

**CITY OF SNOHOMISH
Snohomish, Washington**

ORDINANCE 2155

AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON, CONSOLIDATING AND UPDATING THE CITY'S CODE ENFORCEMENT PROVISIONS BY AMENDING CHAPTERS 1.01, 3.22, 3.26, 5.02, 5.10, 5.36, 5.44, 5.52, 7.12, 8.12, 8.20, 9.94, 12.12, 12.20, 12.40, 13.04, 14.85, 15.04, AND 20.04, REPEALING CHAPTERS 1.14 AND 2.39 AND SECTIONS 8.12.180, 9.94.040, 9.94.060, 9.94.080, AND 9.94.090, AND ADOPTING A NEW CHAPTER 1.14 OF THE SNOHOMISH MUNICIPAL CODE

WHEREAS, the City's current code enforcement procedures are set forth in various parts of the Snohomish Municipal Code and are not as uniform and effective as they could be; and

WHEREAS, it is in the public interest to revise the City's code enforcement procedures to have a uniform enforcement scheme that applies to all appropriate violations of the Snohomish Municipal Code;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SNOHOMISH, WASHINGTON DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Chapter 1.01 of the Snohomish Municipal Code is hereby amended by amending SMC 1.01.080 to read as follows:

1.01.080 Penalties for Violations.

- A. Any person, firm, corporation, their agents, or servants who shall violate any of the provisions of the following listed Chapters of the Snohomish Municipal Code has committed a civil violation for which penalties may be assessed for each day or part of a day that the violation continues unless otherwise provided: Chapters 3.22, 3.26, 5.02, 5.10, 5.36, 5.44, 5.52, 7.12, 8.12, 8.20, 9.94, 12.12, 12.20, 12.40, 13.04, 14.85, 15.04, and 20.04.
- B. Civil violations shall be cited and processed in accordance with Chapter 1.14 SMC.
- C. Other Remedies Preserved.
 - 1. The provisions of this Chapter are not exclusive of other rights and remedies of the City under other provisions of the Snohomish Municipal Code.
 - 2. In addition to the City's right to assess costs and penalties against owners as provided in its ordinances, the City shall retain all rights of lien and other rights against the property in question for costs that remain unpaid, in the manner and form provided by state law and City ordinances.

- D. Criminal Penalties. Any violation that is required by state law to be prosecuted as a criminal offense shall not be prosecuted as a civil violation under this code.
- E. Emergencies. Nothing in this Chapter or in other Chapters of the Snohomish Municipal Code shall prevent the Enforcement Officer or any other officer of the City of Snohomish or other governmental unit from taking any other action, summary or otherwise, necessary to eliminate or minimize an imminent danger to the health or safety of any person or property. The City's costs of abating any such nuisance or endangerment summarily or otherwise abated shall be recoverable in the same manner and to the same extent as costs of abating nuisances or endangerment under any other provisions of this code, in addition to or as an alternative to any other rights or remedies the City may possess.

Section 2. Chapter 1.14 of the Snohomish Municipal Code is hereby repealed and a new Chapter 1.14 is hereby adopted to read as follows:

Chapter 1.14
CODE ENFORCEMENT

Sections:

- 1.14.010 Purpose
- 1.14.020 Definitions
- 1.14.030 Violation Unlawful – Each Day is Separate Violation – Misdemeanor
- 1.14.040 Joint and Several Responsibility and Liability
- 1.14.050 Interference with Code Enforcement Unlawful – Misdemeanor
- 1.14.060 Methods of Service
- 1.14.070 Voluntary Correction – Correction Notice
- 1.14.080 Notice of Violation
- 1.14.090 Stop Work Order – Violation a Misdemeanor
- 1.14.100 Stop Use Order – Violation a Misdemeanor
- 1.14.110 Removal of Stop Work or Stop Use Order – Misdemeanor
- 1.14.120 Response to Notice of Violation
- 1.14.130 Failure to Respond
- 1.14.140 Scheduling of Hearing to Contest or Mitigate – Correction Prior to Hearing
- 1.14.150 Contested Hearing – Procedure
- 1.14.160 Contested Hearing – Decision of the Hearing Examiner
- 1.14.170 Mitigation Hearing – Procedure
- 1.14.180 Mitigation Hearing – Decision of the Hearing Examiner
- 1.14.190 Failure to Appear – Default Order
- 1.14.200 Monetary Penalty
- 1.14.210 Appeal
- 1.14.220 Repeat Violation or Failure to Abate – Misdemeanor
- 1.14.230 Abatement
- 1.14.240 Collection of Penalties and Costs
- 1.14.250 Additional Enforcement Procedures
- 1.14.260 Conflicting Code Provisions
- 1.14.270 Duty Not Creating Liability
- 1.14.280 Right of Entry

1.14.010 Purpose. The purpose of this Chapter is to establish an efficient system of enforcing City regulations that will enable violations to be promptly resolved wherever possible, while providing both appropriate penalties and a full opportunity for alleged violators to have a hearing to contest the violations. This Chapter shall apply to all regulations as defined in SMC 1.01.080; provided that a regulation that provides for criminal penalties in addition to or as an alternative to enforcement under this Chapter may, at the discretion of the City, be prosecuted as a criminal violation. This Chapter shall not apply to enforcement of the Snohomish City Building Code, which is set forth in Ch. 19.04 SMC.

1.14.020 Definitions. As used in this Chapter, the following words, terms, and phrases shall have the meanings ascribed to them in this section, unless a different meaning is plainly required:

“Abate” means to act to stop an activity, and/or to repair, replace, remove, or otherwise remedy a condition, where such activity or condition constitutes a violation of a regulation; provided, the actions must resolve the violation to the satisfaction of the City, or the Hearing Examiner if the matter has been mitigated or contested and found committed, and the actions taken and the manner in which they are performed must not endanger the general health, safety, and welfare of the community. For the purposes of this Chapter, the verbs “abate” and “correct” shall be interchangeable and have the same meaning.

