

## **Title 8**

### **HEALTH AND SAFETY**

#### **Chapters:**

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- 8.05 Abatement of Junk Vehicles**
- 8.07 Graffiti Control**
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**Chapter 8.04****NUISANCES**

## Sections:

- 8.04.010 Purpose.
- 8.04.020 Definitions.
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- 8.04.070 Immediate danger – Summary abatement.
- 8.04.080 Violation – Penalties.

**8.04.010 Purpose.**

The purpose of this chapter is to exercise the police power in relation to public nuisances and the abatement of such nuisances, to protect the public health, safety and welfare, and to promote the economic development of the city. It is also the purpose of this chapter to prevent and prohibit those conditions which reduce the value of private property, interfere with the enjoyment of public and private property, create and constitute fire and other safety and health hazards, and generally create a menace to the health and welfare of the public and contribute to the degradation of the character of neighborhoods and depreciation of property values. It is necessary for the public health, safety and welfare to regulate, prevent and prohibit conditions which may constitute disorderly, disturbing, unsafe, unsanitary, fly-producing, rat-harboring, and/or disease-causing places, conditions, or objects. It is also necessary for the public social and economic welfare to regulate, prevent, and prohibit conditions which degrade the city's scenic attractiveness and liveability and its economic development. (Ord. 2001-022)

**8.04.020 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, in such a manner and to such an extent as the enforce-

ment officer, in his judgment, determines is necessary in the interest of the general health, safety and welfare of the community.

B. "Disposable package or container" means all packages or containers defined as such by rules and regulations adopted by the State of Washington Department of Ecology.

C. "Enforcement officer" means any city official or employee designated by the city manager.

D. "Junk" includes the storage of all old appliances, equipment, or parts thereof, all old iron or other scrap metal, automobile tires, cardboard, old lumber, old wood and mattresses, which items are not being used for their intended purpose, and does not include orderly stacked firewood.

E. "Litter" means and includes all waste material, including but not limited to disposable packages or containers thrown or deposited on public or private property, including the depositing on public property or cars of handbills, but not including the waste of primary process of mining, logging, sawmilling, firming, or manufacturing.

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

G. "Refuse" means vegetable offal, animal offal, discarded food, cans, bottles, waste paper, large tree limbs and all other waste substances from private and public establishments and from residences; but shall not include small amounts of weeds, twigs, grass, or other material resulting from the normal tending of lawns and gardens.

H. "Responsible person" means any agent, lessee, owner or other person occupying or having charge or control of any premises.

I. "Repeat offender" means any responsible person who has had an abatement order issued in his or her name within the prior 36 months, regardless of the nuisance's location, except that in the case of a landlord the prior abatement order must have been issued for the same property.

J. "Weed," "vegetable growth" and "horticultural growth" mean and include but are not limited to trees, plants, shrubs, bushes, flow-

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ers, garden vegetables and grasses and further include all growths of every kind and character, whether domestic or wild, causing the obstruction or interference or detriment prohibited by this chapter.

K. "Administrative hearings officer" means the city manager or any city official or employee designated by him other than the person designated as "enforcement officer" as in subsection C of this section. (Ord. 2001-022)

### 8.04.030 Types of nuisances.

Each of the following places, conditions, or things is declared to constitute a public nuisance, and whenever the enforcement officer determines that any of these conditions exist upon any premises the officer may require or provide for the abatement thereof pursuant to this chapter:

A. The growing, maintaining, permitting or allowing of any weed, vegetable or horticultural growth which either:

1. Overhangs, encroaches upon, obstructs or in any manner interferes with the full and free use by the public of any street, sidewalk or sidewalk area upon which such property so owned or occupied abuts; or

2. Has grown and died upon any premises owned, occupied or in control of the responsible person or persons and which constitutes a detriment to the public health, safety or welfare, including but not limited to a fire hazard; or

3. Is so overgrown upon any premises owned, occupied or in control of the responsible person or persons, as to cause the degradation of the character of the neighborhood, and for which a general rule of thumb shall be an average length of 12 inches or more.

B. The existence of any junk, litter, or refuse within the city when written complaint from one or more city residents who are impacted by the present or potential effect of the condition on them or their property, has been received by the city unless such materials are kept or stored in an orderly and slightly manner and so as not to create a fire, safety, health or sanitary hazard.

C. The depositing, leaving or throwing away of any junk, litter or refuse within the

city for an unreasonable length of time beyond what is necessary for proper disposal, which length of time shall be not less than 30 days, except at any designated city landfill or city solid waste transfer facility site or in covered containers or receptacles acceptable to the enforcement officer of the city.

D. The causing or permitting to be discharged, placed or thrown, or the throwing into, or upon any premises or any public street or alley of any nauseous, foul or putrid liquor or substance, or any liquid or substance likely to become nauseous, foul, offensive or putrid.

E. The maintaining, permitting or existence of any unsightly and unsafe, partially destroyed building or structure, that has not been repaired or removed within a reasonable period, and which period shall be not less than 60 days and not more than one year. (Ord. 2001-022)

### 8.04.040 Prohibited conduct.

A. It shall be unlawful for any responsible person(s) to create, permit, maintain, suffer, carry on or allow, upon their premises, any of the acts or things declared by this chapter to be a public nuisance.

B. It shall be 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. 2001-022)

### 8.04.050 Enforcement – Request – Hearing.

The enforcement officer, having knowledge of any public nuisance, shall cause the responsible person(s) to be notified of the existence of a public nuisance on any premises and shall request such person(s) to abate the condition within a designated reasonable period. The enforcement officer shall also include in the written notice to said person(s) that an application for initiation of formal abatement proceedings will be made to the administrative hearings officer. The written notice shall establish the date by which a final determination shall be made and give the responsible person(s) the option of requesting a hearing before the administrative hearings officer prior to the final determination date. The responsible person(s) shall have five days in which to request

a hearing which, if requested, shall be held within seven days of the request. Upon determining that a public nuisance exists which requires abatement, the administrative hearings officer shall issue a written report of findings and order requiring the responsible person(s) to abate such condition. The written report of findings and order shall provide that in the event of the failure of such person(s) to abate the public nuisance within the time frame listed in the written report of findings and order, the same shall be abated by the city, and the costs to the city shall become a charge collectible by any legally available means against the responsible person(s). If the responsible person(s) do not give permission for the city to enter the property for such abatement action, the city may obtain a court order or warrant to do so. When an abatement order is issued to a repeat offender, a \$100.00 administrative fee shall be charged to the repeat offender to cover the city's costs in pursuing the abatement of the public nuisance. In the case that the owner leases or rents the premises to another responsible person(s), such owner may request, and the administrative hearings officer may include in the written report of findings and order, an extended abatement period for such owner to be effective if the tenant fails to accomplish abatement within the prescribed time period, which extended abatement period shall allow the owner to pursue unlawful detainer proceedings, and shall not exceed 90 days. The responsible person(s) may appeal the written report of findings and order of the administrative hearings officer to city council by filing a notice of appeal with the city clerk within 10 days of the date of the written report of findings and order. Any appeal taken to the city council shall be heard at the next regularly scheduled meeting of city council. Any legal action challenging the council's decision on appeal shall be brought in Clallam County superior court within 10 days of the decision by council. In the case that the responsible person, or one of the responsible persons, is the owner, the charge shall be a lien against the property, and perfected, processed and foreclosed as prescribed in the provisions covering mechanic's liens in Chapter 60.04 RCW. (Ord. 2001-022)

#### **8.04.060 Abatement – Suit.**

Whenever a public nuisance exists, pursuant to SMC 8.04.050, the city may proceed by a suit in the Clallam County superior court to enjoin and abate it in the manner provided by Chapter 7.48 RCW as amended; or it may elect to enforce the provisions of this chapter by complaint, citation and/or warrant in Clallam County district court. (Ord. 2001-022)

#### **8.04.070 Immediate danger – Summary abatement.**

Whenever any condition or use of the premises 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, and the responsible person(s) cannot be contacted or refuse(s) to immediately abate the condition, the enforcement officer shall have the authority to summarily and without notice abate the same. The expenses of such abatement may become a civil debt against the owner or the responsible person and shall be collectible in the same manner as any other civil debt owing to the city or as otherwise provided in this chapter. (Ord. 2001-022)

#### **8.04.080 Violation – Penalties.**

A. Any person, firm or corporation violating the provisions of this chapter, in addition to any penalty which may be provided in SMC Title 9, may, in the sound discretion of the court in which conviction is obtained, be directed by the court to abate and remove from any public street or highway or public or private right-of-way or public park, or any private property any or all debris and waste deposited thereon by anyone prior to the date of the conviction.

B. Each day a violation of this chapter continues shall constitute a separate offense under this chapter. (Ord. 2001-022)

**Chapter 8.05**

**ABATEMENT OF JUNK VEHICLES**

Sections:

- 8.05.010 Purpose.
- 8.05.020 Definitions.
- 8.05.030 Exemptions.
- 8.05.040 Abatement and removal of junk vehicles on private property.
- 8.05.050 Violation – Penalty.

**8.05.010 Purpose.**

The purpose of this chapter is to preserve the character and safety of the city’s neighborhoods by eliminating as nuisances junk vehicles from private property and to provide procedures for the removal of junk vehicles as authorized by RCW 46.55.240. (Ord. 2001-022)

**8.05.020 Definitions.**

For the purpose of this chapter, the following words shall have the following meaning:

A. “Junk vehicle” means any vehicle meeting at least three of the following requirements (RCW 46.55.010(4)):

1. Is three years old or older;
2. Is extensively damaged, such damage including, but not limited to, any of the following: a broken window or windshield or missing wheels, tires, motor or transmission;
3. Is apparently inoperable;
4. Has an approximate fair market value equal only to the approximate value of the scrap in it.

