

**CITY OF SULTAN
COUNCIL RETREAT
COMMUNITY CENTER
March 23, 2013**

Agenda Items:

1. Nuisance Code
2. Business License Ordinance
3. Sewer Connection Status
4. Council Training and Ethics Code
5. PSRC – New funding rules
6. Planning Board Structure

Schedule:

9:00 – 9:15	Mayor's Comments
9:15 – 10:30	SMC Title 8 Nuisance
10:30 – 10:45	Break
10:45 – 11:45	Business License
11:45- 12:30	Lunch
12:30 – 1:30	Sewer Connection Status
1:30 – 1:45	Break
1:45 - 2:15	Council Training and Ethics Code
2:15 – 2:30	PSRC New funding rules
2:30 – 3:00	Planning Board Structure

ADA NOTICE: City of Sultan Community Center is accessible. Accommodations for persons with disabilities will be provided upon request. Please make arrangements prior to the meeting by calling City Hall at 360-793-2231. For additional information please contact the City at cityhall@ci.sultan.wa.us or visit our web site at www.ci.sultan.wa.us

SULTAN CITY COUNCIL AGENDA ITEM COVER SHEET

ITEM NO: Discussion D 1
DATE: March 23, 2013
SUBJECT: SMC Title 8 Nuisances (Health and Safety)
CONTACT PERSON: Laura Koenig, Clerk/Deputy Finance Director

ISSUE

The issue is to review SMC Title 8 (Healthy and Safety) and provide direction to staff on amending SMC 8.04 regarding nuisances.

SUMMARY:

Council and staff having been working on major updates to the Sultan Municipal Code for the past 5 years. Portions of the code were written in the early 1900's when the city was incorporated and are no longer applicable. The work program for 2013 includes an update to SMC Title 8 (Attachment A).

SMC Title 8 (Healthy and Safety) is divided into five sections:

- 8.04 Nuisances – Adopted in 1979
- 8.06 Fireworks – Adopted in 2009
- 8.08 Fastening Animals to or Posting Placards on Structures – Adopted in 1912
- 8.10 Public Disturbance Noise – Adopted in 2002, updated in 2009
- 8.12 Regulation of Panhandling – Adopted in 2010

DISCUSSION:

The major issue with enforcement is Chapter 8.04, Nuisances. Staff worked on the Nuisance code in 2011 and 2012 and found that several sections in the nuisance code are covered in other sections of the SMC. Items addressed in other sections of the code include fireworks, animal control, street and sidewalks and vehicles.

Chapter 8.04 Nuisances: The following is a summary of the staff analysis of the code:

Chapter 8.04 NUISANCES

8.04.010 Defined.

Need to expand the definition section

A public nuisance is a thing, act, omission, occupation, condition or use of property which:

A. Substantially annoys, injures, or endangers the comfort, health, repose or safety of the public;

B. In any way renders the public insecure in life or in the use of property;

C. Offends the public morals or decency;

D. Interferes with, obstructs or tends to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way. (Ord. 376 § 2, 1979)

8.04.020 Maintaining or permitting prohibited.

No person, persons, firms or corporation shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the city of Sultan. (Ord. 376 § 1, 1979)

8.04.030 Affecting health – Designated.

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of SMC 8.04.010:

Health District issue A. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;

B. Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death;

C. Accumulations of decayed animal or vegetable matter, trash, or rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed;

D. All stagnant water in which mosquitoes, flies or other insects may multiply;

E. All noxious weeds (a weed being defined as any plant that grows out of place), and other rank growth of vegetation upon public or private property, and all grass, weeds, shrubs, bushes, trees or vegetation growing or which have grown and died, on any property and are a fire hazard or a menace to public health, safety or welfare;

F. Tent caterpillars;

G. The escape of smoke, soot, cinders, noxious acids, fumes, gases, ash or industrial dust within the city limits in such quantities as to endanger the health of persons of ordinary sensibilities or cause injury to property;

H. The pollution of any well or cistern, stream, lake, canal or body of water by sewage or industrial wastes or other substances;

Need to define better I. Any use of property, substances or things emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, effluvia or stenches repulsive to the physical senses of persons which annoy, discomfort, injure or inconvenience the health of persons within the city;

