

**SULTAN CITY COUNCIL**

**AGENDA ITEM COVER SHEET**

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**Agenda Item #:** Action A 2

**Date:** February 26, 2009

**SUBJECT:** Repeal of Ordinances – Code Scrub

**CONTACT PERSON:** Laura Koenig, City Clerk/Deputy Finance Director

**Issue:**

The issue before the Council is the introduction of several Ordinances to repeal sections of the Sultan Municipal Code that are no longer needed or pertinent as a part of the 2009 Code scrub.

**Staff Recommendation:**

Introduction of Ordinances:

- 1) 1020-09 to repeal Chapter 3.12 Fire Equipment Reserve Fund
- 2) 1021-09 to repeal Chapter 3.42 Baseball Field Project Fund
- 3) 1022-09 to repeal Chapter 3.46 Driving While Intoxicated Grant Fund
- 4) 1023-09 to repeal Chapter 2.12 Volunteer Fire Department
- 5) 1024-09 to repeal Chapter 5.12 Dancing and Live Music

**Summary:**

The City will be contracting with Code Publishing in 2009 to provide an updated version of the Sultan Municipal Code. As a part of the GMA compliance requirements and the Comprehensive Plan process, the Planning Department has been updating and revising the development codes. There are several other sections of the Sultan Municipal Code that also need to be updated and code sections that are no longer applicable needed to be repealed.

As a part of the review of Titles 2, 3 and 5 staff found funds and departments that no longer exist, sections that are not used and sections that need to be updated to comply with current laws and regulations.

Over the past two years, staff has presented ordinances to the Council to establish existing funds, create new funds and segregate funds to provide a better audit trail. Title 3 contained three funds that are no longer used, the Fire Equipment Reserve fund, Baseball Field Project Fund and the Driving While Intoxicated Grant fund. This code section will be repealed.

Title 2 provided for a Sultan Volunteer Fire Department. The City annexed into Snohomish County Fire District 5 several years ago and there is no longer a City Volunteer Fire Department. This code section will be repealed.

Title 5 provides provisions for a permit for Dancing and Live Music. In 1976 the Council adopted Ordinance 349 to regulate Dancing and Live Music. This ordinance was codified as Title 5.12. In August 2007, the City Attorney recommended Chapter 5.12 be repealed as it appears to restrain free speech and does not have adequate due process and other safeguards to be lawful. This code section will be repealed and replaced with the Special Events code.

**Alternatives:**

1. Move to introduce the Ordinances. This will cleanup the SMC and eliminate funds and code sections that are no longer needed or pertinent.
2. Do not introduce the Ordinances for a first reading. This alternative will leave the existing code in place.

**Recommended Action:**

Introduction of Ordinance 1020-09 to repeal Chapter 3.12, CR Fire Equipment Fund, for a first reading and pass it on to a second reading.

Introduction of Ordinance 1021-09 to repeal Chapter 3.42, Baseball Field Project Fund, for a first reading and pass it on to a second reading.

Introduction of Ordinance 1022-09 to repeal Chapter 3.46, Driving While Intoxicated Grant fund, for a first reading and pass it on to a second reading.

Introduction of Ordinance 1023-09 to repeal Chapter 2.12, Volunteer Fire Department, for a first reading and pass it on to a second reading.

Introduction of Ordinance 1025-09 to repeal Chapter 5.12, Dancing and Live Music, for a first reading and pass it on to a second reading.

- Attachments:**
- A. Ordinance 1020-09 Repeal Chapter 3.12 CR Fire Equipment
  - B. Chapter 3.12 SMC
  - C. Ordinance 1021-09 Repeal Chapter 3.42 Baseball Field Project
  - D. Chapter 3.42 SMC
  - E. Ordinance 1022-09 Repeal Chapter 3.46 DWI Grant
  - F. Chapter 3.46 SMC
  - G. Ordinance 1923-09 Repeal Chapter 2.12 Volunteer Fire Department
  - H. Chapter 2.12 SMC
  - I. Ordinance 1024-09 Repeal Chapter 5.12 Dancing and Live Music
  - J. Chapter 5.12 SMC

CITY OF SULTAN  
WASHINGTON  
ORDINANCE NO 1020-09.

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON,  
REPEALING CHAPTER 3.12 RELATING TO THE  
CUMULATIVE RESERVE FIRE EQUIPMENT FUND FROM  
THE SULTAN MUNICIPAL CODE; PROVIDING FOR  
SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Of Sultan established a Cumulative Reserve Fire Equipment Fund under Ordinance 191 in 1946; and

WHEREAS, IN 1991, the City annexed into Snohomish County Fire District 5; and

WHEREAS, there is no longer a need for the fund and there are no monies in the fund;

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

Section 1. Chapter 3.12 Cumulative Reserve Fire Equipment Fund is hereby repealed.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2009.