B. “Enforcement officer” means the city manager or any city official or employee designated by him.

C. “Landowner” means an owner of private property or a person in possession or control of private property. (Ord. 2001-022)

**8.05.030 Exemptions.**

The provisions of this chapter shall not apply to:

A. A vehicle or part thereof which is completely enclosed within a building in a lawful manner, or where it is not visible from the street or other public or private property; or

B. A vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to the provisions of RCW 46.80.130. (Ord. 2001-022)

**8.05.040 Abatement and removal of junk vehicles on private property.**

A. The storage or retention of junk vehicles on private property is declared to constitute a public nuisance subject to abatement by removal and disposal. The enforcement officer shall inspect and investigate complaints relative to junk vehicles, or parts thereof, on private property. Upon discovery of such nuisance, the enforcement officer shall cause the police department to inspect said vehicle to determine if the same meets the requirements of RCW 46.55.010(4). If the inspection by the police department confirms that the vehicle in question meets the criteria of RCW 46.55.010 (4), then the enforcement officer shall give notice in writing to the last registered owner of record of the junk vehicle and also to the property owner of record that a public hearing may be requested before the city council or other administrative hearings officer as shall be designated by the city council, and that if no hearing is requested within 10 days, the junk automobile will be removed. Costs of removal may be assessed against the last registered owner of the junk vehicle if the identity of such owner can be determined, or the costs may be assessed the landowner of the property on which the junk vehicle is stored.

B. If a request for a hearing is received, a notice giving the time, location and date of such hearing on the question of the abatement of the junk vehicle or part thereof as a public nuisance shall be mailed, by certified or registered mail with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll of the county assessor and to the last registered and legal owner of record of the junk vehicle unless the junk vehicle is in such condition that the identification numbers are not available to determine ownership.

C. The owner of the land on which the junk vehicle is located may appear in person at the hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the junk vehicle on the land, with his reasons for such denial. If it is determined at the hearing that the junk automobile was placed on the land without the consent of the landowner and that he has not subsequently acquiesced in its presence, then the city council shall not assess costs of administration or removal of the junk vehicle against the property upon which the junk vehicle is located or otherwise move to collect such costs from the property owner.

D. After notice has been given of the intent of the city to dispose of the junk vehicle, and after a hearing, if requested, has been held, the junk vehicle, or part thereof, shall be removed, at the request of a police officer, and disposed of by a registered tow truck operator with notice to the Washington State Patrol and the Department of Licensing that the vehicle has been wrecked.

E. The city may, after removal of the junk vehicle from private property, file or record with the county auditor a claim for lien for the costs of removal and disposal, which shall be in accordance with the provisions covering mechanics' liens in Chapter 60.04 RCW, and said lien shall be foreclosed in the same manner as such liens. The city may alternatively choose in its sole discretion to collect any unpaid charges utilizing whatever legal options are available to the city, including but not limited to turning the matter over to a collection agency, filing a small claim court action, or filing a civil lawsuit in district or superior court. (Ord. 2001-022)

thereon by anyone prior to the date of the conviction.

B. Each day a violation of this chapter continues shall constitute a separate offense under this chapter. (Ord. 2001-022)

#### **8.05.050 Violation – Penalty.**

A. Any person, firm or corporation violating the provisions of this chapter, in addition to any penalty which may be provided in SMC Title 9, may, in the sound discretion of the court in which conviction is obtained, be directed by the court to abate and remove from any public street or highway or public or private right-of-way or public park, or any private property any or all debris and waste deposited

Chapter 8.07

GRAFFITI CONTROL

Sections:

- 8.07.010 Intent and purpose.
- 8.07.020 Definitions.
- 8.07.030 Prohibition of graffiti.
- 8.07.040 Possession of graffiti implements.
- 8.07.050 Removal of graffiti.
- 8.07.060 City costs enforceable – Debt – Lien.
- 8.07.070 Appeal.
- 8.07.080 Removal by city.
- 8.07.090 Reward.
- 8.07.100 Penalty.
- 8.07.110 Administrative fee.

**8.07.010 Intent and purpose.**

A. The city of Sequim may provide for the removal of graffiti and other inscribed material from public and privately owned permanent structures located on public or privately owned real property within the city of Sequim. The city of Sequim finds that graffiti on public and privately owned property is obnoxious in that it furthers blight, encourages acts of vandalism and related criminal conduct, depreciates the value of surrounding properties, and is inconsistent with the city’s property maintenance goals and aesthetic standards.

B. The city further finds and determines that unless graffiti is quickly removed; other properties soon become the target of graffiti. The existence of graffiti tends to begin community discontent and contempt for the law as well as encourages other criminal conduct and actions by criminal organizations and gangs. (Ord. 2007-015 § 1)

**8.07.020 Definitions.**

The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section:

A. “Gang” means a group of three or more individuals with a common interest or bond and engaging in activity specifically characterized by an intent to commit criminal acts.

B. “Graffiti or other inscription” shall mean any unauthorized inscription, word, figure or design that is indelibly marked, etched, scratched, drawn or painted on any building, structure or other facility, regardless of the nature of the material of that component, structure or facility.

C. “Graffiti vandalism” means unpermitted defacement of public or private property by means of painting, drawing, writing, etching, or carving, by use of paint, spray paint, ink, knife, or any similar method. “Graffiti” means one or more letters, symbols, or other markings painted, drawn or otherwise applied to a wall, post, column, or other building or structure, or to a tree, or other exterior surface, publicly or privately owned.

D. “Graffiti implements” shall mean any can, bottle, spray device or other mechanism designed to propel liquid which contains ink, paint, dye or other similar substance which is expelled under pressure, either through the use of aerosol devices, pumps, or similar propulsion devices. Additionally, the definition also includes indelible marker(s) which is any marker, pen or similar implement containing anything other than a solution which can be removed with water after it dries and having a flat, pointed or angled writing surface of a width of four millimeters or greater when possessed in a location and manner described in SMC 8.07.040.

E. “Responsible adult” shall mean the parent or legal guardian of a minor under the age of 18 years. (Ord. 2007-015 § 1)

**8.07.030 Prohibition of graffiti.**

A. It shall be unlawful for any person to apply graffiti or other inscription upon any wall, street, sidewalk, bridge, building, fence, gate, structure, signs or other facility within the city of Sequim.

B. Persons convicted of violating this section, in addition to any other penalties imposed by this code, shall pay restitution to the property owner. If the violator is a minor, the parent or guardian shall be responsible for the payment of restitution within the limits of liability set forth in any applicable RCW section. (Ord. 2007-015 § 1)

**8.07.040 Possession of graffiti implements.**

It shall be unlawful for any person to possess any graffiti implement while on public or private property without the express consent of the owner of such property, in a manner that warrants a justifiable and reasonable alarm or immediate concern for the safety of property in the vicinity and when such possession is under circumstances evincing an intent to use or employ, or allow the same to be used or employed in the commission of a violation of SMC 8.07.030, or knowing that the same is intended to be so used. Among the circumstances which may be considered by a police officer in determining whether such alarm or immediate concern is warranted, is the fact that the person takes flight upon appearance of an enforcement officer, refuses to identify himself, or manifestly endeavors to conceal himself or the graffiti implement. Prior to any formal arrest and/or citation being issued to a person for a violation of this subsection, such person shall be afforded an opportunity by the enforcement officer to dispel any alarm or immediate concern which could otherwise be warranted by requesting such person to explain his lawful presence and conduct. (Ord. 2007-015 § 1)

**8.07.050 Removal of graffiti.**

A. Whenever graffiti exists upon the property owned by another public agency, or a private property owner, the city of Sequim may remove it with the consent of the public entity or private property owner owning said property.

**B. Notice of Removal.**

1. Whenever the city manager, or his/her designated representative, determines that graffiti exists on any public or private buildings, structures, and places which are visible to any person utilizing any public road, parkway, alley, sidewalk or other right-of-way within the city, and when seasonal temperatures permit the painting of exterior surfaces, the compliance officer I or other designated code enforcement officer or his/her designated representative shall cause a notice to be issued to abate such nuisance. The property owner

shall have 15 days after the date of the notice to remove the graffiti or the same will be subject to abatement by the city.

2. The notice to abate graffiti pursuant to this section shall cause a written notice to be served upon the owner(s) of the affected premises, as such owners' name and address appears on the last property tax assessment rolls of Clallam County, Washington. If there is no known address for the owner, the notice shall be sent in care of the property address. The notice required by this section may be served in any one of the following manners:

a. By personal service on the owner, occupant or person in charge or control of the property;

b. By registered or certified mail addressed to the owner at the last known address of said owner. If this address is unknown, the notice will be sent to the property address.

The notice shall be substantially in the following form:

**Notice of Intent to Remove Graffiti**

Date:

To:

NOTICE IS HEREBY GIVEN that you are required, by Ordinance of the City of Sequim, at your own expense, to remove or paint over the graffiti located on the property commonly known as (address), Sequim, Washington, which is visible to public view, within fifteen (15) days after the date of this notice; or, if you fail to do so, the City may abate the nuisance by removal or painting over of the graffiti. The cost of the abatement by the City or private contractors employed by the City to abate the nuisance will be assessed upon your property and such costs will constitute a lien upon the land until paid.

All persons having any objection to, or interest in said matters, are hereby no-

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tified to submit any objections or comments to the Code Enforcement Officer of the City of Sequim or his/her designated representative, within ten (10) days from the date of this notice. If no objections or comments to the notice are received by the City, the City will, at the conclusion of the fifteen (15) day period, proceed with abatement of the graffiti inscribed on your property at your expense without further notice.

(Ord. 2007-015 § 1)

### **8.07.060 City costs enforceable – Debt – Lien.**

Any and all costs incurred by the city in the abatement of the graffiti nuisance as provided in this chapter shall constitute a debt owed to the city by the property owner or person in charge or control of the property, and shall be enforceable as a lien against the property upon which such nuisance existed, in addition to the other legal remedies available for enforcement of debts. (Ord. 2007-015 § 1)

### **8.07.070 Appeal.**

Within 10 days from the mailing or from personal service of the notice of intent to remove graffiti, the owner or person occupying or controlling the premises affected may appeal the matter to the Sequim city council. Filing of an appeal will stay, during the pendency of the appeal, any enforcement or actions by the city to abate the graffiti nuisance. The city council may delegate the appeal to an appointed hearing officer whose decision shall be a final decision of the city. (Ord. 2007-015 § 1)

### **8.07.080 Removal by city.**

A. Upon failure of persons to comply with the notice by the designated date, or such continued date thereafter as the city manager, or his/her designated representative, approves, then the code enforcement officer is authorized and directed to cause the graffiti to be abated by city forces or by private contract, and the city or its private contractor is expressly authorized to enter upon the premises for such pur-

poses. All reasonable efforts to minimize damage from such entry shall be taken by the city, and any paint used to obliterate or cover graffiti shall be as close as practicable to background color(s). If the code enforcement officer provides for the removal of the graffiti, he/she shall not authorize nor undertake to provide for the painting or repair of any more extensive area than the area where the graffiti is located.