“Act” means doing or performing something.

“City” means City of Snohomish, Washington.

“Code Enforcement Officer” means the City’s Code Enforcement Officers; building officials; building inspectors; construction inspectors; the Fire Marshal, or his or her designee; fire inspectors; the Chief of the Snohomish Police Department, or his or her designee; the City Planner, or his or her designee; the director of the Public Works Department, or his or her designee; or any other person or persons assigned or directed by the City Manager, or his or her designee, to enforce the regulations subject to the enforcement and penalty provisions of this Chapter.

“Correction Notice” means a written statement, issued by a Code Enforcement Officer, notifying a person that property under his or her control is in violation of one or more regulations and informing such person that a Notice of Violation may be issued and/or criminal charges filed if the violations are not abated.

“Day” or “Days,” as used in this Chapter, shall mean calendar days unless expressly stated otherwise in a given section or subsection. In addition, any portion of a twenty-four hour day shall constitute a full calendar day.

“Hearing Examiner” means the Snohomish Hearing Examiner and the office thereof established pursuant to Ch. 2.33 SMC.

“Notice of Violation” or “Notice of Civil Violation” means a written statement, issued by a Code Enforcement Officer, which contains the information required under Section 1.14.080 and which notifies a person that he or she is responsible for one or more violations of the Snohomish Municipal Code.

“Omission” means a failure to act.

“Person” means any individual, firm, business, association, partnership, corporation, or other legal entity, public or private, however organized. Because “person” shall include both human and non-human entities, any of the following pronouns may be used to describe a person: he, she, or it.

“Person Responsible for the Violation” means any of the following: a person who has titled ownership or legal control of the property or structure that is subject to the regulation; an occupant or other person in control of the property or structure that is subject to the regulation; a developer, builder, business operator, or owner who is developing, building, or operating a business on the property or in a structure that is subject to the regulation; or any person who created, caused, or has allowed the violation to occur.

“Regulation” means and includes any of the following, as now enacted or hereafter amended:

1. All Snohomish Municipal Code provisions making reference to this Chapter;
2. All standards, regulations, and procedures adopted by the City that make reference to this Chapter; and
3. The terms and conditions of any permit or approval issued by the City, or any concomitant agreement with the City pursuant to code provisions that make reference to this Chapter.

“Repeat Violation” means, as evidenced by the prior issuance of a correction notice or a notice of violation, that a violation has occurred on the same property within a two (2) year period, or a person responsible for a violation has committed a violation elsewhere within the City of Snohomish within a two (2) year period. To constitute a repeat violation, the violation need not be the same violation as the prior violation.

“Violation” or civil violation means an act or omission contrary to a regulation as defined in this section. A violation continues to exist until abated to the satisfaction of the City, with each day or portion thereof in which the violation continues constituting a separate violation.

1.14.030 Violation Unlawful – Each Day is Separate Violation – Misdemeanor. The violation of any regulation shall be unlawful. Each day or portion thereof in which the violation continues constitutes a separate offense for which separate notices of violation

may be issued. In addition, any violation of this Chapter shall constitute a misdemeanor and the City Attorney, or the City Attorney's designee, shall, at his or her discretion, have authority to file a violation as either a civil violation pursuant to this Chapter or as a criminal misdemeanor punishable by imprisonment in jail for a maximum term fixed by the court of not more than ninety (90) days or by a fine in an amount fixed by the court of not more than one thousand dollars (\$1,000) or by both such imprisonment and fine. All criminal misdemeanor charges filed under this Chapter shall be filed with the Snohomish County District Court. When the City files criminal misdemeanor charges pursuant to this Chapter, the City shall have the burden of proving, beyond a reasonable doubt, that the violation occurred.

1.14.040 Joint and Several Responsibility and Liability. Responsibility for violations of the codes enforced under this Chapter is joint and several, and the City is not prohibited from taking action against a party where other persons may also be potentially responsible for a violation, nor is the City required to take action against all persons potentially responsible for a violation.

1.14.050 Interference with Code Enforcement Unlawful – Misdemeanor. Any person who intentionally obstructs, impedes, or interferes with any lawful attempt to serve notice of a violation, stop work or stop use order, or an emergency order, or intentionally obstructs, impedes, or interferes with lawful attempts to correct a violation shall be guilty of a misdemeanor punishable by imprisonment in jail for a maximum term fixed by the court of not more than ninety (90) days or by a fine in an amount fixed by the court of not more than one thousand dollars (\$1,000), or by both such imprisonment and fine.

1.14.060 Methods of Service.

- A. Service by Certified Mail – Return Receipt Requested shall be equal to personal service. Any correction notice, notice of violation, notice of hearing, or other code enforcement document shall be deemed legally served upon a party by use of Certified Mail – Return Receipt Requested as described in subsection (B)(2) below, unless another method of service is expressly required in a particular subsection of this Chapter; provided, at the discretion of the Code Enforcement Officer, the Code Enforcement Officer may personally serve documents or cause documents to be personally served upon a party.
- B. Methods of service defined. For purposes of this Chapter, the methods of service of any documents related to code enforcement, such as correction notices, notices of violation, stop work orders, etc. (hereinafter “document”), are defined as follows:
 - 1. “Personal Service” Personal service shall mean handing the document to the person subject to the document or leaving it at his or her dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or leaving it at his or her office or place of employment with a person in charge thereof. Personal service shall also be deemed complete when the Hearing Examiner or his or her assistant hands any order, ruling, decision, or other

document to a person prior to, during, or after a hearing.

