on Saturdays and Sundays and legal holidays, except in the cases of bona fide emergency or under permit from the city building department in case of demonstrated necessity:

1. Sounds caused by the construction or repair of any building or structure,
2. Sounds caused by construction, maintenance, repair, clearing or landscaping,
3. Sounds created by the installation or repair of utility services,
4. Sounds created by construction equipment including special construction vehicles.

It is intended that the sounds described in this subsection refer to sounds heard beyond the property line of the source;

R. Production at any time of any of the following sounds or noises, which by reason of their intensity, frequency, duration, volume, pitch or any other reason, disturb the peace, quiet, repose or comfort of any person or persons:

1. The sounding of any horn, siren or other signaling device except as a warning of danger, or as specifically permitted or required by law,
2. Sounds in connection with the starting, operation, repair or rebuilding, or testing

of any motor vehicle or internal combustion engine within a residential district,

3. The use of a sound amplifier or other device capable of producing or reproducing amplified sound upon public streets for the purpose of commercial advertising for sales or for attracting the attention of the public to any vehicle structure, or property or the contents therein, except as permitted by law, and except that vendors whose sole method of selling is from a moving vehicle shall be exempt from this subsection,

4. The use of a musical instrument, whistle, radio, sound amplifier or other device capable of producing or reproducing sound,

5. Sounds produced by any vehicle which is so loaded, or has any defect or is not equipped with a proper muffler so as to cause loud and unnecessary grating, grinding, rattling or other noise,

6. Any other unreasonably loud, disturbing, continuous, irritating, or unnecessary noise, whether emanating from a human, animal or mechanical source. (Ord. 499 § 1, 1980; Ord. 486 § 1, 1979).

8.24.030 Prohibited conduct.

A. It is unlawful for any responsible person or owner to permit, maintain, suffer, carry on or allow, upon any premises or in any lake, stream, drainage way or wetlands, any of the acts or things declared by this chapter to be a public nuisance.

B. It is unlawful for any person to create, maintain, carry on or do any of the acts or things declared by this chapter to be a public nuisance. (Ord. 486 § 1, 1979).

8.24.040 Disposal of diseased animal carcass – Violation a misdemeanor.

Every person owning or having in charge any animal that has died or been killed on account of disease shall immediately bury the carcass thereof at least three feet underground at a place approved by the city health officer, or cause the same to be consumed by fire. No person shall sell or offer to sell or give away the carcass of any animal which died or was killed on account of disease. Every violation of

any provision of this section is a misdemeanor. (Ord. 486 § 1, 1979).

8.24.050 Enforcement notice.

An enforcement officer appointed by the city manager, having knowledge of any public nuisance, shall cause any owner or other responsible person to be notified of the existence of a public nuisance on any premises and shall direct the owner or other responsible person to abate the condition within 10 days after notice or other reasonable period. The notice shall be substantially in the following form:

NOTICE TO ABATE UNSAFE OR UNLAWFUL CONDITION

(Name and address of person notified)

As owner, agent, lessee or other person occupying or having charge or control of the building, lot or premises at _____ you are hereby notified that the undersigned pursuant to Chapter 8.24 of Mercer Island city code has determined that there exists upon or adjoining said premises the following condition contrary to the provisions of subsection ___ of 8.24.020:

You are hereby notified to abate said condition to the satisfaction of the undersigned within 10 days of the date of this notice. If you do not abate such condition within ___ days the city will abate the condition at your expense.

Abatement is to be accomplished in the following manner:

Dated: _____ (Name of enforcement officer)

by _____
(Ord. 486 § 1, 1979).

8.24.060 Abatement by city.

In all cases where the enforcement officer has determined to proceed with abatement, 10 days after giving notice, the city shall acquire

jurisdiction to abate the condition at the person's expense as provided in this chapter. Upon the abatement of the condition or any portion thereof by the city, all the expenses thereof shall constitute a civil debt owing to the city jointly and severally by such of the persons who have been given notice as provided in this chapter. The debt shall be collectable in the same manner as any other civil debt owing to the city. (Ord. 486 § 1, 1979).