B. Property owners in the city of Sequim may consent in advance to city entry onto private property for graffiti removal purposes.

1. In the event that the owner fails to remove the graffiti after notice has been sent, the city may, at its option, in lieu of the above procedure, abate the graffiti as a nuisance under city ordinances or state law.

C. The public works department shall be responsible for graffiti removal and will budget appropriately as well as coordinate or contract for such removal using city resources, but which may also include private companies and/or civic organizations. (Ord. 2007-015 § 1)

### **8.07.090 Reward.**

The city may pay to any person who provides information that leads to the arrest and conviction of any person who applies any drawing, inscription, figure, or mark, commonly known as graffiti, to a surface of real or personal property, a reward. (Ord. 2007-015 § 1)

### **8.07.100 Penalty.**

A. The violation of any provision of this chapter may be prosecuted as a violation of RCW 9A.48.090, as applicable or otherwise as a misdemeanor.

B. If a minor is personally unable to pay any fine or restitution levied for violating any provision of this chapter, the parent or legal guardian shall be liable for the payment of this fine or restitution for any intentional acts by the minor as state law, RCW 4.24.190, may provide for such acts. (Ord. 2007-015 § 1)

**8.07.110 Administrative fee.**

As a part of any abatement, an administrative fee for overhead will be charged against the party responsible for violation of any provision of this chapter above and beyond actual staff time and supplies used to enforce, prosecute and remove graffiti. (Ord. 2007-015 § 1)

**Chapter 8.08**

**SOLID WASTE COLLECTION\***

Sections:

- 8.08.010 Purpose – Definitions.
- 8.08.020 Appointment of solid waste collector.
- 8.08.030 Solid waste fund established.
- 8.08.040 Compulsory solid waste service.
- 8.08.050 Solid waste to be removed.
- 8.08.060 Trash to be deposited in containers provided by city or contractor.
- 8.08.070 Location of containers for collection.
- 8.08.080 Unlawful disposal.
- 8.08.090 Solid waste (garbage) collection rates and charges.
- 8.08.100 Acquisition of equipment.
- 8.08.110 Violation – Penalty.

\*Prior legislation: Ords. 575 and 639.

**8.08.010 Purpose – Definitions.**

A. Purpose. The maintenance of health and sanitation require and it is the intention of this chapter to make the collection, removal and disposal of garbage, refuse and waste matter within the city compulsory and universal.

B. Definitions. For the purpose of this chapter, the following definitions shall be applicable:

1. “Garbage” or “solid waste” means all solid and semi-solid kitchen refuse subject to decay or putrefaction and all animal or vegetable waste matter which was intended to be used as food.

2. “Trash” means all waste matter not subject to decay or putrefaction, except ashes and dead animals, large or small, which may die or be collected for other than food purposes and except hazardous waste as defined by state law.

3. “Person” means every person, firm, partnership, association, institution and corporation except the city, and shall also be deemed to mean the occupant and/or owner of the premises for which service is rendered.

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4. "Refuse" means discarded waste material of any sort. (Ord. 2002-024; Ord. 144 § 1, 1948)

### **8.08.020 Appointment of solid waste collector.**

The city council is authorized to appoint a suitable and qualified person or entity as collector of solid waste or to contract with a person or company who shall have full control of all work provided for and contemplated by this chapter, or who shall have such powers as provided by contract. (Ord. 2002-024; Ord. 144 § 2, 1948)

### **8.08.030 Solid waste fund established.**

There is created and established a special fund to be designated and known as the solid waste fund, formerly known as the sanitation fund, into which any funds the city is entitled to collect under this chapter shall be deposited and kept and from which all expenses of maintenance and operation which are not the obligation of the contractor shall be paid. (Ord. 2002-024; Ord. 144 § 3, 1948)

### **8.08.040 Compulsory solid waste service.**

A. It is the duty of every person in possession, charge or control of any dwelling, flat, rooming house, apartment house, hospital, hotel, club, restaurant, boarding house or eating house or in possession or control of any public or private place of business, trade or profession within the city at all times from and after the effective date of the ordinance codified in this chapter to keep or cause to be kept containers, approved by the solid waste collector or provided by the contracting solid waste collector approved by the city council, for the accumulations of solid waste.

B. It shall be compulsory to take solid waste collection service as provided in this chapter within the limits of the city.

C. The collection and disposal of trash and solid waste shall be exclusive to the city and no person shall offer or shall collect or dispose of solid waste or trash for hire from within the city limits of the city; provided, that upon special application to the city council, and upon a finding by the city council that a particular

matter is beyond the capabilities of the city garbage and trash collection services, a permit can be issued to allow persons to remove garbage and/or trash within the limits of the matter for which the permit is granted; provided further, that the city may contract with other public or private entities to perform some or all of the garbage collection services.

D. All containers for trash and rubbish deposited by places of business or residences must be of a type and in such location which meets with the approval of the solid waste collector and the city.

E. No stones, earth, ashes or other incombustible materials except wrappings and trash shall be deposited in either solid waste or trash containers. (Ord. 2002-024; Ord. 460 § 3, 1984; Ord. 144 § 4, 1948)

#### **8.08.050 Solid waste to be removed.**

The city solid waste collector shall be the exclusive entity to move and dispose of all solid waste, refuse and trash as may be necessary or as may be contracted for or independently undertaken by the city. (Ord. 2002-024; Ord. 144 § 5, 1948)

#### **8.08.060 Trash to be deposited in containers provided by city or contractor.**

Trash must be deposited in the containers provided by the city or in the containers provided by the contract solid waste collector and the city. (Ord. 2002-024; Ord. 446 § 1, 1983; Ord. 144 § 7, 1948)

#### **8.08.070 Location of containers for collection.**

All solid waste containers and trash containers shall be placed, at the time of scheduled collection, at locations designated by the solid waste collector and the city. (Ord. 2002-024; Ord. 144 § 8, 1948)

#### **8.08.080 Unlawful disposal.**

A. It shall be unlawful and a misdemeanor for any person, firm, corporation, partnership, association or institution to burn, dump or in any manner dispose of solid waste, trash or

refuse upon any streets, alleys, public places or private property, without the permission of the owner, in the city.

B. It shall be further unlawful and a misdemeanor for any person, firm, corporation, partnership, association or institution not a resident of the city, nor the operator of a business establishment within the city limits of the city, to deposit refuse, trash or solid waste in collection containers owned or operated by the city or by its contractor.

C. It shall be further unlawful and a misdemeanor for any person, firm, corporation, partnership, association or institution to use solid waste or trash collection facilities of the city without providing for payment to the city or its contractor for such use as provided by law. (Ord. 2002-024; Ord. 349 § 1, 1977; Ord. 144 § 9, 1948)

#### **8.08.090 Solid waste (garbage) collection rates and charges.**

Charges shall be as provided for in the contract between the city and the private solid waste hauler, the terms of which shall be available in the office of the city clerk. (Ord. 2002-024; Ord. 2001-025; Ord. 2000-019; Ord. 99-022 § 2)

#### **8.08.100 Acquisition of equipment.**

The city council is authorized from time to time to acquire such equipment and employ such personnel to assist the solid waste collector or provide services in addition to those contracted for as is in their judgment necessary and advisable. All expenditures therefor shall be from the solid waste fund. (Ord. 2002-024; Ord. 144 § 12, 1948)

#### **8.08.110 Violation – Penalty.**

Any person violating any of the provisions of this chapter shall be punished by a fine not exceeding \$1,000 or by imprisonment in the city jail for not more than 90 days, or by both fine and imprisonment. (Ord. 2002-024; Ord. 144 § 13, 1948)

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**Chapter 8.12**

**LITTER**

Sections:

- 8.12.010 Short title.
- 8.12.020 Litter in general.
- 8.12.030 Sweeping litter into gutter prohibited.
- 8.12.040 Merchants to keep sidewalks free of litter.
- 8.12.050 Owner to maintain premises free of litter.
- 8.12.060 Litter thrown by persons in vehicles.
- 8.12.070 Vehicle loading.
- 8.12.080 Enforcement officers and procedures.
- 8.12.090 Penalties.

**8.12.010 Short title.**

The ordinance codified in this chapter shall be known and may be commonly referred to and cited as the litter control code. (Ord. 302 § 1, 1974)

**8.12.020 Litter in general.**

No person shall throw, drop, deposit, discard, place or otherwise dispose of litter or any organic material or foodstuff upon any street, alley, sidewalk or any other public place in the city or upon a private residence or other private property not owned by him, or in the waters within the jurisdiction of the city, whether from a vehicle or otherwise except:

A. When such property is designated by the state or by any of its agencies or the city for the disposal of garbage and refuse, and such person is authorized by the proper public authority to so use such property; or

B. Into a litter receptacle or other container in such manner that the litter will be prevented from being carried away or deposited by the elements upon any part of the public place, private residence or other private property; or

C. When such person is the owner or does have control or custody of the property, or has the prior consent of the owner or tenant in lawful possession of such property, or unless the act is done under the personal direction of the

owner or tenant and provided the litter will not cause a public nuisance or be in violation of any other state or local laws, rules or regulations. (Ord. 629 § 2, 1992; Ord. 302 § 2, 1974)

**8.12.030 Sweeping litter into gutter prohibited.**

No person shall sweep into or deposit in any gutter, street, alley or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying property shall keep the sidewalks in front of their premises free of litter. (Ord. 302 § 3, 1974)

**8.12.040 Merchants to keep sidewalks free of litter.**

No person owning or occupying a place of business shall sweep into or deposit in any gutter, street or other public place the accumulation of litter from any building or lot or from any public or private sidewalk or driveway. Persons owning or occupying places of business within the city shall keep the sidewalk in front of their business premises free of litter. (Ord. 302 § 4, 1974)

**8.12.050 Owner to maintain premises free of litter.**

The owner or person in control of any private residence or other private property shall at all times maintain the premises free of litter. (Ord. 302 § 5, 1974)

**8.12.060 Litter thrown by persons in vehicles.**

No person while a driver or passenger in a vehicle shall throw or otherwise deposit litter upon any street or other public place or upon any private residence or private property. (Ord. 302 § 6, 1974)

**8.12.070 Vehicle loading.**

A. No vehicle shall be driven or moved on any public street unless the vehicle is so constructed or loaded as to prevent any of its load from dropping, shifting, leaking or otherwise escaping therefrom, except that sand or gravel may be dropped for the purpose of securing traction, or water or other substance may be

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sprinkled on a roadway surface in the cleaning or maintaining of such roadway by a public authority having jurisdiction for the same or by persons under contract or other authorization by such public authority.