2. “Mailing” Service by mail shall mean sending the document by Certified Mail – Return Receipt Requested to the last known address of the person subject to the document. The last known address shall be an address provided to the City by the person to whom the document is directed; if an address has not been provided to the City, the last known address shall be any of the following as they appear at the time the document is mailed: the address of the property where the violation is occurring, as reflected on the most recent equalized tax assessment roll of the County Assessor or the taxpayer address appearing for the property on the official property tax information website for Snohomish County; the address appearing in any database used for the payment of utilities for the property at which the violations are occurring; or the address of the person to whom the documents are being sent that appears in the Washington State Department of Licensing database. Where service of the notice of violation is by mail, service shall be deemed complete upon return of receipt requested.
 3. “Posting” Posting shall mean affixing a copy of the document in a conspicuous place on the property, with at least one (1) copy of such document placed at an entryway to the property or structure if an entryway exists.
 4. “Publication” Publication of the document shall mean publication as set forth in RCW 4.28.100 and RCW 4.28.110, as currently enacted or hereafter amended.
- C. Proof of service – Due diligence. Proof of service shall be made by written affidavit or declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which service was made, and if service was made solely by posting or publication, facts showing that due diligence was used in attempting to locate a mailing address for the person at whom the notice of violation is directed.
- D. Additional proof of service not necessary. The Hearing Examiner shall not require additional proof of service beyond the requirements in this Chapter.

1.14.070 Voluntary Correction – Correction Notice.

- A. General. Prior to the issuance of a notice of violation, the Code Enforcement Officer shall attempt to secure the voluntary correction of a violation by attempting to contact the person responsible for the violation, explaining the violation, and requesting correction. This may be done verbally by the Code Enforcement Officer; provided, a written correction notice shall be served on the person responsible for the violation prior to issuance of a notice of violation; provided further, a written correction notice need not be served nor efforts made to secure voluntary correction where the nature of the violation creates a risk of imminent harm to public health or safety, or where it is a repeat violation as defined in this Chapter.
- B. Service of correction notice. Service of a written correction notice may be

accomplished by Certified Mail – Return Receipt Requested or by personal service, at the discretion of the Code Enforcement Officer, or by posting or publishing the correction notice if an address for the person responsible for the violation cannot be ascertained pursuant to SMC 1.14.060(B)(2).

- C. Contents of written correction notice. The written correction notice shall be deemed sufficient if it contains the following information:
1. The name and address of a person responsible for the violation; and
 2. The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
 3. A description of the violation and a reference to the code provisions that have been violated; and
 4. A statement indicating what corrective actions are required and a correction deadline stating the date and time by which the corrective actions must be completed to the satisfaction of the Code Enforcement Officer in order for the violator to avoid the issuance of a notice of violation; and
 5. A statement indicating that, pursuant to SMC 1.14.030, a notice of violation may be issued for each day a violation continues, with each violation constituting a separate offense subject to civil and/or criminal penalties.
- D. Time period in which to correct or abate the violation. Whenever a person responsible for a violation is served with a written correction notice, he or she shall be given at least ten (10) days from the date of issuance of the notice to correct the violation(s) to the satisfaction of the Code Enforcement Officer; provided, where, in the opinion of the Code Enforcement Officer, a violation creates a risk of imminent harm to public health or safety, or is a repeat violation as defined in this Chapter, the City can require less than ten (10) days for correction to be completed. In the event the violation is not corrected within the required time period, the City may, at its discretion, issue separate notices of violation for each day, or portion thereof, that the violation has existed or continues to exist.
- E. Extension of voluntary correction period or modification of required actions. An extension of the deadline for voluntary correction, or a modification of any required corrective action noted in the written correction notice, may be granted by the Code Enforcement Officer if the person responsible for the violation has, in the opinion of the Code Enforcement Officer, shown due diligence or made substantial progress in correcting the violations but unforeseen circumstances render correction unattainable within the original deadline.
- F. Revocation of deadline for compliance. The original deadline for compliance, or any

extension for compliance previously granted by the Code Enforcement Officer, may be revoked and immediate compliance required where, in the opinion of the Code Enforcement Officer, circumstances make immediate correction necessary to avoid an imminent risk of injury to persons or property.

G. Use of written voluntary correction agreement.

1. At the sole discretion of the City, a voluntary correction agreement may be entered into between the person responsible for the violation and the City. The voluntary correction agreement must be in writing.
2. Contents of voluntary correction agreement. The voluntary correction agreement is a contract between the City and the person responsible for the violation under which that person agrees to abate the violations within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:
 - a. The name and address of the person responsible for the violation; and
 - b. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
 - c. A description of the violation and a reference to the regulations that have been violated; and
 - d. An acknowledgement by the person responsible for the violations that the violations described in the correction agreement exist, and that he or she is waiving the right to contest the existence of the violations or to mitigate the penalties; and
 - e. The necessary corrective action to be taken, the date or time by which correction must be completed, and an acknowledgement by the person responsible for the violation that he or she will correct the violations within the time specified in the voluntary correction agreement; and
 - f. Acknowledgement by the person responsible for the violation that the City may enter the property and inspect the premises as may be necessary to determine compliance with the voluntary correction agreement; and
 - g. Acknowledgement by the person responsible for the violation that if the terms of the voluntary correction agreement are not met, the City may enter the property to abate the violation and may also recover its costs and expenses and/or a monetary penalty pursuant to this Chapter from the person responsible for the violation; and
 - h. The signature or official mark of the person responsible for the violation and

the signature or official mark of the Code Enforcement Officer.

3. Failure to comply with voluntary correction agreement.
 - a. Abatement by the City. In addition to any other remedy provided for in this Chapter, the City may abate the violation in accordance with SMC 1.14.230 if the terms of the voluntary correction agreement are not met.
 - b. Penalties and costs. If the terms of the voluntary correction agreement are not met, the person responsible for the violation may be assessed a monetary penalty in accordance with SMC 1.14.200, plus all costs and expenses of abatement, as set forth in SMC 1.14.230, in addition to being issued new notices of violation or criminal charges if the violation has not been abated.

