

**CITY OF SNOHOMISH  
Snohomish, Washington**

**ORDINANCE 2386**

**AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON,  
CREATING A NEW CHAPTER 19.06 OF THE SNOHOMISH MUNICIPAL  
CODE (SMC) PROHIBITING OCCUPANCY OF PROPERTIES THAT  
LACK ADEQUATE WATER OR SEWER SERVICE.**

**WHEREAS**, adequate water and sewer service are necessary to assure proper sanitation, maintenance, and hospitable living conditions; and

**WHEREAS**, persons residing in conditions without proper sanitation or hospitable living conditions presents a risk to those persons' health, safety, and welfare, thereby creating a risk of harm to the public health, safety, and welfare; and

**WHEREAS**, properties which are not adequately maintained due to inadequate water or sewer facilities present a risk of harm to the public health, safety, and welfare; and

**WHEREAS**, illegal and unauthorized occupancy of vacant, abandoned, and foreclosed properties within the City places unreasonable demands on City resources, including, but not limited to burden on law enforcement and City staff and such conditions adversely impact the health, safety and welfare of the public; and

**WHEREAS**, many of these vacant, abandoned, and foreclosed structures have had water or sewer services discontinued, but are occupied despite the lack of adequate water or sewer service resulting in a danger to the occupants and to the public health; and

**WHEREAS**, the City desires to assure that occupied properties have adequate water and sewer service to protect the public health, safety, and welfare, to require responsible parties to secure properties from occupancy until adequate water and sewer service is resumed, and to punish violations;

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

**Section 1.** A new Chapter 19.06 SMC, entitled "Utility Service for Occupancy", is hereby enacted, as set forth in attached Exhibit "A."

**Section 2.** **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.

**Section 3. Effective Date.** This ordinance shall become effective five days after the date of its publication by summary.

**PASSED** by the City Council and **APPROVED** by the Mayor this 19<sup>th</sup> day of November, 2019.

CITY OF SNOHOMISH

By John T. Kartak  
John T. Kartak, Mayor

ATTEST:

By Pat Adams  
Pat Adams, City Clerk

APPROVED AS TO FORM:

By Grant K. Weed  
Grant K. Weed, City Attorney

Date of Publication: 11/23/2019

Effective Date: 11/28/2019

## EXHIBIT A

### Chapter 19.06

#### UTILITY SERVICE FOR OCCUPANCY

##### Sections:

19.06.010	Purpose.
19.06.020	Definitions.
19.06.030	Water and sewer required.
19.06.040	Unlawful occupancy.
19.06.050	Investigation and enforcement procedure.
19.06.060	Appeal.
19.06.070	Vacant structure must be secured upon violation.
19.06.080	Standards for securing structures.
19.06.090	Abatement.
19.06.100	Reoccupancy

##### **19.06.010 Purpose.**

The purpose of this Chapter is to protect the public health, safety, and welfare by assuring that people reside in conditions with adequate utilities and facilities to provide for proper sanitation, maintenance, and hospitable living conditions.

##### **19.06.020 Definitions.**

For purposes of this Chapter the following definitions shall apply:

- A. "Building Official" means the Building Official of the City of Snohomish or the Building Official's designee.
- B. "Civil infraction" means a class one civil infraction as defined by Chapter 7.80 RCW, the Infraction Rules for Courts of Limited Jurisdiction (IRLJ) and any local rule adopted by the Evergreen District Court. Civil infractions shall be heard by the Evergreen District Court.
- C. "Occupy" means (a) residing on the premises or (b) being present on the premises for any purposes other than actively maintaining or improving the premises.
- D. "Person" means any natural person, legal entity, association, organization, corporation, or partnership and any agents, representatives, fiduciaries, or assigns.
- E. "Premises" means any land, real estate, tax parcel, or lot and any portion thereof whether improved or unimproved.
- F. "Responsible person" means any person having legal or equitable title or any interest in a premises, including but not limited to owners, borrowers, and lenders. When there is more than one responsible person, both or all are responsible for performing any act required by this Chapter and each may be charged with a violation of this Chapter. However, it is a

complete defense to any violation that the violation was remedied by another responsible person.

- G. "Sewer service" means either (a) a lawful, active, and functioning connection to the City's sanitary sewer system in conformance with SMC Title [15](#) or (b) a lawful, functioning, and adequately maintained "on-site sewage disposal system" (as defined in RCW [70.118.020\(6\)](#)).
- H. "Water service" means either (a) a lawful, active, and functioning connection to the City's water system in conformance with SMC Title [15](#), (b) a lawful, functioning, and adequately maintained private well, or (c) a lawful, active, and functioning connection to a lawful, functioning, and adequately maintained "public water system" (as defined in RCW [70.116.030\(3\)](#)).

**19.06.030 Water and sewer required.**

Any premises within the City may only be occupied by a person if the premises has sewer service and water service.

**19.06.040 Unlawful occupancy.**

- A. Occupying any premises within the City which does not have sewer service and water service, as required by SMC [19.06.030](#), or which is posted "Unfit for Occupancy – No Trespassing," is a nuisance and a violation of this section.
- B. Removing or defacing a posted notice that a premises is "Unfit for Occupancy – No Trespassing" is a violation of this section.
- C. A violation of this section is a misdemeanor.

**19.06.050 Investigation and enforcement procedure.**

- A. Investigation. Where the Building Official reasonably believes that a premises does not have sewer service or water service for fourteen (14) consecutive calendar days, the Building Official may issue and post a notice of violation. Unless appealed pursuant to SMC [19.06.060](#), the notice of violation becomes a final determination on the eleventh (11<sup>th</sup>) business day after the posting of the notice at which time the Building Official shall post the premises "Unfit for Occupancy – No Trespassing."
- B. Violation Notice. An enforcement action is commenced by a notice of violation. The Building Official shall post a copy of the notice of violation on the premises and shall mail a copy of the notice of violation to the owner identified in the records of the Snohomish County Assessor and to the street address of the premises. The notice of violation shall contain:
  - 1. Information identifying the premises including the address and tax parcel number.
  - 2. A concise description of the basis for the notice of violation.
  - 3. A statement that the premises must be vacated unless sewer service and water service are functioning within ten (10) business days of posting the notice of violation.