B. Any person owning or operating a vehicle from which any glass or other objects of its load have fallen or escaped, which would constitute an obstruction or injure a vehicle or otherwise endanger travel upon the public street shall immediately cause the public street to be cleaned of all such glass or other objects and shall pay any cost therefor. (Ord. 302 § 7, 1974)

**8.12.080 Enforcement officers and procedures.**

Enforcement of this chapter may be by any city police officer. Nothing in this chapter shall be construed to prohibit citizens' complaints or arrests as may be otherwise permitted under applicable state regulations, state statute, ordinance or court rule. (Ord. 302 § 8, 1974)

**8.12.090 Penalties.**

Every person convicted of a violation of this chapter shall be punished by a fine of up to \$300.00 for each such violation. Each day that such violation continues shall be considered a separate offense. (Ord. 629 § 3, 1992; Ord. 302 § 11, 1974)

**Chapter 8.16**

**WEEDS**

Sections:

- 8.16.010 Certain growths of vegetation declared a nuisance.
- 8.16.020 Enforcement.
- 8.16.030 Notice to abate.
- 8.16.040 Abatement by city.
- 8.16.050 Penalties.

**8.16.010 Certain growths of vegetation declared a nuisance.**

Trees, plants, shrubs or vegetation or parts thereof which so overhang any sidewalk or street, or which are growing thereon in such manner as to obstruct or impair the free and full use of the sidewalk or street by the public are public nuisances. Grass, weeds, shrubs, bushes, trees or vegetation growing or which has grown and died upon any property and are a fire hazard or a menace to public health, safety or welfare are likewise public nuisances. It is the duty of the owner wherein or whereon any such nuisances exist to abate the nuisance by destroying, removing or trimming the growth. (Ord. 220 § 1, 1968)

**8.16.020 Enforcement.**

The chief of police shall enforce this chapter and if any property owner fails or refuses to abate any such nuisance as contemplated by SMC 8.16.010 the city council may, after report filed by the chief of police, by resolution require such property owner, in addition or alternative to the penalties prescribed by SMC 8.16.050, to abate the nuisance by removal or destruction, at his cost and expense within a time specified in the resolution; and if the removal or destruction is not made within the time specified, the chief of police may abate the same as provided in SMC 8.16.040. (Ord. 220 § 3, 1968)

**8.16.030 Notice to abate.**

The resolution mentioned in SMC 8.16.020 shall not be passed until the property owner is given at least five days' notice of the pendency of the proposed resolution; such notice shall be

**8.16.040**

given by the city clerk by mailing a copy of the notice to the owner as shown upon the records of the county treasurer and at the address shown thereon. If no owner and address is shown on the records, a copy of the public notice shall be posted upon the property, and shall also be published in one issue of the official newspaper. The mailing, posting and publication shall be made at least five days before the resolution is adopted and proof shall be made by affidavit of the official newspaper filed with the city clerk. The notice shall include the resolution number and both shall describe the property involved and the nature of the hazardous condition constituting the nuisance. (Ord. 220 § 4, 1968)

**8.16.040 Abatement by city.**

If the nuisance is not abated by removal or destruction by the property owner within the time fixed in the resolution, the chief of police may abate the same and he shall render a bill covering the cost to the city of such abatement, including the expense, and mail the bill to the property owner. If the property owner fails or refuses to pay the bill immediately or if no bill is rendered because he cannot be found, the chief of police in the name of the city may file a lien therefor against the property which lien shall be in the same form, filed with the same officer and within the same time and manner and enforced and foreclosed as is provided by law for liens for labor and material. (Ord. 220 § 5, 1968)

**8.16.050 Penalties.**

The failure or refusal to comply with any of the provisions of SMC 8.16.010 shall subject the offender to a fine not exceeding \$500.00, or imprisonment in the city jail for a term not exceeding six months, or both. (Ord. 220 § 2, 1968)

**Chapter 8.20**

**FIREWORKS**

Sections:

- 8.20.010 Purpose.
- 8.20.020 Definitions.
- 8.20.030 Unclassified fireworks prohibited.
- 8.20.040 Sale permit required.
- 8.20.050 Dates when sale permitted.
- 8.20.060 Dates when use permitted.
- 8.20.070 Storage.
- 8.20.080 Number of permits limited.
- 8.20.090 Sale permit – Nontransferable.
- 8.20.100 Sale permit – Application – Requirements.
- 8.20.110 Temporary stand – Location – Construction.
- 8.20.120 Sale permit – Application – Investigation – Grant or denial.
- 8.20.130 Fire marshal authorized to prohibit sale and use.
- 8.20.140 Interpretation and construction of chapter.
- 8.20.150 Enforcement.
- 8.20.160 Violation – Penalty.

**8.20.010 Purpose.**

It is the purpose of this chapter to provide for the possession, sale and discharge of fireworks as classified by the State Fire Marshal; and to prohibit the possession, sale or use of any fireworks classified as dangerous by the State Fireworks Law, or otherwise prohibited by ordinances of the city, and to empower the city fire marshal to prohibit the sale and usage of fireworks during times of increased risk of fire. (Ord. 95-007 § 1)

**8.20.020 Definitions.**

A. “Fireworks” means any composition or device containing any combustible or explosive substance for the purpose of producing a visible or audible effect by combustion, explosion, deflagration, or detonation, and classified as common or special fireworks by the United States Bureaus of Explosives or contained in the regulations of the United States Department of Transportation.

B. "Special fireworks" includes any fireworks designed primarily for exhibition display which produce visible or audible effects by combustion, deflagration, or detonation.

C. "Common fireworks" includes any fireworks which are designed primarily for sale at retail to the public during prescribed dates and which produce visible or audible effects through combustion.

D. "Pyrotechnics" means any combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere, and designed and intended to produce an audible, visual, mechanical, or thermal effect as a necessary part of a motion picture, radio or television production, theatrical, or opera.

E. "Permit" means the official permission granted by the local public agency for the purpose of establishing and maintaining a place where fireworks are manufactured, constructed, produced, packaged, stored, sold, exchanged, discharged or used. (Ord. 95-007 § 2)

#### **8.20.030 Unclassified fireworks prohibited.**

The sale, transportation, possession or discharge of unclassified fireworks within the city limits is prohibited. Possession of fireworks unmarked with the manufacturer's license number and the State Fire Marshal's classification shall be prima facie evidence of a violation of this chapter. (Ord. 95-007 § 3)

#### **8.20.040 Sale permit required.**

Any adult person or other group desiring to manufacture, import, possess, or sell any fireworks at wholesale or retail for any use; discharge special fireworks at any place; make a public display of fireworks; or transport fireworks, except as a public carrier delivering to a licensee, shall make written application for a permit to the city fire marshal. Applications for permits for public display of fireworks shall be made in writing at least 45 days in advance of the proposed display. (Ord. 95-007 § 4)

#### **8.20.050 Dates when sale permitted.**

No person, firm or corporation shall sell at retail or offer for sale any fireworks authorized to be sold herein within the city, except as set forth herein. Fireworks may be sold and purchased: (A) from noon to 11:00 p.m. on June 28th; (B) from 9:00 a.m. to 11:00 p.m. on June 29th through July 4th; and (C) from 9:00 a.m. to 9:00 p.m. on July 5th. (Ord. 2002-017; Ord. 95-007 § 5)

#### **8.20.060 Dates when use permitted.**

No person, firm or corporation shall use or explode any fireworks within the city except as set forth herein. Fireworks may be used and discharged: (A) from noon to 11:00 p.m. on June 28th; (B) from 9:00 a.m. to 11:00 p.m. on June 29th through July 3rd; (C) from 9:00 a.m. to midnight on July 4th; and (D) from 9:00 a.m. to 11:00 p.m. on July 5th; provided, that this prohibition shall not apply to duly authorized public displays where the same are authorized pursuant to the laws of the state of Washington. (Ord. 2002-017; Ord. 95-007 § 6)

#### **8.20.070 Storage.**

It shall be unlawful for any person to store fireworks of any class without first having made a written application for and received a permit for such storage to the fire marshal of the city at least 45 days prior to the date of the proposed storage. It shall be the duty of the fire marshal of the city to make an investigation as to whether such storage as proposed will be of such a nature and character and will be so located as to constitute a hazard to property or be dangerous to any person and said officer shall, in the exercise of reasonable discretion, grant or deny the application subject to such reasonable conditions, if any, as he or she may prescribe. (Ord. 95-007 § 7)

#### **8.20.080 Number of permits limited.**

No person, firm or corporation shall receive more than one permit for the sale of fireworks during any one calendar year. A permit granted pursuant to this chapter shall entitle the permittee to maintain only one retail outlet.

## 8.20.090

The city in any given year shall not issue more than one permit for each 1,500 persons residing within the Sequim city limits. (Ord. 95-007 § 8)

### 8.20.090 Sale permit – Nontransferable.

The fireworks permit issued for the retail sale of fireworks within the city limits shall be nontransferable, and no person other than the permittee, organization or affiliate shall operate the stand for which the permit is issued, or share or otherwise participate in the benefits of the operation of such stand. (Ord. 95-007 § 9)

### 8.20.100 Sale permit – Application – Requirements.

Application for a permit to engage in the retail sale of fireworks within the city limits shall be made to the city fire marshal or his designee on a form prepared by him and submitted at least 45 days prior to the requested effective date of the permit. No permit application shall be submitted prior to January 1st of the year in which such permit is requested. The application must be accompanied by:

A. A valid license issued by the State Fire Marshal pursuant to Chapter 70.77 RCW, authorizing the permittee to engage in the retail sale of fireworks;

B. A fee of \$50.00, which is established as the fireworks permit fee;

C. A public liability and property damage insurance policy from an insurance company licensed to do business in the state, in the sum of at least \$1,000,000 for bodily injury or death suffered by one or more persons in any one accident or occurrence and at least \$1,000,000 for property damage for each permit location and by a products liability insurance policy in the amount of at least \$1,000,000. The insurance policies must name the city as an additional insured therein, to indemnify the city from any damage or injury caused by the operation of the retail fireworks stands;

D. A performance bond, note, or cash deposit in an amount not less than \$100.00 conditioned upon the prompt removal of the temporary stand and the clean-up of all debris from the site of the temporary stand, which bond or deposit shall be returned to the appli-

cant if his application for a fireworks permit is denied, or in the event the application is granted, the bond or deposit shall be returned to the applicant only if he removes the temporary stand and cleans up all debris to the satisfaction of the proper officials of the city. In the event of his failure so to do, the performance bond or cash deposit shall be forfeited to the city. In no event shall the applicant be entitled to the return of the performance bond or cash deposit if he has failed to remove the temporary stand and clean up all debris by the tenth day of July of each year. (Ord. 95-007 § 10)

### 8.20.110 Temporary stand – Location – Construction.

A. Sale of fireworks as authorized herein shall be from temporary fireworks stands only.

B. A temporary stand location shall be only in those areas or zones within the city wherein business or industrial activities are authorized under the applicable zoning laws of the city.