8.24.070 Abatement by owner or other responsible person.

If and when an owner or other responsible person undertakes to abate any condition described in this chapter, whether by order of the enforcement officer or otherwise, all needful and legal conditions pertinent to the abatement may be imposed by the enforcement officer. It is unlawful for the owner or other responsible person to fail to comply with such conditions. Nothing in this chapter shall relieve any owner or other responsible person of the obligation of obtaining any required permit to do any work incidental to the abatement. (Ord. 486 § 1, 1979).

8.24.080 Immediate danger – Summary abatement.

Whenever any condition on, or use of, property causes or constitutes or reasonably appears to cause or constitute an imminent or immediate danger to the health or safety of the public, or a significant portion thereof, the enforcement officer shall have the authority to summarily and without notice abate the same. The expenses of such abatement shall become a civil debt against the owner or other responsible party and be collected as provided in MICC 8.24.060. (Ord. 486 § 1, 1979).

8.24.090 Violation a misdemeanor.

Any person violating any of the provisions of this chapter is guilty of a misdemeanor. (Ord. 486 § 1, 1979).

Chapter 8.30**OPEN BURNING¹**

Sections:

- 8.30.010 Outdoor burning prohibited.
 8.30.020 Exceptions to ban on outdoor burning.
 8.30.030 Violation – Penalty.

8.30.010 Outdoor burning prohibited.

In accordance with the decision of the Puget Sound Air Pollution Control Agency made in accordance with the provisions of the Washington Clean Air Act (revised 1991), Chapter 70.94 RCW, outdoor fires are prohibited within the city limits. (Ord. 04C-12 § 3; Ord. A-97 § 1, 1992. Formerly 17.54.010).

8.30.020 Exceptions to ban on outdoor burning.

The following outdoor fires are exempt from the Air Pollution Control Agency ban on outdoor burning and will be permitted within the city:

- A. Fires which are burned for fire-fighting training practices;
 B. Small cooking fires consisting solely of charcoal, natural gas, propane or seasoned natural wood;
 C. Fires from flares, torches, smokeless waste gas burners, incense burners and insect pots. (Ord. 04C-12 § 3; Ord. A-97 § 1, 1992. Formerly 17.54.020).

8.30.030 Violation – Penalty.

Violation of or failure to comply with any provision of this chapter pertaining to outdoor burning shall constitute a gross misdemeanor. Each separate outdoor fire and/or each day in which an outdoor fire burns shall constitute a separate violation of this chapter. (Ord. 04C-12 § 3; Ord. A-97 § 1, 1992. Formerly 17.54.030).

1. Prior legislation: Ord. A-18.

Chapter 8.35**EXPLOSIVES AND FIREWORKS**

Sections:

- 8.35.010 Explosives and fireworks prohibited.
 8.35.020 Fireworks – State law adopted by reference – Permit requirements.
 8.35.030 Restriction on common fireworks – Violation – Penalty.

8.35.010 Explosives and fireworks prohibited.

A. It is unlawful for any person, firm, corporation, or organization to make, sell, or use explosives or fireworks within the corporate limits of the city.

EXCEPTION: 1. When no other alternative means is available, the fire chief may approve the use of explosives for construction or demolition purposes.

2. Fireworks considered safe and sane and approved by the state fire marshal may be sold and used as described in MICC 8.35.020.

B. In the event the fire chief shall decide to approve the use of explosives as noted in the exception above, permits therefor shall be obtained and procedures adhered to as enumerated in Article 77 of the Uniform Fire Code.

C. Exception 7 to Section 77.102(a) of the Uniform Fire Code is deleted. (Ord. 04C-12 § 3; Ord. A-46 § 6, 1986; Ord. A-18 § 1, 1982. Formerly 17.70.010).

8.35.020 Fireworks – State law adopted by reference – Permit requirements.

A. The Washington State Fireworks Law Chapter 70.77 RCW, a copy of which shall be kept on file in the office of the city clerk, is adopted and by this reference is made a part of this title.

B. An application for a permit shall be made in writing to the fire department of the city, and after investigation a report of findings and a recommendation for or against the issuance of a permit, together with reasons therefor, shall be made to the city council. The city council shall have the power in its discretion to grant or deny the application, subject to such

reasonable conditions, if any, as it shall prescribe.