J. All abandoned wells not securely covered or secured from public use;

Health District issue K. All public exposure of persons having a contagious disease;

Covered under RCW 69.50 L. The distribution of samples of medicines or drugs unless such samples are placed in the hands of an adult person;

Title 13 issue M. Garbage cans which do not have a tight-fitting lid;

Health District issue N. All other acts, omissions of acts, occupations and uses of property which are deemed by the Snohomish County board of health to be a menace to the health of the inhabitants of this city. (Ord. 376 § 3, 1979)

8.04.040 Offending morals and decency – Designated.

The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of SMC 8.04.010:

Covered under RCW A. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling;

Covered under RCW and SMC B. All gambling devices which are not licensed or permitted by the city council;

Covered under RCW C. Any place or premises where city ordinances or laws relating to public health, safety, peace, morals or welfare are openly, continuously or repeatedly violated;

Covered under RCW D. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the state of Washington or the ordinances of the city. (Ord. 376 § 4, 1979)

8.04.050 Affecting peace and safety – Designated.

The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of SMC 8.04.010:

Needs more detailed explanation A. All snow and ice not removed from public sidewalks;

B. All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as official traffic-control devices placed or maintained upon or in view of any public highway or railway crossing;

C. All trees, hedges, billboards or other obstructions which prevent persons from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk;

D. All limbs of trees which project over a public sidewalk, less than eight feet above the surface thereof or less than 14 feet above the surface of a public street;

E. All trees, limbs, buildings, structures, power and light poles and their appurtenances, or equipment which poses a reasonable threat to life or property in the event that such trees, limbs, buildings, structures, power and light poles and their appurtenances or equipment were to fall on adjacent public or private property;

Covered under SMC 8.06 F. All use or display of fireworks except as provided by the laws of the state of Washington and ordinances of the city;

Consider property maintenance code to address this issue G. All buildings or structures so old, dilapidated and out of repair or which have been so damaged by fire or flood as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;

H. All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground;

Covered under SMC Noise ord I. All loud, discordant and unnecessary noises or vibrations of any kind between the hours of 10:00 p.m. and 8:00 a.m.;

Covered under RCW J. All motorcycles, automobiles, chainsaws, lawnmowers or other motorized equipment which are not equipped with the original equipment muffler or noise-deadening device or other replacement muffler or noise-deadening device recommended by the engine manufacturer;

Should be under Animal control codes K. The keeping or harboring of any animal or fowl which by the emission of offensive odors or by frequent or habitual howling, yelping, barking, crowing or making of other noises, annoys or disturbs persons within the city;

Should be under Animal control codes L. Allowing vicious animals to run at large and all activities prohibited by Chapters 6.04, 6.08, 6.12 and 6.16 SMC;

M. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the city or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose whereof has been accomplished;

N. All open and unguarded pits, wells, excavations or unused basements;

O. All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside;

P. Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the street or sidewalk;

Fire Code Q. Violations of the ordinances of the city or laws of the state of Washington relating to the storage of flammable liquids;

R. The dismantling, reconstruction or repair of any vehicle or piece of machinery upon any street, alley or other public place, except minor repairs of an emergency nature;

Enforcement issue needs to be addressed S. All vehicles or machines parked or driven on any city street, alleyway or highway with a leaking fuel tank;

Enforcement issue needs to be addressed T. All vehicles used to transport flammable or explosive liquids or gases or corrosive acids, parked within the city limits, unless said vehicle is in the lawful delivery of said liquids, gases or acids;

Needs work – review other city codes U. All automobiles, trailers, house trailers, mobile and motor homes, boats, and all other vehicles or parts thereof, which have been left out of doors, unsheltered, for a period of 30 days; provided further, that none of the above may be left on any city street, alleyway or highway for more than 72 hours without the specific permission of the chief of police;

V. Any fence or other structure or thing on private property abutting or fronting upon any public street, sidewalk or place, which is in a sagging, leaning, fallen, decayed or other dilapidated or unsafe condition;

W. The existence upon the sidewalk in front of any premises of any debris, litter or substantial quantity of dirt;

X. All dangerous, unguarded machinery, in any public place, or so situated or operated on private property as to attract the public;

Should be under Animal control codes Y. Leading, driving or riding any horse or other livestock upon or over any sidewalk or public park;

Z. Crossing curbs or sidewalks with vehicles where no regular provision has been made for such crossing, without first protecting the same with appropriate risers and planking;

Too broad AA. All other conditions or things which are liable to cause injury to the person or property of anyone. (Ord. 484, 1986; Ord. 438, 1983; Ord. 376 § 5, 1979)

8.04.060 Abatement – Inspection of premises. Needs Legal input on abatement process

A. Whenever a complaint is made to the chief of police that a public nuisance exists within the city of Sultan, the chief of police or building inspector shall forthwith inspect or cause to be inspected the premises and shall make a written report of his findings.

B. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the city clerk.

Enforcement of the nuisance code creates a problem for staff and police personnel. The current code provides for an abatement process for all nuisances and is a time consuming and potentially costly process.

Staff recommends the Council consider adopting code sections that address:

- Trash, garbage and rubbish
- Vehicles and machinery
- Vegetation
- Sidewalks and Street
- Structures
- Other nuisances as defined

Chapter 8.06 Fireworks: Use of Fireworks is discussed frequently at Council meetings. In 2009, the Council adopted Ordinance 1037-09 to regulations for the discharge and sale of fireworks. Ordinance 1037-09:

- Repealed the existing code which bans discharging fireworks except through public displays authorized by the City.
- Allows the sale and discharge of common fireworks consistent with state law.
- Requires a permit issued by the City Council for public display of fireworks.
- Requires a permit issued by the City at the staff level for retail sales of fireworks.
- Requires an inspection by the building official or designee of any structure or building intended for retail activity, wholesales activity, manufacturing activity, fireworks storage or public display of fireworks.
- Requires activities to be conducted in a safe and reasonable manner.
- Provides an appeal of retail permit conditions or denial to the City Council.
- Provides conditions for revoking a permit.
- Establishes misdemeanor penalties of up to \$1000 and 90 days in jail

In September 2011, the Sub-Committee recommended limiting the days and hours of use for fireworks. RCW Chapter 70.77 was adopted by reference in Ordinance 1037-09 and provides limitations. The Council directed staff to prepare an education campaign brochure for the public to provide information on the restrictions. (Attachment B).

Staff does not recommend any changes to the existing code.

Chapter 8.08 Fastening Animals to or Posting Placards on Structures: This code was adopted in 1912 and reads:

8.08.010 Unlawful acts. It is unlawful for any person to tie or fasten any horse or other animal to any telephone pole, telegraph pole or light pole, or any hydrant or shade tree situated upon any of the public streets or highways within the corporate limits of the city of Sultan, or to post any bill or placard upon any such telephone pole, telegraph pole or light pole, or hydrant or shade tree. (Ord. 61 § 1, 1912)

8.08.020 Violation – Penalty. *Any person violating any of the provisions of this chapter, shall be guilty of a misdemeanor and upon a conviction thereof, shall be fined in a sum not exceeding \$25.00 and costs for each offense. (Ord. 61 § 2, 1912)*

Issues involving animals should be addressed under Animal Control and the posting of notices on poles falls under regulations adopted by PUD and the phone companies.

Staff recommends this code section be repealed.

Chapter 8.10 Public Disturbance Noise: This code was adopted by Ordinance 799-02 in 2002. The code was updated under Ordinance 1011-09 in 2009 to address music and noise from nearby business that impacted residents. The language added was:

8.10.010 Definitions. For the purposes of this chapter, the following definitions shall apply: "Public disturbance noise" shall mean the following sources of sound:

I. Sound originating from a motor vehicle on the public highway when the vehicle does not have a muffler in good working order or is otherwise not in compliance with applicable laws and regulations;

8.10.040 Enforcement. Where the definition of "public disturbance noise" includes sound that unreasonably interferes with the peace, comfort and repose of owners or possessors of real property or neighboring property a civil infraction notice may only be issued after receipt of such a complaint. In all other instance a civil infraction notice may be issued without a complaint.

8.10.060 Punishment. A first violation and infraction of this chapter shall be punished with a penalty of \$100.00. A second violation and infraction of this chapter shall be punished with a penalty of \$500.00. A third and/or subsequent violation and infraction of this chapter is a misdemeanor and shall be punished with a fine of \$500.00 and/or incarceration in jail for a period not to exceed 30 days.