1.14.080 Notice of Violation.

- A. Issuance of notice of violation. When the City determines that a violation has occurred or is occurring and does not secure voluntary correction pursuant to SMC 1.14.070, the Code Enforcement Officer may issue a notice of violation to any person responsible for the violation.
- B. Contents of notice. The notice of violation shall include the following:
 1. The name and address of a person responsible for the violation; and
 2. The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
 3. A description of the violation and a reference to the provisions violated; and
 4. A statement indicating that the violator must respond to the notice of violation within fourteen (14) days of the date of issuance by doing one of the following:
 - a. Paying the fine and correcting the violation;
 - b. Requesting a mitigation hearing and correcting the violation; or
 - c. Requesting a hearing to contest the violation; and
 5. A statement indicating that failure to respond shall result in the violation(s) being deemed committed without requiring further action by the City, and that the full fine amount indicated on the notice of violation shall be due and owing to the City by the person or entity to whom the notice of violation was issued; and
 6. A statement indicating that, unless a request to contest the violation or to mitigate

the penalty is properly filed, a monetary penalty of five hundred dollars (\$500) for each violation listed on the notice of violation is due and owing at the time the notice of violation is issued, and must be paid in full within thirty (30) days or may be assigned to a collection agency; and

7. A statement indicating that if the person or entity to whom a notice of violation was issued requests a hearing and fails to attend the hearing, a default judgment shall be entered against the person or entity to whom the violation was issued, with the full amount of the fine indicated on the notice of violation immediately due and owing, and that any unpaid fines and any costs may be assigned to a collection agency after thirty (30) days have elapsed from the date the notice of violation was issued; and
 8. A statement indicating that the City may seek to recover from the person to whom the notice of violation was issued the costs to the City of any abatement action taken; and
 9. A statement indicating that separate notices of violation may be issued for each day, or portion thereof, in which a violation continues; and
 10. A statement indicating that payment of a monetary penalty does not relieve the person or entity named in the notice of violation of the duty to abate the violation, and that failure to abate may result in the issuance of additional notices of violation and/or criminal charges, with additional civil and/or criminal penalties.
- C. Service of notice of violation. Service of a notice of violation may be accomplished by Certified Mail – Return Receipt Requested or by personal service, at the discretion of the Code Enforcement Officer, or by posting or publication if an address for the person responsible for the violation cannot be ascertained, pursuant to SMC 1.14.060.

1.14.090 Stop Work Order – Violation a Misdemeanor. A stop work order may be issued pursuant to any of the codes or regulations adopted pursuant to Title 19 of the Snohomish Municipal Code. In addition, the Code Enforcement Officer may issue a stop work order whenever any work that is subject to regulation under the Snohomish Municipal Code is in the opinion of the Code Enforcement Officer being performed in a manner contrary to the provisions of the Snohomish Municipal Code, or will exacerbate damage that has already been caused to any property, or will materially impair the Code Enforcement Officer's ability to seek compliance. The stop work order shall state the reasons for the order and may be appended to, or incorporate by reference, a notice of violation. The stop work order shall take effect immediately upon service. Service of the stop work order shall be deemed accomplished upon posting of the notice in the manner described in SMC 1.14.060(B)(3). Violation of a stop work order shall constitute a misdemeanor, punishable by imprisonment in jail for a maximum term fixed by the court of not more than ninety (90) days, or by a fine in an amount fixed by the court of not more than one thousand dollars (\$1,000), or by both such imprisonment and fine.

1.14.100 Stop Use Order – Violation a Misdemeanor. In addition to any remedy provided for in this Chapter, the Code Enforcement Officer may issue a stop use order when allowing the use to continue creates an imminent threat of injury to the health, safety, or welfare of any member of the public, or creates an imminent threat of harm to neighboring property, or will exacerbate injury already caused to any property. The stop use order shall state the reasons for the order; provided, the stop use order may be appended to, or incorporate by reference, a notice of violation. The stop use order shall take effect immediately upon service. Service of the stop use order shall be deemed accomplished upon posting of the notice in the manner described in SMC 1.14.060(B)(3). Violation of a stop use order shall constitute a misdemeanor, punishable by imprisonment in jail for a maximum term fixed by the court of not more than ninety (90) days, or by a fine in an amount fixed by the court of not more than one thousand dollars (\$1,000), or by both such imprisonment and fine.

1.14.110 Removal of Stop Work or Stop Use Order – Misdemeanor. Where a stop work order or a stop use order has been posted in conformity with the requirements of this Chapter, removal of such order without the authorization of the City, or the Hearing Examiner if the matter has been heard by the Hearing Examiner, shall constitute a misdemeanor, punishable by imprisonment in jail for a maximum term fixed by the court of not more than ninety (90) days, or by a fine in an amount fixed by the court of not more than one thousand dollars (\$1,000), or by both such imprisonment and fine.

1.14.120 Response to Notice of Violation.

- A. Generally. A person who has been served with a notice of violation must respond to the notice within fourteen (14) days of the date the notice is served. A person may respond to the notice of violation by:
1. Paying the amount of the monetary penalty as set forth in the notice of violation. Partial payment or payment using a check that is rejected for insufficient funds shall not be deemed payment under this subsection. Payment of the fine shall not relieve the person or entity responsible for the violation from the duty to correct or abate the violation. Additional notices of violation may be issued if the violation goes uncorrected.
 2. Contesting the notice of violation by requesting a contested hearing in writing and sending the request and a \$100 filing fee to the City as described in subsection (B) below.
 3. Seeking to mitigate the monetary penalty by requesting a mitigation hearing to explain the circumstances surrounding the violation. The request to mitigate must be made in writing and sent to the City with a \$100 filing fee as described in subsection (B) below. Requesting to mitigate the penalty shall not relieve the person responsible for the violation from the duty to correct or abate the violation. Additional notices of violation may be issued if the violation goes uncorrected.