C. Temporary fireworks stands need not comply with all of the provisions of the Building Code; provided, however, all such temporary fireworks stands shall be erected in accordance with plans submitted to and approved by the fire marshal of the city or the building official of the city or their duly authorized representative, who shall require all temporary fireworks stands to be constructed in a safe manner, assuring the safety of attendants and patrons. In the event any temporary fireworks stand is wired for electricity, such wiring shall conform to the State Electrical Code and the electrical code of the city, and be limited to the provision of adequate lighting. (Ord. 95-007 § 11)

### 8.20.120 Sale permit – Application – Investigation – Grant or denial.

A. The fire marshal, or his duly authorized representative, shall make such investigations as he deems necessary in connection with the safety of the proposed operation. After completing his investigations, the fire marshal shall forward the application and the result of the investigations to Fire District # 3 for comment, after which, but not more than 30 days from the date of application, or not later than

June 10th for July sales, the permit shall be granted or denied; provided, that a complete application has been submitted to the city not less than 30 days prior to the June 10th date. The fire marshal may give preference to persons or organizations who have operated temporary fireworks stands in an acceptable manner pursuant to a permit issued by the city in preceding years. The fire marshal shall give preference to local nonprofit groups benefitting youth, with a secondary preference to other local nonprofit groups.

B. Any permit to engage in the sale of fireworks shall be in writing, on such form as the city may prescribe to be effective, and shall be signed by the city manager, fire marshal and the city clerk. The permit shall be prominently posted in the temporary fireworks stand. (Ord. 2002-017; Ord. 95-007 § 12)

#### **8.20.130 Fire marshal authorized to prohibit sale and use.**

Notwithstanding any provision herein which may be interpreted to the contrary, and notwithstanding the granting of any permit or license to sell or use fireworks by the city or by any other authority, the city fire marshal or his deputy or designee shall have the inherent authority to prohibit the use and sale of fireworks at any time when he or she deems such sale and use to be a danger to the public health, safety and welfare, and specifically when he or she deems the weather conditions to be such that there is an unacceptably increased risk of fire. In the event of any such prohibition, the damages claimable against the city by any holder of a licence to use or sell such fireworks shall be limited to the cost of any such license which is granted by the city. (Ord. 95-007 § 13)

#### **8.20.140 Interpretation and construction of chapter.**

This chapter is intended to implement Chapter 70.77 RCW, and shall be construed in connection with said law and any and all rules or regulations issued pursuant thereto. (Ord. 95-007 § 14)

#### **8.20.150 Enforcement.**

The fire marshal of the city or his duly authorized representative is hereby designated as the enforcing officer of this chapter. Any failure or refusal on the part of a licensee to obey the rule, regulation or request of the fire chief concerning the sale of fireworks shall be grounds for the revocation of a fireworks license. (Ord. 95-007 § 15)

#### **8.20.160 Violation – Penalty.**

Any person, firm, association, corporation or other group violating any of the provisions of this chapter is guilty of a misdemeanor, and upon conviction shall be punished by a fine of not more than \$500.00 or by imprisonment for no more than 90 days, or by both such fine and imprisonment; and such person, firm, association, corporation or other group is guilty of a separate offense for each day during which he, she or it commits, continues or permits a violation of any provisions of this chapter. (Ord. 95-007 § 16)

**Chapter 8.24**

**SELF-SERVICE GAS STATIONS**

Sections:

- 8.24.010 Classifications.
- 8.24.020 Attendants – Duties.
- 8.24.030 Prohibited use by customer designated.
- 8.24.040 Signs and emergency equipment.
- 8.24.050 Portable containers.
- 8.24.060 Pumps.
- 8.24.070 Violation – Penalty.

**8.24.010 Classifications.**

A. “Self-service gasoline station” includes any gasoline station whose customers are permitted to pump their own gasoline by such special devices as coin-operated, card-operated, and remote preset type devices.

B. “Class one liquids” includes those liquids having flash points below 100 degrees Fahrenheit, which includes gasoline. (Ord. 230 § 1, 1970)

**8.24.020 Attendants – Duties.**

A. At each self-service gasoline station, a qualified and properly trained service station attendant must be on the premises and must maintain close surveillance of all pumps and islands during the entire time that the station is open for business. At other times, all pumps shall be securely locked.

B. “Qualified and properly trained” attendant means a person not less than 18 years of age, who is physically and mentally able to administer the duties of transferring gasoline by the self-service method from pumps to vehicles and of performing the duties of transferring flammable liquids from pumps to properly approved metal containers. He must be carefully schooled and indoctrinated by management in the various dangers of gasoline vapors, from spilling or otherwise, the principles of safety relating to supervision of areas in which gasoline vapors are present, principles of first aid, and use of fire extinguishers. He must also be able to recognize and prohibit hazardous operations which may be performed by a customer, such as priming the carburetor

with a dispensing hose, washing car parts with gasoline, attempting to fill unapproved type containers, smoking, lighting matches or lighters, or any other sources of ignition on the service ramp.

C. “Close surveillance” means that the attendant shall be in the immediate area of the flammable liquid dispensing devices so that he can carefully observe all operations of servicing. At least one qualified attendant shall be on duty for each four-pump island, and further, no attendant shall be required to supervise more than eight pumps. Any and all side activities must give way to careful visual attention to the pumps being used. (Ord. 230 § 2, 1970)

**8.24.030 Prohibited use by customer designated.**

A. No customer who is either smoking, or apparently under the influence of liquor or drugs, or who appears to be mentally or physically incompetent, shall be allowed by the attendant to operate the self-service gasoline device.

B. It shall be the duty of the attendant to provide instruction and guidance to the customer-operator in the event that the customer-operator is not familiar with the equipment and procedure. If it appears at any time that the customer-operator is not following instructions or there appears to be any hazard or emergency endangering the person or the operation, the dispensing unit shall be immediately shut off. (Ord. 230 § 3, 1970)

**8.24.040 Signs and emergency equipment.**

The following signs and emergency equipment are required:

A. Signs plainly visible on the lot from any point shall be posted calling attention to special directions for filling portable containers.

B. Each self-service station shall be equipped with sufficient “NO SMOKING” signs so as to be readily observed by patrons from any point of the dispensing area.

C. Adequate signs posted on each island shall require that all motors be shut off and brakes set during the time that flammable liquids are dispensed into the cars from the self-service devices.

D. Emergency telephone numbers including fire, police, and ambulance shall be posted in large type near telephone facilities. Sufficient telephone facilities shall be maintained by the operator in the station so as to permit quick out-going calls at any time.

E. Fire extinguishers approved by the fire marshal's office shall be provided within 75 feet of each pump island and shall at all times be kept in good working order and subject to inspection.

F. Other fire-control devices such as emergency shutoff switches shall be installed as approved by the fire marshal's office and tested periodically to insure their proper operation. (Ord. 230 § 4, 1970)

punishable by a fine not exceeding \$250.00 or by imprisonment not exceeding 90 days, or by both such fine and imprisonment. Each day's violation shall constitute a separate offense punishable under this chapter. (Ord. 230 § 6, 1970)

#### **8.24.050 Portable containers.**

A. Any portable containers brought to such stations for filling, in whole or in part, shall be filled only by the attendant. No delivery of class one liquid shall be made in portable containers unless such containers have been manufactured for such use. The container shall be clearly marked on the outside as to the name of the product therein.

B. Under no circumstances shall glass containers be used for the holding of flammable liquids, either on the premises or to be taken from the premises. (Ord. 2001-014 § 2; Ord. 230 § 5, 1970)

#### **8.24.060 Pumps.**

A. Automatic shut-off nozzles without latch opening devices shall be used and shall be provided with a vacuum-operated valve so designed and constructed as to automatically shut off before any gasoline overflow. These nozzles are to be of smooth design so as to be readily removed from the fill pipe opening.

B. Such automatic shut-off nozzles shall be maintained in proper and effective operating condition at all times. If a pump becomes out of order, the pump, of which the nozzle is a part, shall be plainly marked "out of order" and locked. (Ord. 230 § 6, 1970)

#### **8.24.070 Violation – Penalty.**

Violation of any of the provisions of this chapter shall be a misdemeanor and shall be

**Chapter 8.28**

**FALSE ALARMS**

Sections:

- 8.28.010 Purpose.
- 8.28.020 Definitions.
- 8.28.030 Emergency response card.
- 8.28.040 Audible alarms declared nuisance.
- 8.28.050 Fees – Corrective action – Disconnection.
- 8.28.060 Administrative decision – Notice.
- 8.28.070 Appeal from administrative decision – Finality.
- 8.28.080 Payment of fees required.
- 8.28.090 Automatic dialing device – Certain interconnections prohibited.
- 8.28.100 Automatic reset required.
- 8.28.110 Tampering with alarm systems.
- 8.28.120 Other false alarms.
- 8.28.130 Penalties.

**8.28.010 Purpose.**

It is the intent of this chapter to reduce the number of false alarms occurring within the city and the resulting waste of city resources and to reduce the dangers inherent in emergency response, by providing for corrective administrative action, including fees and potential disconnection and criminal penalties. (Ord. 424 § 12, 1981)

**8.28.020 Definitions.**

As used in this chapter, the definitions contained in this section shall apply:

A. “Automatic dialing device” means a device which is interconnected and is programmed to select a predetermined telephone number and transmit by voice message or code signal an emergency message indicating a need for emergency response.

B. “Chief of police” includes the chief and/or his designee.

C. “False alarm” means the activation of a burglary, robbery, fire or other emergency alarm by other than a forced entry, attempted forced entry, unlawful entry or actual robbery or attempted robbery on the premises and at a time when no robbery, burglary or crime involving a foreseeable risk of grievous bodily

harm is being committed or attempted upon the premises. “False alarm” further includes the activation of an alarm device at a time when no fire exists on the premises or at a time when no threatened fire involving a foreseeable risk of grievous bodily harm is present on the premises. “False alarm” further includes the activation of any other emergency assistance request device at any time when there is no foreseeable risk of grievous bodily harm to any person upon the premises from which the alarm is activated.