Staff does not recommend any changes to the existing code.

Chapter 8.12 Regulation of Panhandling: This code section was adopted under Ordinance 1083-10 in 2010 in response to the aggressive panhandling by homeless people. The police department produced an informational brochure for businesses and citizens. (Attachment C).

Staff does not recommend any changes to the existing code.

Attachments: A. SMC Title 8 Health and Safety
B. Fireworks Information Brochure
C. Panhandling Brochure

Title 8 HEALTH AND SAFETY

Chapters:

8.04 Nuisances

8.06 Fireworks

8.08 Fastening Animals to or Posting Placards on Structures

8.10 Public Disturbance Noise

8.12 Regulation of Panhandling

Chapter 8.04 NUISANCES

Sections:

8.04.010 Defined.

8.04.020 Maintaining or permitting prohibited.

8.04.030 Affecting health – Designated.

8.04.040 Offending morals and decency – Designated.

8.04.050 Affecting peace and safety – Designated.

8.04.060 Abatement – Inspection of premises.

8.04.070 Abatement – Notice – Generally.

8.04.080 Abatement – Notice – Form.

8.04.090 Abatement – Notice – Mailing and filing.

8.04.100 Abatement – Failure by owner – Conditions for immediate removal by city.

8.04.110 Abatement – Conditions for removal by court action.

8.04.120 Abatement – Other methods not excluded.

8.04.130 Abatement – Cost and assessment.

8.04.140 Violation – Penalty.

8.04.010 Defined.

A public nuisance is a thing, act, omission, occupation, condition or use of property which:

- A. Substantially annoys, injures, or endangers the comfort, health, repose or safety of the public;
- B. In any way renders the public insecure in life or in the use of property;
- C. Offends the public morals or decency;
- D. Interferes with, obstructs or tends to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way. (Ord. 376 § 2, 1979)

8.04.020 Maintaining or permitting prohibited.

No person, persons, firms or corporation shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the city of Sultan. (Ord. 376 § 1, 1979)

8.04.030 Affecting health – Designated.

The following acts, omissions, places, conditions and things are specifically declared to be public health nuisances, but shall not be construed to exclude other health nuisances coming within the definition of SMC 8.04.010:

- A. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public;
- B. Carcasses of animals, birds or fowl not buried or otherwise disposed of in a sanitary manner within 24 hours after death;
- C. Accumulations of decayed animal or vegetable matter, trash, or rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed;
- D. All stagnant water in which mosquitoes, flies or other insects may multiply;
- E. All noxious weeds (a weed being defined as any plant that grows out of place), and other rank growth of vegetation upon public or private property, and all grass, weeds, shrubs, bushes, trees or vegetation growing or which have grown and died, on any property and are a fire hazard or a menace to public health, safety or welfare;
- F. Tent caterpillars;
- G. The escape of smoke, soot, cinders, noxious acids, fumes, gases, ash or industrial dust within the city limits in such quantities as to endanger the health of persons of ordinary sensibilities or cause injury to property;
- H. The pollution of any well or cistern, stream, lake, canal or body of water by sewage or industrial wastes or other substances;
- I. Any use of property, substances or things emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, effluvia or stenches repulsive to the physical senses of persons which annoy, discomfort, injure or inconvenience the health of persons within the city;
- J. All abandoned wells not securely covered or secured from public use;
- K. All public exposure of persons having a contagious disease;
- L. The distribution of samples of medicines or drugs unless such samples are placed in the hands of an adult person;
- M. Garbage cans which do not have a tight-fitting lid;
- N. All other acts, omissions of acts, occupations and uses of property which are deemed by the Snohomish County board of health to be a menace to the health of the inhabitants of this city. (Ord. 376 § 3, 1979)

8.04.040 Offending morals and decency – Designated.

The following acts, omissions, places, conditions and things are specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of SMC 8.04.010:

- A. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling;
- B. All gambling devices which are not licensed or permitted by the city council;
- C. Any place or premises where city ordinances or laws relating to public health, safety, peace, morals or welfare are openly, continuously or repeatedly violated;
- D. Any place or premises resorted to for the purpose of drinking intoxicating liquor or fermented malt beverages in violation of the laws of the state of Washington or the ordinances of the city. (Ord. 376 § 4, 1979)