- B. Method of response. The person or entity to whom a notice of violation has been issued may respond by mailing or hand-delivering the response and the \$100 filing fee to the City Clerk. Mailed responses must be postmarked no later than the fourteenth (14th) day from the date of service of the notice of violation; hand-delivered responses must be brought to the City Clerk no later than 4:30 p.m. on the fourteenth (14th) day after service; provided, where the fourteenth day falls on a weekend or holiday, the deadline shall be extended to the next regular business day. Telephone, facsimile, or email responses shall not satisfy the requirements of this section.

1.14.130 Failure to Respond. If the person to whom the notice of violation is issued fails to respond as required in SMC 1.14.120, the violation(s) shall be deemed committed without requiring further action by the City or the City's Hearing Examiner and the person to whom the notice of violation was issued shall owe the full fine amount indicated in the notice of violation.

1.14.140 Scheduling of Hearing to Contest or Mitigate – Correction Prior to Hearing.

- A. Notice and scheduling of hearing. Upon the timely filing of a request for a hearing to contest a violation or to mitigate the penalty, the matter shall be scheduled to be heard at the next available appearance by the Hearing Examiner that is a minimum of fourteen (14) but no later than sixty (60) calendar days after the date the request was received by the City. Notice of the hearing date and time shall be served by Certified Mail – Return Receipt Requested to the address of the party who requested the hearing. The date and time for any hearing may be rescheduled by the Hearing Examiner for good cause upon the motion of a party or the Hearing Examiner.
- B. Correction of violation prior to hearing. The hearing may be cancelled and the party requesting the hearing need not appear only if, at least two (2) business days prior to the scheduled hearing, the Code Enforcement Officer determines that the violation has been satisfactorily corrected or abated and the monetary penalty paid in full. Where the scheduled hearing involves a repeat violation as defined in this Chapter, the hearing shall not be cancelled unless the new violation has been corrected or abated to the satisfaction of the Code Enforcement Officer and the monetary penalty and costs for the new violation(s) and any monetary penalty and costs owing for the previous violation(s) have been paid in full.

1.14.150 Contested Hearing – Procedure. The Hearing Examiner shall conduct a hearing to contest a violation pursuant to Chapter 2.33 SMC when such hearing is properly and timely requested. The City and the person or entity to whom the notice of civil violation was issued may participate in the hearing and each party, or its legal representatives, may call witnesses and present evidence and rebuttal, subject to the following:

- A. The City shall have the burden of proving by a preponderance of the evidence that a violation has occurred.

- B. The parties are responsible for securing the appearance of any witnesses they may wish to call; neither the City nor the Hearing Examiner shall have the burden of securing any witnesses on behalf of the person who is contesting the violation(s) or seeking to mitigate the penalties.
- C. Because formal rules of evidence shall not apply to any such hearing, the Hearing Examiner shall allow hearsay testimony by the parties and not require proof of chain of custody for evidence that is presented; provided, the Hearing Examiner shall determine the weight to be assigned to any evidence presented.
- D. Any notes, reports, summaries, photographs, or other materials prepared by the parties shall be admitted into evidence if requested; provided, the parties are free to argue the weight that should be assigned by the Hearing Examiner to any evidence submitted.

1.14.160 Contested Hearing – Decision of the Hearing Examiner.

- A. Contents of Order. Upon the conclusion of a hearing to contest a violation, the Hearing Examiner may issue a verbal decision pending issuance of the written decision; if necessary, the Hearing Examiner may delay issuing the written order for up to ten (10) business days following the hearing. In either event, the verbal decision and written order shall contain findings and conclusions based on the record that includes the following information:
 - 1. For each alleged violation of the City code, a statement indicating whether the violation has been found committed or not committed;
 - 2. For violations found committed, the monetary penalties and costs being assessed pursuant to this Chapter;
 - 3. For violations found committed, any required corrective actions;
 - 4. For violations found committed, a finding that abatement of the violations by the City is authorized, at the expense of the person responsible for the violations;
 - 5. A statement notifying the person responsible for the violation that he or she is subject to additional civil and/or criminal penalties if any violation that was the subject of the hearing has not been corrected or abated.
- B. Notice of decision. The Hearing Examiner may cause a copy of the decision and order to be served upon the parties at the close of the hearing. When the Hearing Examiner requires more time to prepare a written order, or when a party fails to appear after requesting a contested hearing, the Hearing Examiner shall cause a copy of the decision and order to be served on the parties by mailing a copy to each party's last known address within ten (10) business days of the hearing.

1.14.170 Mitigation Hearing – Procedure. The Hearing Examiner shall conduct a hearing to mitigate the penalty on a violation when such hearing is properly and timely requested; provided, that in the event a person has requested a hearing to contest a violation and prior to the start of the hearing indicates to the Hearing Examiner a desire to mitigate rather than contest, the Examiner shall permit the person to seek mitigation of the monetary penalty. The mitigation hearing shall be conducted according to the following general procedures:

- A. The person responsible for the violation shall, as a condition of proceeding with the mitigation hearing, agree that he or she has committed the violations as set forth in the notice of the violation. The City shall be relieved of any burden of proving that the violations were committed, and such agreement by the person responsible for the violations shall be sufficient basis for the Hearing Examiner to find the violations committed.
- B. If the person who has requested the mitigation hearing decides at the time of the hearing that he or she wishes to contest all or some of the alleged violations, the matters wishing to be contested shall, at the request of the City, be rescheduled.
- C. The person responsible for the violations shall be given the opportunity to explain or provide evidence regarding the nature of the violations, why the violations exist, why the violations have not been abated or corrected, and any other information the Hearing Examiner determines is relevant.
- D. The City shall be given the opportunity, at its discretion, to provide evidence of the nature of the violation, evidence to rebut assertions made by any party, and any other information or evidence the Hearing Examiner deems is relevant.
- E. At the conclusion of the hearing, the Hearing Examiner shall enter an order finding the violations committed pursuant to SMC 1.14.180, and shall assess a monetary penalty in accordance with SMC 1.14.200.