D. “Fire chief” means the chief of the city fire department and shall include his designee.

E. “Interconnect” means to connect an alarm system, including an automatic dialing service, either directly or through a mechanical device for the purpose of transmitting a message upon the activation of an alarm system.

F. “Owner” means the person having or maintaining the alarm on premises owned and/or occupied by him.

G. “Person” means any natural person, partnership, joint stock company, unincorporated association or society, or a corporation of any character whatsoever.

H. “Response” shall be deemed to have occurred when the police department or fire department, as the case may be, begins to proceed towards the premises as a result of an activation of an alarm. (Ord. 424 § 2, 1981)

**8.28.030 Emergency response card.**

It is unlawful, and declared to be a misdemeanor, to have or maintain on any premises a burglary or robbery, fire or other emergency alarm, or alarm system unless there is on file with the city police department an emergency response card containing the name or names and current telephone number or numbers of person(s) authorized to enter such premises and turn off any alarm. Such emergency response card may be in any form as prescribed by the chief of police or his designee. (Ord. 424 § 3, 1981)

**8.28.040 Audible alarms declared nuisance.**

Any alarm audible on abutting property for a period in excess of 15 minutes is declared to be a public nuisance and may be summarily abated at the discretion of the chief of police or the chief of the fire department, or their designees. (Ord. 424 § 4, 1981)

**8.28.050 Fees – Corrective action – Disconnection.**

For city response to any false alarms, the city may charge and collect fees from the owner as follows:

A. For a response to premises at which no other false alarm has occurred within the preceding six-month period, referred to in this chapter as a “first response,” no fee shall be charged. Upon a first response, the chief of police shall give notice of conditions and requirements of this chapter to the owner.

B. For a second response to the premises within six months after a first response, the city may charge the owner a fee as established by resolution. Within five working days after notice to do so, owners shall make a written report to the chief of police in the prescribed form setting forth:

1. The cause of such false alarm;
2. The corrective action taken;
3. Whether and when such alarm has been inspected by authorized service personnel;

4. Such other information as the chief of police or his designee may reasonably require to determine the cause of such false alarm, any mitigating circumstances and the corrective action necessary.

The chief of police, or his designee, may direct the owner to have authorized personnel inspect the alarm at such premises and/or to take other corrective action. All costs of inspection and corrective action shall be borne by the owner.

C. For the third response to a premises within six months after a second response, and for each succeeding response within six months of the most recent response, the city may charge the owner an administrative fee as established by resolution. If such third false

alarm or any succeeding false alarm occurs as a result of failure to take necessary corrective action prescribed under subsection B of this section, the chief of police or his designee may order the owner to disconnect such alarm until the prescribed corrective action is taken and until such time as verification of such corrective action is provided to the city police department; provided, however, that no disconnection shall be ordered for any premises required by law or administrative regulation to have an alarm system in operation.

D. In the event the chief of police or fire chief, or their designees determine that a false alarm occurred as a direct result of an interruption of electrical power, a telephone line malfunction, or a malfunction of the alarm equipment clearly beyond the control of the person having or maintaining such alarm on the premises owned or occupied by him, the city shall waive any imposition of the applicable false alarm fee. Such waiver shall be at the sole discretion of the chief of police, fire chief, or their designee, as the case may be. (Ord. 2005-029 § 2; Ord. 424 § 5, 1981)

**8.28.060 Administrative decision – Notice.**

Notice of imposition of any administrative sanction, including the imposition of any fee or order of disconnection under the provisions of this chapter shall be given to the person having or maintaining the alarm on premises owned or occupied by him; provided, that with respect to business premises, the owner, manager or chief administrative agent regularly assigned and employed on the premises at the time of the occurrence of a false alarm shall be presumed to be the person having or maintaining the alarm on the business premises. (Ord. 424 § 6, 1981)

**8.28.070 Appeal from administrative decision – Finality.**

A. Any person subject to the imposition of a fee, order of disconnection or other administrative sanction under the terms of this chapter shall have a right of appeal therefrom to the city council.

## **8.28.080**

B. Unless a written notice of appeal of the administrative decision is filed with the city clerk within 10 days of the receipt of the notice of the imposition of an administrative sanction under this chapter, the sanction shall be deemed to be final and no right of appeal shall lie therefrom. (Ord. 424 § 7, 1981)

### **8.28.080 Payment of fees required.**

It is unlawful, and a misdemeanor, for any person to fail or refuse to pay any fees imposed under this chapter. In addition to institution of any criminal proceeding, the mayor may authorize the city attorney to collect the fees by appropriate legal action, and in connection with any proceeding to collect fees, the owner, in addition to the fee imposed by this chapter, shall be responsible for a reasonable attorney fee and court costs. (Ord. 424 § 8, 1981)

### **8.28.090 Automatic dialing device – Certain interconnections prohibited.**

A. It is unlawful for any person to program an automatic dialing device to select any telephone line assigned to the city; and it is unlawful for any person to fail to disconnect or reprogram such device within 12 hours of receipt of written notice from the chief of police to disconnect or reprogram the automatic dialing device.

B. Within 60 days after the effective date of this chapter, all existing automatic dialing devices programmed to select a telephone line assigned to the city shall be reprogrammed and/or disconnected. (Ord. 424 § 9, 1981)

### **8.28.100 Automatic reset required.**

Within 60 days after the effective date of this section, all alarms maintained on any premises in the city shall have an automatic reset device which will deactivate the alarm after 15 minutes of continuous operation. Any owner failing to install such an automatic reset device as required in this section is guilty of a misdemeanor. (Ord. 424 § 10, 1981)

### **8.28.110 Tampering with alarm systems.**

A. Tampering. It shall be unlawful and a misdemeanor for any person to tamper with or to cut, break, deface or actuate any alarm device (including auxiliary alarm devices, wires, wire support or appurtenances thereto) or to intentionally transmit an alarm knowing no emergency exists.

B. Exception. Subsection A of this section shall not apply to city employees engaged in their official duties. Subsection A further shall not apply to any competent representative of a manufacturer of burglar alarm equipment who, with the consent of the chief of police, is modifying, adjusting, altering or repairing, or replacing an alarm system or any of its component equipment; provided, that notice shall have first been provided to the city police department.

C. Subsection A of this section shall further not apply to any competent insurance rating engineer who is testing any system in discharge of his duties, and with the permission of the chief of police.

D. Any person doing any work on an alarm system or auxiliary alarm system that may cause a signal to be transmitted to the city over any alarm system or network shall notify the chief of police before such work stating the time and place thereof. (Ord. 424 § 11, 1981)

### **8.28.120 Other false alarms.**

Any person who shall intentionally give, make or turn in a false alarm of fire, or of the need for police, ambulance or other emergency assistance, knowing such alarm to be false, or making the same with reckless disregard to the true conditions, and any person aiding or abetting another in the commission of such act, shall be guilty of a misdemeanor. (Ord. 424 § 13, 1981)

### **8.28.130 Penalties.**

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor, and may be punished in such manner as provided for misdemeanors pursuant to state statute. (Ord. 424 § 14, 1981)

**Chapter 8.30**

**FIRE RESTRICTIONS**

Sections:

- 8.30.010 Purpose.
- 8.30.020 Outdoor fires prohibited.
- 8.30.030 Provisions supplemental.
- 8.30.040 Violation – Penalty.
- 8.30.050 Effective date.

**8.30.010 Purpose.**

A. The city has established a refuse collection system which enables the city’s residents to dispose of substantial amounts of refuse which would in the past have been incinerated.

B. The incineration of refuse, in light of the retirement nature of the community, has constituted a significant health hazard to the citizens of the city.

C. The incineration of refuse has further constituted a severe and serious fire hazard within the city limits of the city.

D. It is the purpose of this chapter to prevent unnecessary outdoor burning which is found to be dangerous to the health and welfare of the city’s citizens. (Ord. 559 § 1, 1989)

**8.30.020 Outdoor fires prohibited.**

A. It shall be unlawful for any person to cause or allow any outdoor fire within the city limits of Sequim except as hereinafter authorized.

B. The following fires are allowed:

- 1. Normal cooking fires contained in barbecue pits, hibachis, barbecue grills or similar facilities;
- 2. Small fires for pleasure, religious, ceremonial or like social purposes; not to exceed two feet in diameter or width;
- 3. Fire from flares, torches, waste gas burners, incense burners and insect pots.

C. The following outdoor fires may be allowed when authorized by permit only:

- 1. A fire authorized by the Fire District No. 3 chief for the prevention of a fire hazard, provided no alternate means of prevention is reasonably available.
- 2. A fire authorized by the Fire District No. 3 chief for the disposal of dangerous mate-

rials, provided no alternate means of disposal is reasonably available.

3. A fire authorized by the Fire District No. 3 chief for instruction in the method of fighting fires or testing of fire resistive materials and fire protective equipment.

4. A fire for the disposal of waste material provided no alternate means of disposal is reasonably available.

D. The outdoor fire permit required under subsection C of this section shall be obtained from the District No. 3 fire department prior to any burning. (Ord. 559 § 1, 1989)

**8.30.030 Provisions supplemental.**

This chapter shall be in addition and supplemental to federal, state and other fire codes and ordinances. (Ord. 559 § 1, 1989)

**8.30.040 Violation – Penalty.**

Any persons convicted of a violation of this chapter, or any part thereof, shall be guilty of a misdemeanor and may be punished by a fine of not more than \$250.00. (Ord. 559 § 1, 1989)

**8.30.050 Effective date.**

The ordinance codified in this chapter shall be in full force and effect after its passage, approval and publication as provided by law. (Ord. 559 § 1, 1989)

Chapter 8.32

PUBLIC NUISANCE AND DISTURBANCE NOISES

Sections:

- 8.32.010 Prohibited.
- 8.32.020 Defined.
- 8.32.030 Exemption.
- 8.32.040 Enforcement.
- 8.32.050 Penalties.