8.04.050 Affecting peace and safety – Designated.

The following acts, omissions, places, conditions and things are declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the provisions of SMC [8.04.010](#):

- A. All snow and ice not removed from public sidewalks;
- B. All unauthorized signs, signals, markings or devices which purport to be or may be mistaken as official traffic-control devices placed or maintained upon or in view of any public highway or railway crossing;
- C. All trees, hedges, billboards or other obstructions which prevent persons from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk;
- D. All limbs of trees which project over a public sidewalk, less than eight feet above the surface thereof or less than 14 feet above the surface of a public street;
- E. All trees, limbs, buildings, structures, power and light poles and their appurtenances, or equipment which poses a reasonable threat to life or property in the event that such trees, limbs, buildings, structures, power and light poles and their appurtenances or equipment were to fall on adjacent public or private property;
- F. All use or display of fireworks except as provided by the laws of the state of Washington and ordinances of the city;
- G. All buildings or structures so old, dilapidated and out of repair or which have been so damaged by fire or flood as to be dangerous, unsafe, unsanitary or otherwise unfit for human use;
- H. All wires over streets, alleys or public grounds which are strung less than 15 feet above the surface of the street or ground;
- I. All loud, discordant and unnecessary noises or vibrations of any kind between the hours of 10:00 p.m. and 8:00 a.m.;
- J. All motorcycles, automobiles, chainsaws, lawnmowers or other motorized equipment which are not equipped with the original equipment muffler or noise-deadening device or other replacement muffler or noise-deadening device recommended by the engine manufacturer;
- K. The keeping or harboring of any animal or fowl which by the emission of offensive odors or by frequent or habitual howling, yelping, barking, crowing or making of other noises, annoys or disturbs persons within the city;
- L. Allowing vicious animals to run at large and all activities prohibited by Chapters [6.04](#), [6.08](#), [6.12](#) and [6.16](#) SMC;
- M. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as permitted by the ordinances of the city or which, although made in accordance with such ordinances, are kept or maintained for an unreasonable length of time after the purpose whereof has been accomplished;
- N. All open and unguarded pits, wells, excavations or unused basements;
- O. All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside;

- P. Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the street or sidewalk;
- Q. Violations of the ordinances of the city or laws of the state of Washington relating to the storage of flammable liquids;
- R. The dismantling, reconstruction or repair of any vehicle or piece of machinery upon any street, alley or other public place, except minor repairs of an emergency nature;
- S. All vehicles or machines parked or driven on any city street, alleyway or highway with a leaking fuel tank;
- T. All vehicles used to transport flammable or explosive liquids or gases or corrosive acids, parked within the city limits, unless said vehicle is in the lawful delivery of said liquids, gases or acids;
- U. All automobiles, trailers, house trailers, mobile and motor homes, boats, and all other vehicles or parts thereof, which have been left out of doors, unsheltered, for a period of 30 days; provided further, that none of the above may be left on any city street, alleyway or highway for more than 72 hours without the specific permission of the chief of police;
- V. Any fence or other structure or thing on private property abutting or fronting upon any public street, sidewalk or place, which is in a sagging, leaning, fallen, decayed or other dilapidated or unsafe condition;
- W. The existence upon the sidewalk in front of any premises of any debris, litter or substantial quantity of dirt;
- X. All dangerous, unguarded machinery, in any public place, or so situated or operated on private property as to attract the public;
- Y. Leading, driving or riding any horse or other livestock upon or over any sidewalk or public park;
- Z. Crossing curbs or sidewalks with vehicles where no regular provision has been made for such crossing, without first protecting the same with appropriate risers and planking;
- AA. All other conditions or things which are liable to cause injury to the person or property of anyone.
(Ord. 484, 1986; Ord. 438, 1983; Ord. 376 § 5, 1979)

8.04.060 Abatement – Inspection of premises.

A. Whenever a complaint is made to the chief of police that a public nuisance exists within the city of Sultan, the chief of police or building inspector shall forthwith inspect or cause to be inspected the premises and shall make a written report of his findings.