1.14.180 Mitigation Hearing – Decision of the Hearing Examiner.

- A. Order to be issued at close of hearing. Upon the conclusion of a penalty mitigation hearing, the Hearing Examiner shall issue, at that time, a written decision and order using a standard form that contains the following findings and conclusions based on the record:
 - 1. For each alleged violation of the City code, a statement indicating that the violation has been found committed;
 - 2. The monetary penalties and costs being assessed pursuant to this Chapter;
 - 3. Any required corrective action;

4. A statement notifying the person responsible for the violation that he or she is subject to additional civil and/or criminal penalties if any violation that was the subject of the hearing has not been corrected or abated;
 5. A finding that abatement of the violations by the City is authorized, at the expense of the person responsible for the violations.
- B. Notice of decision. The City shall provide a copy of the decision and order to the parties at the close of the mitigation hearing. When the City, for good cause shown, requires more time to prepare a written order, or when a party fails to appear after requesting a hearing, the Hearing Examiner shall cause a copy of the decision and order to be served on the parties by mailing a copy to the last known addresses of the parties within ten (10) business days of the hearing.

1.14.190 Failure to Appear – Default Order. If the person who requests a hearing to contest a violation or mitigate the penalty then fails to appear at the scheduled hearing after having been given notice in the manner provided for by this Chapter, the Hearing Examiner shall use a standard form to immediately issue a default order, which finds committed all the violations set forth in the notice of violation and which assesses a fine in the full amount indicated in the notice of violation. In addition, at the request of the City, the Hearing Examiner shall also impose upon the non-appearing party any costs to the City related to preparation for the hearing. The Hearing Examiner shall cause a copy of the decision to be served upon the non-appearing party by mailing a copy to the last known address of the non-appearing party within ten (10) business days of the hearing. Upon the motion of a party, the Hearing Examiner may rescind a default judgment only upon a showing of good cause to do so and only if such motion has been brought within thirty (30) calendar days of the date of the hearing at which the default judgment was ordered.

1.14.200 Monetary Penalty.

- A. Monetary penalty. Each violation of a City regulation deemed committed by the Hearing Examiner is subject to a monetary penalty in an amount of five hundred dollars (\$500) unless a different penalty amount for a given violation is expressly authorized or required by a more specific City code provision. Except where the person responsible for the violation has requested mitigation of the monetary penalty pursuant to SMC 1.14.120, the Hearing Examiner shall have no authority to reduce the amount of the monetary penalty. Where the person has requested to mitigate the monetary penalty, the Examiner may reduce the monetary penalty for each violation, but in no case shall the penalty be reduced to an amount less than one hundred dollars (\$100) for each violation found committed.
- B. Payment of monetary penalty. Any monetary penalties assessed pursuant to this Chapter constitute a personal obligation of the person to whom the notice of civil violation is directed. In addition, the monetary penalties assessed pursuant to this Chapter may be assessed against the property that is the subject of the enforcement action. Any monetary penalty assessed must be paid in full to the City within thirty

(30) days from the date of service of an uncontested notice of violation or any order of the Hearing Examiner that assesses monetary penalties.

- C. Continuing duty to abate violations. Payment of a monetary penalty pursuant to this Chapter does not relieve the person responsible for the violation of the duty to correct or abate the violation. Additional notices of violation may be issued and/or criminal charges filed for continuing failure to correct or abate a violation.

1.14.210 Appeal. An appeal of the decision of the Hearing Examiner must be filed with the Snohomish County Superior Court within twenty-one (21) calendar days of service of the decision, which shall be the exclusive means to appeal a decision of the Hearing Examiner rendered under this Chapter.

1.14.220 Repeat Violation or Failure to Abate – Misdemeanor. Where a person or entity has been found to have committed a violation under this Chapter, regardless of whether the violation was resolved without penalty, the failure to abate the violation, or the commission of a subsequent violation, or the violation of a written order of the Hearing Examiner after having received notice of the order as provided in this Chapter, shall each constitute a repeat violation and shall each be a misdemeanor subject to the penalties and provisions of SMC 1.14.030. The City Attorney, or the City Attorney’s designee, shall, at his or her discretion, have authority to file a repeat violation as either a civil violation or as a misdemeanor.

1.14.230 Abatement.

- A. Other abatement proceedings not precluded. Nothing in this Chapter shall prohibit the City from pursuing abatement of a violation pursuant to any other laws of the state of Washington or the City of Snohomish.
- B. Costs of abatement. The costs of any abatement action taken by the City shall become a charge to the person responsible for the violation. These charges may be assessed against the person responsible for the violation or the property upon which the violation occurred, or both. The City may use any lawful means to collect these charges.

1.14.240 Collection of Penalties and Costs.

- A. Collection of monetary penalty. The monetary penalties assessed pursuant to this Chapter shall constitute a personal obligation of the person to whom the notice of civil violation is directed or the person responsible for the violation. In addition, the monetary penalties assessed pursuant to this Chapter may be assessed against the property that is the subject of the enforcement action. Any monetary penalty assessed must be paid to the City within ten (10) calendar days from the date of mailing of the Hearing Examiner’s decision or a notice from the City that penalties are due. The City Attorney, or his or her designee, is authorized to take legal action to collect the monetary penalty.

- B. Use of collection agency. Pursuant to Chapter 19.16 RCW, as currently enacted or hereafter amended, the City may, at its discretion, use a collection agency for the purposes of collecting penalties and costs assessed pursuant to this Chapter. The collection agency may add fees or interest charges to the original amount assigned to collections as allowed by law. No debt may be assigned to a collection agency until at least thirty (30) calendar days have elapsed from the time that the City attempts to notify the person responsible for the debt of the existence of the debt and that the debt may be assigned to a collection agency for collection if the debt is not paid. Notice of potential assignment to collections shall be made by Certified Mail – Return Receipt Requested to the last known address of the person responsible for the violation; provided, inability to ascertain a current mailing address shall not prohibit the debt from being assigned to collections.