8.32.010 Prohibited.

It is unlawful for any person, whether or not that person is in actual possession of the noise source, to create, continue or cause to be created or continued, or allow to be created or continued, any public disturbance within the city of Sequim. (Ord. 97-013 § 2)

8.32.020 Defined.

For purposes of this chapter, a public disturbance noise is any sound that endangers or injures the safety or health of humans or animals, or endangers or damages personal or real property, or annoys or disturbs any reasonable person of normal sensitivities, and includes, but is not limited to, those noises listed below:

A. Any sound which unreasonably disturbs or interferes with the peace, comfort, and repose of owners or occupants of real property and causes a noise complaint to be reported by two or more persons occupying separate residences, neither of which residence is within the same property boundary. In those instances where a complaint is received from a citizen whose residence is in a rural setting and there are no other persons residing within a reasonable distance to the noise source, a sole complainant will suffice for the purpose of enforcement.

B. Any sound which occurs between 10:00 p.m. in the evening and 7:00 a.m. the following morning and shall include, but not be limited to, the following:

1. Any sound made by the construction, excavation, repair, demolition, destruction or alteration of any building, property or upon any building site, except as permitted by SMC 8.32.030(H).

2. Any frequent, repetitive or continuous sound made by any dog which emanates from a building, structure, or property and is heard within a residential area.

3. The creation of frequent, repetitive or continuous sounds in connection with repairing, operating or testing of motor vehicles, off-road vehicles, gas-powered machinery or equipment, engines or appurtenances utilizing an internal combustion engine.

4. Any sound made by a loud speaker or sound amplifier exterior to any building or motorized vehicle for commercial advertising or sales purposes or for attracting the attention of the public to any performance, show or other event.

5. Yelling or shouting on public streets.

C. Any sound which is audible at any school, other institution of learning, court, hospital, nursing or convalescent facility, church, or other area where exceptional quiet is necessary and wherein the noise complained of is detrimental to the function of the facility.

D. The frequent, repetitive or continuous sounding of any horn or siren attached to a motor vehicle, except as specifically permitted or required by law.

E. Any sound made at any time by using, operating, playing or permitting to be used, operated or played, any amplification device or equipment, including, but not limited to, radios, musical instruments, phonographs, tape players, CD players or recorders, sound amplification systems or other machines or devices used for producing or reproducing sound at any time with volume louder than is reasonably necessary to be heard by the owners or occupiers of said dwelling units, stores or automobiles to a distance not to exceed 50 feet from the source. (Ord. 97-013 § 3)

8.32.030 Exemption.

The following sounds are exempt from the provisions of this chapter at all times:

A. Noises caused by motor vehicles used for highway maintenance or noises caused in the maintenance or performance of emergency work for the immediate safety, health or wel-

fare of the community or of individuals of the community or to restore property in a safe condition following a public calamity;

B. Sounds created by warning devices and fire alarms not operating continuously for more than five minutes, or any bells, chimes and carillons operated for not more than five minutes;

C. Sounds originating from aircraft in flight and sounds that originate at airports which are directly related to flight operations and from watercraft when regulated by Chapter 173-30 WAC;

D. Sounds created by the operation of equipment operated by law enforcement, fire-fighters and aid personnel;

E. Sounds originating from officially sanctioned parades and other community events to which the general public is solicited to attend and sounds originating from league- or school-sponsored athletic events;

F. Sounds caused by natural phenomena and unamplified human voices, except for public disturbance noises as specified within this chapter;

G. Noise from equipment used in the conveyance of water or other utilities, trash pick-up equipment, and street cleaning equipment operated by a city, county, or state agency;

H. Noise when permitted by building permit, development permit, or other permit. (Ord. 97-013 § 4)

**8.32.040 Enforcement.**

Whenever any police officer, commissioned by the city of Sequim, has reason to believe that any person is in violation of this chapter, he/she shall, before the issuance of a citation, notify such person of the violation and request compliance with this chapter. The exception shall be those violations involving the use of amplified music from an automobile upon the highways, which pose a danger to the operator of the vehicle and the motoring public, in which case a police officer may at his discretion warn or issue a citation. Failure of any person to cease after notification thereof any violation of this chapter shall be cause for the issuance of a citation. (Ord. 97-013 § 5)

**8.32.050 Penalties.**

A violation of this chapter is a misdemeanor and subject to the appropriate fine.

A person charged with a violation of this chapter shall have the right to appeal to the city within 15 working days, requesting a hearing of the matter. Said matter shall be heard no later than 30 calendar days from the date of appeal. In the event the offender is a juvenile, the parents of the juvenile must file any appeal and be present at the hearing. (Ord. 2005-029 § 2; Ord. 2001-014 § 2; Ord. 97-013 § 6)

**Chapter 8.34**

**FISHING**

Sections:

- 8.34.010 Short title.
- 8.34.020 Definitions.
- 8.34.030 Authority to regulate.
- 8.34.040 Restriction to fishing by children.
- 8.34.050 Restrictions against fishing by persons 15 years of age or older.
- 8.34.060 Penalty.

**8.34.010 Short title.**

The ordinance codified in this chapter shall be known as the “fishing ordinance.” (Ord. 2005-015 § 8)

**8.34.020 Definitions.**

“Fish” or “fishing” shall include but not be limited to any substantial step to catch, disturb, injure or kill any fish as defined in the Washington State Statutes, RCW Title 77. (Ord. 2005-015 § 1)

**8.34.030 Authority to regulate.**

The city council hereby delegates to the city manager and his or her designee the authority to regulate fishing in the Sequim reuse demonstration site pond. Those regulations may include regulations as to the method of taking (for instance, barbless hooks), regulations as to the time of taking, regulations as to the limit of taking fish, such limit being initially not more than two fish per day per person; provided, that such regulations shall be posted in a conspicuous manner at the Sequim reuse demonstration site pond. (Ord. 2005-015 § 2)

**8.34.040 Restriction to fishing by children.**

The council hereby restricts fishing in or at the Sequim reuse demonstration project site pond to children 14 years of age or younger. The state law currently does not require children 14 years of age or younger to have a fishing license. This shall provide an opportunity for children to learn to fish, enjoy the fishing days and fishing at other times. (Ord. 2005-015 § 3)

**8.34.050 Restrictions against fishing by persons 15 years of age or older.**

No person 15 years of age or older shall fish, or attempt to fish, at the Sequim reuse demonstration project site pond.

Any person 15 years of age or older who shall fish at the Sequim reuse demonstration project site pond shall be guilty of a misdemeanor for each incident. Each incident shall include each attempt, successful or not, to catch a fish or to injure, harass or disturb a fish. (Ord. 2005-015 § 4)

**8.34.060 Penalty.**

Any person convicted of a violation of this chapter shall be guilty of a misdemeanor and shall be punished by a fine not to exceed \$1,000 or by imprisonment in jail not to exceed 90 days for each such violation. (Ord. 2005-015 § 5)

**Chapter 8.36****FLOOD DAMAGE PREVENTION**

## Sections:

- 8.36.010 Statutory authorization and findings of fact.
- 8.36.020 Purpose.
- 8.36.030 Definitions.
- 8.36.040 General provisions.
- 8.36.042 Compliance required.
- 8.36.044 Interpretation and application.
- 8.36.046 Disclaimer of liability.
- 8.36.050 Administration.
- 8.36.060 Variance procedures.
- 8.36.070 Permit requirements.
- 8.36.080 Development standards.

**8.36.010 Statutory authorization and findings of fact.**

The Legislature of the State of Washington has delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry.

In conformance with this responsibility, the city of Sequim finds that flood areas may result in loss of life, property, health and safety, disruption of commerce and governmental services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare. (Ord. 2006-018 § 1)

**8.36.020 Purpose.**

It is the purpose of this chapter to promote the public health, safety, and general welfare; reduce the annual cost of flood insurance; and minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Protect human life and health;
- B. Minimize expenditure of public money and costly flood control projects;
- C. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;

D. Minimize prolonged business interruptions;

E. Minimize damage to public facilities and utilities such as water and sewer lines, electric, telephone and associated services, streets and bridges located in areas of special flood hazard;

F. Help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

G. Ensure that potential buyers are notified that property is in an area of special flood hazard;

H. Ensure that those who occupy the areas of special flood hazard assume responsibility for their actions;

I. Assure the availability of flood insurance within the city of Sequim. (Ord. 2006-018 § 1)

**8.36.030 Definitions.**

As used in this chapter, the definitions contained in this section shall apply:

A. "Area of shallow flooding" designated as an AO or AH zone on the flood insurance rate map (FIRM). An AO zone has base flood depths that range from one to three feet above the natural ground without a clearly defined channel and an unpredictable and indeterminate path of flooding. AO is characterized as sheet flow. An AH zone indicates ponding and is shown with standard base flood elevations.

B. "Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year (also referred to as the "100-year flood"). Designated on flood insurance rate maps by the letters A or V.

C. "Basement" means any area of the building having its floor sub-grade (below ground level) on all sides.

D. "Critical facility" means a facility for which even a slight chance of flooding might be too great. Critical facilities include (but are not limited to) schools, nursing homes, hospitals, police, fire and emergency response installations, and installations which produce, use or store hazardous materials or hazardous waste.

E. "Development" means any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials located within the area of special flood hazard.

F. "Elevated building" means, for insurance purposes, a nonbasement building that has its lowest elevated floor raised above ground level by foundation walls, shear walls, post piers, pilings, or columns.

G. "Flood" or "flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

1. The overflow of inland or tidal waters; and/or
2. The unusual and rapid accumulation of runoff of surface waters from any source.

H. "Flood insurance rate map" means the official map on which the Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the city of Sequim.

I. "Flood insurance study (FIS)" means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood-boundary map, and the water surface elevation more than one foot.

J. "Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

K. "Lowest floor" means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements found at SMC 8.36.080(F)(1)(b), (i.e., provided there are adequate flood ventilation openings).

L. "Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and is

designed for use with or without a permanent foundation when attached to the required utilities. The "manufactured home" does not include a "recreational vehicle."

M. "New construction" means structures for which the "start of construction" commenced on or after the effective date of the ordinance codified in this chapter.

N. "Recreational vehicle" means a vehicle:

1. Built on a single chassis;
2. Four hundred square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

O. "Start of construction" includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

P. "Structure" is a walled and roofed building, including a gas or liquid storage tank that is principally above ground.

Q. “Substantial damage” means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

R. “Substantial improvement” means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either:

1. Before the improvement or repair is started; or
2. If the structure has been damaged and is being restored, before the damage occurred. For the purposes of this definition, “substantial improvement” is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure.