B. Whenever practicable, the inspecting officer shall cause photographs to be made of the premises and shall file the same in the office of the city clerk. (Ord. 376 § 6(a), 1979)

8.04.070 Abatement – Notice – Generally.

If the inspecting officer determines that a public nuisance exists on private property and that there is great and immediate danger to the public health, safety, peace, morals or decency, the chief of police may serve notice on the owner or, if the owner cannot be found, on the occupant or person causing, permitting or maintaining such nuisance to abate or remove such nuisance within one to 72 hours, at the discretion of the inspecting officer and shall state that unless such nuisance is so abated, the city will cause the

same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the same, as the case may be. (Ord. 376 § 6(b) (1), 1979)

8.04.080 Abatement – Notice – Form.

The notice shall be substantially in the following form:

NOTICE TO ABATE UNSAFE OR UNLAWFUL CONDITION

(Name and address of person notified)

As owner, agent, lessee or other person occupying or having charge or control of the building, lot or premises at _____, you are hereby notified that the undersigned, pursuant to Ordinance No. _____ of the City of Sultan, has determined that there exists upon or adjoining said premises the following condition contrary to the provisions of Subsection _____ of Section _____.

You are hereby notified to abate said condition to the satisfaction of the undersigned within _____ hours/days of the date of this notice or to appear at the office of _____ at _____ o'clock _____m., and show cause, if any you have, why said condition should not be abated by the City, and the expenses thereof charged to you as a personal obligation. Abatement is to be accomplished in the following manner:

Dated: _____ (Name of Enforcement Officer)

By:

(Ord. 376 § 6(b) (1), 1979)

8.04.090 Abatement – Notice – Mailing and filing.

A. A copy of the notice provided for in SMC 8.04.070 and 8.04.080 shall be sent to the owner and may be sent to any other of said persons sought to be charged with the responsibility of abatement. The notice shall be sent by mail, postage prepaid, and addressed as follows:

1. To the Owner. As such person's name and address appears on the records of the Snohomish County treasurer, or as known to the enforcement officer of the person authorized by the enforcement officer to give such notice;

2. To Any Other Such Person. As such person's name and address are known to the enforcement officer or the person authorized by him to give notice.

B. The person giving such notice shall file a copy thereof in the office of the enforcement officer, together with an affidavit or certificate stating the time and manner in which such notice was given. The failure of any owner or other person to receive such notice shall not affect in any manner the validity of any proceedings taken under this chapter. (Ord. 376 § 6(b) (2), 1979)

8.04.100 Abatement – Failure by owner – Conditions for immediate removal by city.

If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the health officer, in case of a health nuisance, or the chief of police, in other cases, shall cause the abatement or removal of such public nuisance. (Ord. 376 § 6(c), 1979)

8.04.110 Abatement – Conditions for removal by court action.

If the inspection officer determines that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten great and immediate danger to the public health, safety, peace, morals or decency, he may file a written report of his findings with the mayor who may cause an action to abate such nuisance to be commenced in the name of the city. (Ord. 376 § 6(d), 1979)

8.04.120 Abatement – Other methods not excluded.

Nothing in this chapter shall be construed as prohibiting the abatement of public nuisance by the city of Sultan or its officials in accordance with the laws of the state of Washington. (Ord. 376 § 6(e), 1979)

8.04.130 Abatement – Cost and assessment.

In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the city shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as other special taxes. (Ord. 376 § 7, 1979)

8.04.140 Violation – Penalty.

A. Any person or organization violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine not to exceed \$500.00 or imprisonment not to exceed six months, or by both such fine and imprisonment.

B. Each day of violation of any provision of this chapter shall be considered a separate offense and such offender may be punished separately therefor. (Ord. 376 § 8, 1979)

Chapter 8.06 FIREWORKS

Sections:

8.06.010 Purpose.

8.06.020 State law adopted.

8.06.030 City – Local public agency – Local government – Defined.

8.06.040 Public display – Permit required.

8.06.050 Retail sales – Permit required.

8.06.060 Inspections required.

8.06.070 Activities to be conducted in a safe and reasonable manner.

8.06.080 Retail permit – Appeal.

8.06.090 Permit revocation.

8.06.100 Penalty.

8.06.110 Severability.

8.06.010 Purpose.

It is the intent of this chapter to provide a procedure for the granting of permits, and the possession, sale and discharge of fireworks. (Ord. 1037-09 § 2 (Exh. A))