- C. Costs of abatement as personal obligation. The costs of any abatement action taken by the City shall become a charge to the person responsible for the violation. These charges may be assessed against the person responsible for the violation or the property upon which the violation occurred. The City may use any lawful means to collect charges, including but not limited to those set forth in SMC 1.14.240 A and B.

- D. Costs of abatement as real property obligation. The costs of any abatement action taken by the City shall become a charge against the real property upon which the costs were incurred unless paid. Such costs shall be forwarded by the Code Enforcement Officer to the City Support Services Director, who shall certify them to the County Treasurer for assessment on the tax rolls, and to the City Attorney, who shall file a lien for such costs against the real property.

- E. Contests of abatement costs. Any challenge to the amount of the abatement costs shall be heard by the City Support Services Director in an informal hearing. The City Support Services Director shall then make a written determination as to whether or not the City's costs were accurate and necessary for accomplishing the abatement. If the costs are confirmed, then they shall be subject to collection as set forth in this section.

1.14.250 Additional Enforcement Procedures. The provisions of this Chapter are not exclusive and may be used in addition to other enforcement and penalty provisions authorized by the Snohomish Municipal Code or any other law.

1.14.260 Conflicting Code Provisions. In the event a conflict exists between the enforcement provisions of this Chapter and the enforcement provisions of any international or uniform code, statute, or regulation that is adopted in the Snohomish Municipal Code and subject to the enforcement provisions of this Chapter, the enforcement provisions of this Chapter will prevail, unless the enforcement provisions of this Chapter are preempted or specifically modified by said code, statute, or regulation.

1.14.270 Duty not Creating Liability. No provision or term used in this title is intended to impose any duty upon the City or any of its officers or employees which would subject them to damages in a civil action.

1.14.280 Right of Entry.

- A. When it is necessary to enforce the provisions of the Snohomish Municipal Code, or when the Code Enforcement Officer has reasonable cause to believe that there exists in a building or upon a premises a condition that is contrary to or in violation of this code, the Code Enforcement Officer may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this code, provided that if such building or premises be occupied that credentials be presented to the occupant and entry requested. If such building or premises be unoccupied, the Code Enforcement Officer shall first make a reasonable effort to locate the owner or other person having charge or control of the building or premises and request entry. If entry is refused, the Code Enforcement Officer shall have recourse to the remedies provided by law to secure entry.
- B. Posted property. (1) Any combination of (a) a "No Trespassing" sign and a gate or chain on private property, or (b) the securing of a gate or chain (other than by a simple latching or closure device) shall be considered controlling. Entry shall not be made upon such property without the express permission of the property owner/resident. (2) No employee shall be required to enter a posted or gated piece of property if the employee feels threatened, intimidated, or otherwise in fear of his or her personal safety.
- C. Employee identification. City employees shall carry identification cards while on duty. Any employee, when legitimately requested by the public, shall show the requesting party his/her identification card.
- D. Intimidation of employees. It is the policy of the City that threats, intimidation, or other violations of public peace directed against an employee engaged in the lawful action upon private property may subject that person and the owner of the property, as applicable, to legal action.

Section 3. Chapter 2.39 SMC is hereby repealed.

Section 4. Title 3 SMC is hereby amended by amending SMC 3.22.080 and 3.26.050 to read as follows:

3.22.080 Violations – Penalties. Violation of this Chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

3.26.050 Violation – Penalties. Violation of this Chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

Section 5. Title 5 SMC is hereby amended by amending SMC 5.02.140, 5.10.095, 5.36.100, 5.44.160, and 5.52.170 to read as follows:

5.02.140 Penalties for Violation. Violation of this Chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

5.10.095 Penalties. Violation of this Chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

5.36.100 Penalty for Violations. Violation of this Chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

5.44.160 Penalties. Violation of this Chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

5.52.170 Violations – Penalty. Violation of this Chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

Section 6. Chapter 7.12 SMC is hereby amended by amending SMC 7.12.055 to read as follows:

7.12.055 Penalties. Violation of this Chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

Section 7. Title 8 SMC is hereby amended by repealing SMC 8.12.180 and amending SMC 8.12.190 and 8.20.230 to read as follows:

8.12.190 Violations – Penalty. Violation of this Chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

8.20.230 Penalties. Violation of this Chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

Section 8. Chapter 9.94 SMC is hereby amended by repealing SMC 9.94.040, 9.94.060, 9.94.080, and 9.94.090 and amending SMC 9.94.010 and 9.94.070 to read as follows:

9.94.010 Definitions. The following words and phrases used in this Chapter, unless the context otherwise clearly indicates, shall have the following meanings;

“Abate” means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a violation of this Chapter by such means and in such a manner and to such an extent as the applicable department director determines is necessary in the interest of the general health, safety and welfare of the community.

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

“Enforcement Officer” means the City Manager of the City of Snohomish or his or her designee.

“Owner” means and includes any agent, lessee, owner, tenant, or other person occupying or having charge or control of any premises. An owner or agent is deemed to have control if he or she has actual or constructive knowledge of the maintenance upon the premises of any nuisance as defined in this Chapter.

“Person” means and includes, individual, firm, partnership, corporation, and all associations of natural persons, whether acting by themselves or by an agent or employee.

“Premises” means any building, lot, parcel, real estate, or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips and any lake, river, stream, drainage way, or wetland.

9.94.070 Civil Penalties. Any person, firm, corporation, their agents, or servants, who shall violate any of the provisions of this Chapter, has committed a civil violation for which civil penalties may be assessed for each day or part of day that the violation continues, pursuant to section 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

Section 9. Title 12 SMC is hereby amended by amending SMC 12.12.200, 12.12.210, 12.20.100, and 12.40.040 to read as follows:

12.12.200 Methods of Enforcement. The City is authorized to use any or all of the following methods in ordering correction or discontinuance of any such conditions:

Serving of oral and written directives to the permittee or other responsible person requesting immediate correction or discontinuance of the specified condition.