CITY OF SULTAN

\_\_\_\_\_  
Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Laura Koenig, City Clerk  
Approved as to form:

\_\_\_\_\_  
Margaret J. King, City Attorney

Date of Publication:  
Effective Date:

**Chapter 3.12  
CUMULATIVE RESERVE FIRE EQUIPMENT FUND**

Sections:

- [3.12.040](#) Establishment.
- [3.12.050](#) Appropriation authorization.
- [3.12.060](#) Accumulation and expenditure.
- [3.12.070](#) Designated – Exceptions.

**3.12.040 Establishment.**

There is created and established a fund to be known as the cumulative reserve fire equipment fund, pursuant to the provisions of Chapter 60, Laws of 1941. (Ord. 191 § 4, 1946)

**3.12.050 Appropriation authorization.**

The purpose of accumulating said fund, the city council shall be, and it is authorized to appropriate each year, at the time of the making and adoption of the annual budget of said city, an item money for said fund, and to include said item in said annual budget each year, and to make a tax levy within the limits as authorized by law for said item, and may include any money paid to the city for fire protection by a fire district organized under the Laws of Washington. (Ord. 191 § 5, 1946)

**3.12.060 Accumulation and expenditure.**

The money placed in said cumulative reserve fire equipment fund shall accumulate from year to year and shall be carried over each year into the new budget and may be expended at such time as the council may direct by resolution for the purposes of purchasing additional firefighting equipment or apparatus for the city of Sultan. (Ord. 191 § 6, 1946)

**3.12.070 Designated – Exceptions.**

A. Any money in either the cumulative reserve building fund or the cumulative reserve fire equipment fund shall never be expended for any other purpose than that specified except, however, by an approving vote on a proposal submitted to the electors of the city of Sultan at a special election or a general election voting on a proposal submitted to said electors to allow other specified uses to be made of said funds or fund.

B. In accordance with the provisions of Chapter 60 of the Laws of 1941, said approving vote must be made by a majority of the electors of the city of Sultan. (Ord. 191 § 7, 1946)

CITY OF SULTAN  
WASHINGTON  
ORDINANCE NO. 1021-09

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON,  
REPEALING CHAPTER 3.42 RELATING TO THE BASEBALL  
FIELD PROJECT FUND FROM THE SULTAN MUNICIPAL  
CODE; PROVIDING FOR SEVERABILITY; AND  
ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Of Sultan established a Baseball Field Project Fund under Ordinance 613 in 1994; and

WHEREAS, the City has completed the project and there is no longer a need for the fund and there are no monies in the fund;

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

Section 1. Chapter 3.42, Baseball Field Project Fund, is hereby repealed.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE \_\_\_\_ DAY OF \_\_\_\_\_, 2009.

CITY OF SULTAN

\_\_\_\_\_  
Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:

\_\_\_\_\_  
Laura Koenig, City Clerk

Approved as to form:

\_\_\_\_\_  
Margaret J. King, City Attorney

Date of Publication:  
Effective Date:

**Chapter 3.42  
BASEBALL FIELD PROJECT FUND**

Sections:

- [3.42.010](#) Fund created.
- [3.42.020](#) Purpose – Expenditures.
- [3.42.030](#) Accumulated funds.
- [3.42.040](#) Severability.

**3.42.010 Fund created.**

There is hereby created a fund known as the baseball field project fund. (Ord. 613, 1994)

**3.42.020 Purpose – Expenditures.**

This fund has been created for the purpose of accumulating funds to construct a baseball field for the community.

Expenditures for said project shall be approved by the city council prior to the commitment of any funds. (Ord. 613, 1994)

**3.42.030 Accumulated funds.**

Any unexpended funds remaining in the fund at the end of the project shall be deposited to the general fund for maintenance of the field. (Ord. 613, 1994)

**3.42.040 Severability.**

The provisions of this chapter are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, subdivision, section or portion of this chapter, or the invalidity of the application thereof to any person or circumstances shall not affect the validity of the remainder of this chapter, or the validity of its application to other persons or circumstances. (Ord. 613, 1994)

CITY OF SULTAN  
WASHINGTON  
ORDINANCE NO. 1022-09

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON,  
REPEALING CHAPTER 3.46 RELATING TO THE DRIVING  
WHILE INTOXICATED GRANT FUND FROM THE SULTAN  
MUNICIPAL CODE; PROVIDING FOR SEVERABILITY; AND  
ESTABLISHING AN EFFECTIVE DATE

WHEREAS, the City Of Sultan established a Driving While Intoxicated Grant fund under Ordinance 452 in 1984; AND