4. A statement that a responsible person may appeal the Building Official's determination to the Land Use Hearing Examiner by filing a written appeal setting forth the grounds for the appeal no later than ten (10) business days after the notice of violation was posted.
5. A statement that if the Building Official's determination is not appealed within ten (10) business days of posting the notice of violation:
  - a. The notice of violation will become a final determination;
  - b. That the premises must be vacated and secured as provided in this Chapter;
  - c. That any person occupying the premises will be liable as provided in this Chapter; and
  - d. That any responsible person failing to secure the premises will be liable as provided in this Chapter.
6. The date the notice of violation was posted on the premises.
7. The address where an appeal may be delivered to the City Clerk.
8. A copy of this Chapter must be attached to the notice of violation that is mailed to the owner and the street address, but need not be attached to the notice of violation that is posted on the premises.

**19.06.060 Appeal.**

A responsible person may appeal the Building Official's determination contained in a notice of violation by delivering a written appeal to the City Clerk. The written appeal must be received no later than ten (10) business days after the notice of violation was posted on the premises. If the City Clerk receives a timely written appeal, the Hearing Examiner shall set a hearing to be held within thirty (30) calendar days of receipt of the appeal.

- A. At any such hearing, the responsible person bears the burden, by a preponderance of the evidence, of establishing their standing as a responsible person.
- B. At any such hearing, the City bears the burden, by a preponderance of the evidence, of establishing that the premises does not have adequate sewer service or water service as required by SMC 19.06.030 and that a person was occupying the premises as of the date of the notice of violation.
- C. Any such hearing does not need to comply with the rules of evidence and the Hearing Examiner may consider evidence which the Hearing Examiner determines is reasonably reliable.
- D. The Hearing Examiner shall issue a written decision within ten (10) business days of any such hearing. The written decision shall make findings of fact and conclusions of law. If the Hearing Examiner determines that the premises does not have sewer service or water service as required by SMC 19.06.030 and that a person was occupying the premises as of the date of the notice of violation, then the premises must be vacated and secured within five (5) business days of the Hearing Examiner's decision. The Hearing Examiner's decision is a final determination upon being signed and mailed.

E. The decision of the Hearing Examiner may be appealed to the Snohomish County Superior Court within twenty-one (21) calendar days.

**19.06.070 Vacant structure must be secured upon violation.**

- A. Upon a final determination that a premises has been occupied in violation of SMC [19.06.040](#), every structure on the premises must be secured from unlawful occupancy as specified in SMC [19.06.080](#) within five (5) business days.
- B. It is a nuisance and is a violation of this section for any responsible person for any premises within the City to fail to secure every structure on the premises from unlawful occupancy as specified in SMC [19.06.080](#) within five (5) business days of a final determination that the premises has been occupied in violation of SMC [19.06.040](#).
- C. Violation of this section is a civil infraction and upon a finding that a violation has been committed, the person committing the act shall be assessed an amount not to exceed \$250.00 plus applicable statutory assessments. Such penalty is in addition to any other remedies or penalties specifically provided by law. For each act herein prohibited of a continuing nature, each day shall be considered a separate offense.
- D. Each day that a structure on the premises is not secured as specified in SMC [19.06.080](#) is a separate violation and the Building Official may issue a civil infraction to any responsible person who had notice that the structure was required to be secured.

**19.06.080 Standards for securing structures.**

All structures which must be secured by the responsible person under this Chapter shall meet the following standards:

- A. Exterior openings shall be properly secured with doors, shutters, grills, and window glazing. Where the normal structural amenities are damaged, destroyed or significantly deteriorated such that the structure becomes unsecure, the amenities shall be replaced or the openings may be secured with structural paneling or medium density overlay. At a minimum, all exterior openings accessible from grade shall be properly secured to prevent unauthorized third party entry.
- B. Personal property and miscellaneous debris which may constitute a fire hazard must be removed from the structure prior to securing the structure.
- C. If the structure has automatic fire sprinkler systems or fire alarm systems, the systems shall be maintained in an operable condition at all times.
- D. All exterior entry doors to structures on the premises shall be posted “Unfit for Occupancy – No Trespassing.”
- E. The responsible person shall periodically assure that the premises is inspected and timely take any actions necessary to assure compliance with these standards.

**19.06.090 Abatement.**

- A. If a responsible person fails to secure every structure on the premises from unlawful occupancy as specified in SMC [19.06.080](#) within five (5) business days after a final determination, the Building Official may take immediate action to cause the building to be secured in a manner consistent with this Chapter.
- B. In the event that the City secures the building, all costs incurred shall be assessed to the owner of the premises as provided in Chapter [1.14](#) SMC.
- C. In securing a structure, the Building Official is not required to satisfy all the conditions of SMC [19.06.080](#) and in the Building Official's sole discretion may determine what measures are appropriate.
- D. If the City secures a structure pursuant to this Chapter, the responsible person shall remain responsible for the inspection, maintenance, and protection of the premises and any structures on the premises.

**19.06.100 Reoccupancy.**

Following a final determination that the premises has been occupied in violation of this Chapter, the premises may only be occupied after a responsible person provides the Building Official with satisfactory evidence that the premises complies with the requirements of SMC [19.06.030](#) and receives written approval from the Building Official that occupancy of the premises is allowed.