Service of a written notice of violation, ordering corrections or discontinuance of a specific condition or activity within a reasonable period of time.

Issuance of an order to immediately stop work until authorization is received from the City to proceed with such work.

Suspension or revocation of a permit as provided above.

Commencement of a civil action by the City Attorney or issuance of a civil violation or other legal process pursuant to SMC 1.01.080 and Chapter 1.14 SMC.

12.12.210 Civil Infraction – Penalties. It is unlawful for any person, firm, or corporation to disrupt a street or cause the same to be done in violation of any of the provisions of this ordinance. Both the contractor and owner and/or permittee and/or any agents of the owner will be held jointly and severally responsible and liable under this ordinance. Additionally, the City shall have the right to require full restoration of the street to original or better condition immediately upon completion of the project, or to require that the applicant reimburse the City for all costs of street restoration. Violation of this Chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

12.20.100 City's Action for Failure to Improve – Fine. Every abutting property owner, who, after having received notice from the Public Works Director of the City of Snohomish as provided in Sections 12.20.020 and 12.20.030, that the sidewalk in front of the property owned or controlled by such person is out of condition or repair, shall neglect or refuse to put such sidewalk in condition or repair within the time and in the manner provided by such notice, shall be in violation of this Chapter of the Snohomish Municipal Code, and such violation shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

12.40.040 Penalty for violations. Violation of this Chapter of the Snohomish Municipal Code shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

Section 10. Chapter 13.04 SMC is hereby amended by amending SMC 13.04.250 to read as follows:

13.04.250 Violation – Penalty. Violation of this Chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

Section 11. Chapter 14.85 SMC is hereby amended to read as follows:

**Chapter 14.85
ENFORCEMENT**

Sections:

14.85.010	Purpose
14.85.020	Violations
14.85.030	Nature of Violation – Penalties
14.85.040	Right of Inspection
14.85.050	Stop Work Order
14.85.060	Other Recourse

14.85.010 Purpose. The purposes of this Chapter are:

- A. To provide fair and effective means of enforcing the Development Code, Title 14 SMC;

- B. To provide the opportunity for a prompt hearing and resolution of alleged violations of Title 14 SMC;
- C. To establish civil and criminal penalties for violations of Title 14 SMC; and
- D. To abate and/or otherwise bring into compliance violations of Title 14 SMC.

14.85.020 Violations.

- A. It shall be a violation of the Development Code to:
 - 1. Violate any of its provisions;
 - 2. Proceed with a development without first obtaining a required permit;
 - 3. Violate any condition of a permit issued pursuant to the Development Code;
 - 4. Violate any order issued pursuant to the Development Code;
 - 5. Aid or abet a violation of the Development Code;
 - 6. Knowingly falsify any document required by the Development Code; or
 - 7. Falsify or tamper with any monitoring device or record required in the administration of the Development Code.
- B. Proof that a violation of the Development Code exists on a property shall constitute prima facie evidence that the owner of the property is the violator. However, this shall not relieve or prevent enforcement against any other responsible person.
- C. Each day of violation shall constitute a separate offense. Each sale or transfer of each separate lot or tract of land in violation of the Development Code shall constitute a separate offense.

14.85.030 Nature of Violation – Penalties.

- A. Any violation of the Development Code shall be a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.
- B. Violations of the Development Code shall also be classified as nuisances under Chapter 9.94 SMC.
- C. Payment of a penalty shall not relieve the violator of the duty to correct the violation.

14.85.040 Right of Inspection. The City Planner or his or her representative may inspect buildings, structures, or premises for compliance with the Development Code as allowed by law, including but not limited to the following circumstances:

- A. With the written permission of the owner or owner's representative, which may include a written statement included on the permit application form;
- B. With the verbal permission of the owner, tenant, or other responsible party; or
- C. With an administrative search warrant.

14.85.050 Stop Work Order. In addition to the stop work and stop use provisions of Ch. 1.14 SMC, the City Planner or his or her representative may order any development stopped if:

- A. A required permit was not obtained;
- B. The development violates the Development Code or any permit requirement or condition;
- C. The permit was based on erroneous information submitted by the applicant; or
- D. The work has become a hazard to life or property due to weather or other unforeseen conditions.

14.85.060 Other Recourse. In addition to the other violation remedies set forth in this section, the City may also:

1. Revoke, place further conditions on, or suspend processing of permits pertaining to the violator or the premises on which the violation occurred;
2. File for injunctive or other civil relief in Superior Court; or
3. Pursue any other recourse available under law.

Section 12. Chapter 15.04 SMC is hereby amended by amending SMC 15.04.165 to read as follows:

15.04.165 Violations of 15.04.140 – Penalty. Any person failing to make a required connection to the City's sanitary sewer system within 365 days of the date of notice from the City that connection is required commits a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

Section 13. Chapter 20.04 SMC is hereby amended by amending SMC 20.04.270 to read as follows:

20.04.270 Penalty for Violations. Violation of this Chapter shall be considered a civil violation pursuant to SMC 1.01.080 and Chapter 1.14 SMC, except as otherwise provided therein.

Section 14. Effective Date. This Ordinance shall take effect five days after publication by summary.

Section 15. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality thereof shall not affect the validity or constitutionality of any other section, subsection, sentence, clause, phrase, or word of this ordinance.

ADOPTED by the City Council and **APPROVED** by the Mayor this 21st day of October, 2008.

CITY OF SNOHOMISH

By _____
RANDY HAMLIN, MAYOR

Attest:

By _____
TORCHIE COREY, CITY CLERK

Approved as to form:

By _____
GRANT K. WEED, CITY ATTORNEY