WHEREAS, the fund was created to implement the grant for prosecution of offenders cited for driving under the influence of intoxicating liquor or drugs between September 15, 1984 and June 30, 1985; and

WHEREAS, the grant has expired and the fund is no longer necessary;

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

Section 1. Chapter 3.46, Driving While Intoxicated Grant Fund, is hereby repealed.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

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CITY OF SULTAN

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Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:

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Laura Koenig, City Clerk  
Approved as to form:

\_\_\_\_\_  
Margaret J. King, City Attorney  
Date of Publication:  
Effective Date:

**Chapter 3.46**  
**DRIVING WHILE INTOXICATED GRANT FUND**

Sections:

- [3.46.010](#) Purpose.
- [3.46.020](#) Establishment.
- [3.46.030](#) Allowable expenditures.
- [3.46.040](#) Recordkeeping.

**3.46.010 Purpose.**

This fund is created to implement the grant that has been awarded to the city for prosecution of offenders cited for driving while under the influence of intoxicating liquor, or drugs (hereafter to be referred to as D.W.I.). (Ord. 452, 1984)

**3.46.020 Establishment.**

- A. There is created and established a fund to be known as the D.W.I. grant fund.
- B. Such fund shall be applied for the purpose of prosecuting D.W.I. cases between September 15, 1984 and June 30, 1985. (Ord. 452, 1984)

**3.46.030 Allowable expenditures.**

- A. Payments are to be made from this fund for expenditures directly related to the prosecution of D.W.I. cases which shall include, but are not limited to, clerical fees for preparation of cases, prosecutor costs, jury fees, and other fees not specifically disallowed by the conditions of the grant.
- B. All expenditures are to be supported by appropriate documentation. (Ord. 452, 1984)

**3.46.040 Recordkeeping.**

Security and the required recordkeeping shall be the responsibility of the clerk/treasurer. (Ord. 452, 1984)

CITY OF SULTAN  
WASHINGTON  
ORDINANCE NO. 1023-09

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON,  
REPEALING CHAPTER 2.12 RELATING TO THE VOLUNTEER  
FIRE DEPARTMENT FROM THE SULTAN MUNICIPAL CODE;  
PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN  
EFFECTIVE DATE

WHEREAS, the City Of Sultan established a Sultan Volunteer Fire Department under Ordinance 170 in 1940; and

WHEREAS, the City of Sultan annexed into Snohomish County Fire District 5 in 1991; and

WHEREAS, the City no longer has a Volunteer Fire Department;

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

Section 1. Chapter 2.12, Volunteer Fire Department, is hereby repealed.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

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OF \_\_\_\_\_, 2009.

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Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:

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Laura Koenig, City Clerk  
Approved as to form:

\_\_\_\_\_  
Margaret J. King, City Attorney

Date of Publication:  
Effective Date:

**Chapter 2.12  
VOLUNTEER FIRE DEPARTMENT**

Sections:

[2.12.010](#) Establishment – Membership.

[2.12.020](#) Adoption of volunteer firemen’s relief and compensation fund.

[2.12.030](#) Board of trustees of fund – Constitution.

[2.12.040](#) Board of trustees of fund – Meetings and conduct of business.

[2.12.050](#) Member enrollment for purposes of retirement benefits – Annual fee.

**2.12.010 Establishment – Membership.**

There is created a department to be known as the Sultan volunteer fire department, whose membership number shall be determined by resolution by the Sultan city council. (Ord. 444, § 1, 1983; Ord. 170 § 1, 1940)

**2.12.020 Adoption of volunteer firemen’s relief and compensation fund.**

The city council elects to adopt the benefits of, and be bound by, the provisions of Chapter 121, Laws of 1935, which chapter establishes the volunteer firemen’s relief and compensation fund. (Ord. 170 § 2, 1940)

**2.12.030 Board of trustees of fund – Constitution.**

The board of trustees of the volunteer firemen’s relief and compensation fund shall be constituted as provided in Sections 2 and 3 of the act mentioned in SMC [2.12.020](#). (Ord. 170 § 3, 1940)

**2.12.040 Board of trustees of fund – Meetings and conduct of business.**

The board of trustees mentioned in SMC [2.12.030](#) shall meet on the first Monday after the effective date of the ordinance codified in SMC [2.12.010](#) through this section, or as soon thereafter as possible, and adopt rules and regulations for the conduct of its business, not inconsistent with the laws of the state of Washington. (Ord. 170 § 4, 1940)