C. No permit shall be granted unless the applicant first submits for inspection his state license.

D. If the application is for a public display of fireworks, or if the application is for any other act set forth in RCW 70.77.255, the applicant shall have in effect for the life of the permit, a public liability and property damage insurance policy in the amount of \$500,000 for one person, and \$1,000,000 for injuries to two or more persons as a result of one accident and \$100,000 for property damage, which insurance policy shall designate the city as an additional insured thereunder. The applicant shall furnish to the city a copy of the insurance policy or a certificate evidencing the existence of such a policy. The insurance policy or certificate shall indicate that the applicant is insured for all damages to persons or property which shall or may result from or be caused by such public display of fireworks or other act set forth in RCW 70.77.255, or any negligence on the part of applicant or his or its agents, servants, employees, or subcontractors.

E. Retail sales of fireworks shall be permitted only from within a temporary fireworks stand and the sale from any other building or structure is prohibited. Temporary stands shall be subject to the following conditions:

1. Temporary fireworks stands shall be erected under the supervision of the fire department and need not comply with the building code of the city.

2. Temporary fireworks stands shall be located so as not to be within 50 feet of any gasoline stations, oil storage tanks, or premises where flammable liquids are kept or stored.

3. Each temporary fireworks stand must have at least two exits which shall be unobstructed at all times and located as far from each other as possible.

4. Each temporary fireworks stand shall have in a readily accessible place fire extinguishers approved by the fire division as to location within the stand, number and type. No smoking shall be permitted in or near a fireworks stand, and "no smoking" signs shall be prominently displayed on the fireworks stand.

5. Each stand shall be operated by adults only. No fireworks shall be left unattended in a stand.

6. All weeds and combustible materials shall be cleared from the location of the stand to at least a distance of 20 feet.

7. All unsold fireworks, cartons and other rubbish, shall be removed from the location and from the city by noon on July 6 each year. The fireworks stand shall be dismantled and removed from the location by noon on July 10 each year. (Ord. 06C-06 § 2; Ord. 04C-12 § 3; Ord. A-46 § 6, 1986. Formerly 17.70.020).

8.35.030 Restriction on common fireworks – Violation – Penalty.

A. The use, firing, exploding and discharge of common fireworks, as defined in RCW 70.77.136, is prohibited within the city of Mercer Island except on the fourth day of July, between the hours of 11 a.m. and 11 p.m.

1. Additionally, as provided in RCW 70.77.305, the sale and discharge of fireworks within the city of Mercer Island is prohibited on December 31 and January 1.

B. Any person who violates any provision of this section shall be liable for the payment of a civil penalty in the amount of \$500 for each violation. A violation of this section is designated as a civil infraction and is not classified as a criminal offense.

C. Whenever any person is arrested for any violation of this section, the arresting officer may serve upon him/her a citation and notice to appear in the court. The arrested person, in order to secure release, and when permitted by the arresting officer, must give his written promise to appear in court, as required by the citation and notice by signing in the appropriate place on the written citation and notice served by the arresting officer. Upon the arrested person's failing or refusing to sign such written promise to appear in court, he/she may be taken into the custody of such arresting officer and so remain or be placed in confinement. The failure to sign a written promise to appear shall constitute a criminal offense under the provisions of the Mercer Island City Code.

8.40.010

D. Any person violating his/her written promise to appear in court or his/her written and signed promise to respond to a notice of infraction issued as provided in this title is guilty of a misdemeanor regardless of the disposition of the charge upon which he/she was originally cited or arrested or the disposition of a notice of infraction; provided, that a written promise to appear in court or a written promise to respond to a notice of infraction may be complied with by an appearance of counsel representing the person charged. (Ord. 04C-12 § 3; Ord. 96C-005 § 1; Ord. 95C-115 § 1; Ord. A-120 § 1, 1994; Ord. A-104 §§ 1, 3, 1993. Formerly 17.70.030).

Chapter 8.40

**SMOKING, WASHINGTON CLEAN
INDOOR AIR ACT**

Sections:

8.40.010 Washington Clean Indoor Air Act adopted.

8.40.010 Washington Clean Indoor Air Act adopted.

Chapter 70.160 RCW, the Washington Clean Indoor Air Act, is adopted by reference and will be enforced in its entirety. (Ord. 04C-12 § 3; Ord. A-46 § 7, 1986. Formerly 17.82.010).