The term can exclude:

1. Any project for improvement of a structure to correct precited existing violations of state or local health, sanitary, or safety code specifications which have been previously identified by the city of Sequim code enforcement officer and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a structure listed on the National Register of Historic Places or the Washington State Heritage Register.

S. “Variance” means a grant of relief from the requirements of this chapter that permits construction in a manner that would otherwise be prohibited by this chapter. (Ord. 2006-018 § 1)

**8.36.040 General provisions.**

A. Lands to Which This Chapter Applies. This chapter shall apply to all areas of special flood hazards within the city of Sequim.

B. Basis for Establishing the Areas of Special Flood Hazard. The areas of special flood hazard identified by the Federal Insurance Administration for Clallam County in a scientific and engineering report entitled, “The Flood Insurance Study for Clallam County, WA, Unincorporated Areas,” revised February 23, 2001, with accompanying flood insurance

rate map panel 5300210530D, dated December 5, 1989, and any revision thereto, are adopted by reference and declared to be a part of this chapter. The best available information for flood hazard area identification, as outlined in SMC 8.36.050(B), shall be the basis for regulation until a new flood insurance rate map is issued that incorporates new data. (Ord. 2006-018 § 1)

**8.36.042 Compliance required.**

No structure or land shall hereafter be constructed, located, extended, converted or altered without full compliance with the terms of this chapter as well as all other applicable regulations. (Ord. 2006-018 § 1)

**8.36.044 Interpretation and application.**

In the interpretation and application of this chapter, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes. (Ord. 2006-018 § 1)

**8.36.046 Disclaimer of liability.**

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by manmade or natural causes. This chapter does not imply that land outside the areas of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This chapter shall not create liability on the part of the city, any officer or employee thereof, or the Federal Insurance Administration, for any flood damages that result from reliance on this chapter or any administration decision made hereunder. (Ord. 2006-018 § 1)

## 8.36.050

### 8.36.050 Administration.

A. The city of Sequim public works director shall be primarily responsible for the administration and implementation of this chapter. The public works director shall perform the following duties:

1. Review all development permits other than for minor and major subdivisions and planned unit developments within flood hazard zones to determine:

a. That the permit requirements of this chapter have been satisfied;

b. That all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required;

c. If the proposed development is located in the floodway, and if so, located to assure the encroachment provisions of this chapter are complied with.

B. When base flood elevation data has not been provided in accordance with SMC 8.36.040(B), the public works director shall obtain, review and reasonably utilize any base flood elevation and floodway data available from federal, state or other source, in order to administer specific standards and floodways.

C. Obtain and record the following information:

1. Where base flood elevation data is provided through the flood insurance study, FIRM, or required as in subsection B of this section, obtain and record the actual (as-built) elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;

2. For all new and substantially improved flood-proofed nonresidential structures:

a. Verify and record the elevation (in relation to mean sea level) to which the structure was flood-proofed.

b. Maintain the flood-proofing certifications required by this chapter.

D. Maintain for public inspection all records pertaining to the provisions of this chapter.

E. Notify adjacent communities and the Washington State Department of Ecology prior to any alteration or relocation of a watercourse and submit evidence of such notification to the Federal Insurance Administration.

F. Require that maintenance is provided within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

G. Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (e.g., where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation pursuant to SMC 8.36.060.

H. The city of Sequim planning director shall perform the following duties:

1. Review all development permits for minor and major subdivisions and planned unit developments within flood hazard zones to determine:

a. That all necessary permits have been obtained from those federal, state or local governmental agencies from which prior approval is required.

2. Transmit to the public works director all information required under the terms of this chapter. (Ord. 2006-018 § 1)

### 8.36.060 Variance procedures.

A. Appeal Board.

1. The board of adjustment as established by the city of Sequim (Chapter 2.10 SMC) shall hear and decide requests for variances from the requirements of this chapter.

2. The board of adjustment shall hear and decide requests for variances when it is alleged there is any error in any requirement or decision made by the public works or planning directors in the administration of this chapter.

3. Those aggrieved by the decision of the board of adjustment, or any taxpayer, may appeal such decision to the Clallam County Superior Court and shall follow the procedures as established in SMC 20.01.240.

B. Conditions for Variances. In addition to the review criteria established in SMC 18.72.040, the following conditions will need to be met:

1. Generally, the only condition under which a variance from the elevation standard may be issued is for new construction and substantial improvements to be erected on a small or irregularly shaped lot contiguous to and surrounded by lots with existing structures constructed below the base flood level. As the lot size increases the technical justification required for issuing the variance increases.

2. Variances shall not be issued within a designated floodway if any increase in flood levels during the base flood discharge would result.

3. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.

4. Variances shall only be issued upon:

a. A showing of good and sufficient cause;

b. A determination that failure to grant the variance would result in exceptional hardship to the applicant;

c. A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.

5. Variances as interpreted in the National Flood Insurance Program are based on the general zoning law principle that they pertain to a physical piece of property; they are not personal in nature and do not pertain to the structure, its inhabitants, economic or financial circumstances. They primarily address small lots in densely populated residential neighborhoods.

6. Variances may be issued for nonresidential buildings in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry flood-proofing, where it can be determined that such action will have low damage potential, complies with all other vari-

ance criteria except subsection (B)(1) of this section.

7. Any applicant to whom a variance is granted shall be given written notice that the permitted structure will be built with its lowest floor below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk. (Ord. 2006-018 § 1)

**8.36.070 Permit requirements.**

A. A development permit shall be required before construction or development within an area of special flood hazard established in SMC 8.36.040(B). The permit shall be for all structures including manufactured homes, as set forth in SMC 8.36.030, Definitions, and for all development including fill and other activities, also as set forth in SMC 8.36.030, Definitions.

B. The application for a flood hazard development permit shall be made on forms furnished by the city of Sequim public works department. The application may include but shall not be limited to: plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities and the location of the foregoing. Specifically, the following information shall be required:

1. Elevation in relation to mean sea level of the lowest floor, including basement, of all structures;

2. Elevation in relation to mean sea level to which any structures have been flood-proofed;

3. Certification by a registered professional engineer or architect that flood-proofing methods for any nonresidential structure meet the flood-proofing criteria of this chapter;

4. A description of the extent to which any watercourse will be altered or relocated as a result of the proposed development. (Ord. 2006-018 § 1)

**8.36.080 Development standards.**

In all areas of special flood hazards, the following standards are required:

## 8.36.080

### A. Anchoring.

1. All new construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.

2. All manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

### B. Construction Materials and Methods.

1. All new construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.

2. All new construction and substantial improvements shall be constructed using methods and practices that minimize flood damage.

3. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

### C. Utilities.

1. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system. Additionally, all water wells shall be located on high ground and not in the floodway.

2. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.

3. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

### D. Subdivision Proposals.

1. All subdivision proposals shall be consistent with the need to minimize flood damage.

2. All subdivision proposals shall have public utilities and facilities, such as sewer, electrical and water systems located and con-

structed to minimize or eliminate flood damage.

3. All subdivision proposals shall have adequate drainage provided to reduce exposure to flood damage.

4. Where base flood elevation data has not been provided or is not available from another authoritative source, it shall be generated for subdivision proposals and other proposed developments which contain at least 50 lots or five acres (whichever is less).

E. Review of Building Permits. Where elevation data is not available either through the flood insurance study, FIRM, or from another authoritative source (see SMC 8.36.050(B)), applications for building permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above the highest adjacent grade in these zones may result in higher insurance rates.

F. Specific Standards. In all areas of special flood hazards where base flood elevation data has been provided as set forth in SMC 8.36.040 or 8.36.050, the following provisions are required:

#### 1. Residential Construction.

a. New construction and substantial improvement of any residential structures shall have the lowest floor, including basement, elevated one foot or more above the base flood elevation.

b. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on external walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria:

i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided.

ii. The bottom of all openings shall be no higher than one foot above grade.

iii. Openings may be equipped with screens, louvers, or other coverings or devices; provided, that they permit the automatic entry and exit of floodwaters.

2. Nonresidential Construction.

a. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall either have the lowest floor, including basement, elevated one foot or more above the base flood elevation; or, together with attendant utility and sanitary facilities, shall:

i. Be flood-proofed so that below one foot or more above the base flood level, the structure is watertight with walls substantially impermeable to the passage of water.

ii. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

iii. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the official as set forth in SMC 8.36.050(C).

iv. Nonresidential structures that are elevated, not flood-proofed, must meet the same standards for space below the lowest floor as described in subsection (F)(1)(b) of this section.

3. Manufactured Homes. All manufactured homes in the floodplain to be placed or substantially improved on sites shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated one foot or more above the base flood elevation and be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.

4. Recreational Vehicles. Recreational vehicles placed on sites are required to either:

a. Be on the site for fewer than 180 consecutive days; or

b. Be fully licensed and ready for highway use, on wheels or jacking system,

attached to the site only by quick disconnect-type utilities and security devices and have no permanently attached additions; or

c. Meet the requirements of subsection (F)(3) of this section and the elevation and anchoring requirements for manufactured homes.

5. AE and A1 – 30 Zones with Base Flood Elevations but No Floodways. In areas with base flood elevations (but regulatory floodway has not been designated), no new construction, substantial improvements, or other development (including fill) shall be permitted within Zones A1 – 30 and AE on the city’s FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

6. Floodways. Located within areas of special flood hazard established in SMC 8.36.040 are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that can carry debris, and increase erosion potential, the following provisions apply:

a. Prohibit encroachments, including fill, new construction, substantial improvements, and other development unless certification by a registered professional engineer is provided demonstrating through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

b. Construction or reconstruction of residential structures is prohibited within designated floodways, except for:

i. Repairs, reconstruction or improvements to a structure which do not increase the ground floor area;

ii. Repairs, reconstruction or improvements to a structure, the cost of which does not exceed 50 percent of the market value of the structure either before the repair or reconstruction is started or, if the structure has been damaged and is being restored, before the

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damage occurred. Any project for improvement of specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or to structures identified as historic places, may be excluded in the 50 percent;

iii. If subsection (F)(6)(b)(i) of this section is satisfied, all new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this chapter.

7. Critical Facility. Construction of new critical facilities shall be, to the extent possible, located outside the limits of the special flood hazard area. Construction of new critical facilities shall be permissible within this area if no feasible alternative site is available. Critical facilities constructed within this area shall have the lowest floor elevated three feet above the base floor elevation or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Flood-proofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible. (Ord. 2006-018 § 1)