**2.12.050 Member enrollment for purposes of retirement benefits – Annual fee.**

Any member of the Sultan volunteer fire department is permitted to enroll under the provisions of the Volunteer Firemen’s Relief and Pension Act, for the purpose of enabling any such fireman, so electing, to avail himself of the retirement provisions of said act; provided, however, that anyone so enrolling under said pension provisions shall pay the fee required by said act prior to March 1st of each year, and in the event that said fireman does not contribute said annual fee, he shall be dropped from the rolls, as provided by statute, with the privilege of being reinstated; provided said reinstatement is approved by the city council. (Ord. 245 § 1, 1960)

CITY OF SULTAN  
WASHINGTON  
ORDINANCE NO. 1024-09

AN ORDINANCE OF THE CITY OF SULTAN, WASHINGTON,  
REPEALING CHAPTER 5.12 RELATING TO DANCING AND  
LIVE MUSIC FROM THE SULTAN MUNICIPAL CODE;  
PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN  
EFFECTIVE DATE

WHEREAS, the City Of Sultan adopted Ordinance 349 in 1976 to provide control and policing of places where dancing and live music are conducted; and

WHEREAS, the City Attorney has recommended Chapter 5.12 be repealed and replaced with regulations specific to special events that affect public property and services; and

WHEREAS, the City no longer issues a license or permit to have dancing or live music;

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

Section 1. Chapter 5.12, Dancing and Live Music, is hereby repealed.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

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CITY OF SULTAN

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Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:

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Laura Koenig, City Clerk  
Approved as to form:

\_\_\_\_\_  
Margaret J. King, City Attorney  
Date of Publication:  
Effective Date:

**Chapter 5.12  
DANCING AND LIVE MUSIC**

Sections:

- [5.12.010](#) Purpose.
- [5.12.020](#) License or permit – Required.
- [5.12.030](#) License or permit – Exemptions.
- [5.12.040](#) License or permit – Application – Contents.
- [5.12.050](#) License or permit – Application – Investigation.
- [5.12.060](#) License or permit – Terms and fees.
- [5.12.070](#) License or permit – Suspension or revocation.
- [5.12.080](#) Violation – Penalty.

**5.12.010 Purpose.**

The purpose of this chapter is to provide better control and policing of places where dancing and live music are conducted. (Ord. 349 § 1, 1976)

**5.12.020 License or permit – Required.**

It is unlawful for any establishment, business, organization or group of persons to have dancing or live music at any place in the city of Sultan without having first obtained a license or permit therefor as required in this chapter. (Ord. 349 § 2, 1976)

**5.12.030 License or permit – Exemptions.**

A. All schools and churches are specifically exempt from this chapter and need not obtain a license for dancing or to have live music.

B. Any establishment, business, organization or group of persons may request of the Sultan city council an exemption from this chapter.

C. The Sultan city council need not grant any exemption not specifically provided for in this chapter, but may at its complete discretion grant any establishment, business, organization or group of persons an exemption from this chapter. (Ord. 349 § 3, 1976)

**5.12.040 License or permit – Application – Contents.**

Applications for such license or permit shall be made on forms provided by the city clerk/treasurer providing for the name and address of the establishment, business, organization or group of persons, name of owner, name of manager, phone number of each, dates and times when dancing or live music will be anticipated and such other information as the clerk/treasurer, city marshal or fire chief recommends and incorporates into said application. (Ord. 349 § 4, 1976)

#### **5.12.050 License or permit – Application – Investigation.**

It shall be the duty of the city marshal to make or cause to be made an investigation into the character of each applicant, or the manager or owner thereof, and report the results of such investigation to the Sultan city council. (Ord. 349 § 5, 1976)

#### **5.12.060 License or permit – Terms and fees.**

A. For single occurrence events where dancing or live music is anticipated, a permit shall be obtained from the city clerk/treasurer after the completion of the application mentioned in SMC [5.12.040](#), approval by the Sultan city council and the payment of \$25.00.

B. The permit shall be good for 24 hours from the time the dancing or live music is anticipated to begin.

C. For all other than single occurrence events, a license shall be obtained from the city clerk/treasurer after the completion of the application mentioned in SMC [5.12.040](#), approval of the Sultan city council and the payment of \$100.00.

D. A license shall be good for one year from the date of issuance.

E. Licenses shall not be prorated. (Ord. 349 § 6, 1976)

#### **5.12.070 License or permit – Suspension or revocation.**

A. At any time that any establishment, business, organization or group of persons having been licensed, shall operate in a manner which in the judgment of the city council is inconsistent with the best interests and welfare of the community, or upon the recommendation of the city marshal, for good cause shown, the council shall revoke or suspend such license or permit without notice for such period of time as they may deem appropriate.

B. In the event of a suspension or revocation of any license or permit, no part of the fee shall be refunded. (Ord. 349 § 7, 1976)

#### **5.12.080 Violation – Penalty.**

A violation of this chapter shall be a misdemeanor and punished accordingly. (Ord. 349 § 8, 1976)