8.06.020 State law adopted.

Chapter 70.77 RCW pertaining to fireworks is adopted by this chapter by reference as though stated in its entirety in this chapter. (Ord. 1037-09 § 2 (Exh. A))

8.06.030 City – Local public agency – Local government – Defined.

The terms "city," "local public agency," and "local government," as used in the sections of Chapter 70.77 RCW that are adopted by reference in this chapter, shall mean the city of Sultan. (Ord. 1037-09 § 2 (Exh. A))

8.06.040 Public display – Permit required.

A permit for a public display of fireworks may be issued by the city council if and when they deem it advisable. The city may place reasonable conditions on any permit issued. (Ord. 1037-09 § 2 (Exh. A))

8.06.050 Retail sales – Permit required.

It is unlawful for any person, firm, partnership or corporation to engage in the retail sale of fireworks within the city without first having obtained a permit from the city. Application for a permit shall be made in writing accompanied by a permit fee as established in the city's fee schedule as adopted by resolution. The city may place reasonable conditions on any permit issued. (Ord. 1037-09 § 2 (Exh. A))

8.06.060 Inspections required.

Prior to the issuance of any permit, the building official or his or her designee shall perform an inspection of any structure or building intended for retail activity, wholesale activity, manufacturing activity, fireworks storage, or public display of fireworks, to determine whether such structures or buildings comply with the requirements of the Revised Code of Washington, the Washington Administrative Code or the city code.

No permit shall be issued until such structures or buildings comply with applicable laws. (Ord. 1037-09 § 2 (Exh. A))

8.06.070 Activities to be conducted in a safe and reasonable manner.

A. All retailers of fireworks or persons publicly displaying fireworks shall be responsible for conducting activities in a manner that is safe and responsible and in compliance with all federal, state, and local laws and regulations. The issuance of any permit required by this chapter shall in no way relieve any person from the duty of complying with all federal, state, and local laws and regulations or conducting activities in a safe and reasonable manner. The issuance of a permit shall not be deemed an endorsement by the city of Sultan of the activity engaged in.

B. The city shall not be liable to any person, corporation, entity or holder of property for any damage that is caused by or derived from the display of fireworks, and the person displaying fireworks assumes all risks of such display, and shall hold the city and its employees and officials harmless from any and all claims or causes of action for damage caused by or derived from such display. (Ord. 1037-09 § 2 (Exh. A))

8.06.080 Retail permit – Appeal.

The person applying for a retail permit to sell fireworks may appeal in writing the denial of the permit or the conditions of the permit to the city council. The appeal shall be based solely upon written information provided by the applicant, and no hearing shall be required. The determination of the city council of the appeal shall be final. (Ord. 1037-09 § 2 (Exh. A))

8.06.090 Permit revocation.

Violations of any provision of Chapter 70.77 RCW, this chapter, or a permit issued hereunder, or any failure or refusal on the part of the permittee to obey any rule, regulation or request of the fire chief or his or her designee concerning fireworks, shall be grounds for the revocation of a fireworks permit. (Ord. 1037-09 § 2 (Exh. A))

8.06.100 Penalty.

Except as otherwise provided in this chapter, any person violating any provision of this chapter or any permit issued pursuant to this chapter is guilty of a misdemeanor punishable by imprisonment for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than \$1,000, or by both such imprisonment and fine. A person is guilty of a separate offense for each day or occurrence during which he or she commits, continues, or permits a violation of any provision of, or permit issued under, this chapter. The inclusion in this chapter of criminal penalties does not preclude enforcement of this chapter through civil means. (Ord. 1037-09 § 2 (Exh. A))

8.06.110 Severability.

This chapter is severable and if any portion of it shall be declared invalid or unconstitutional, the remaining portion shall remain valid and enforceable. (Ord. 1037-09 § 2 (Exh. A))

Chapter 8.08
FASTENING ANIMALS TO OR POSTING PLACARDS ON STRUCTURES

Sections:

8.08.010 Unlawful acts.

8.08.020 Violation – Penalty.

8.08.010 Unlawful acts.

It is unlawful for any person to tie or fasten any horse or other animal to any telephone pole, telegraph pole or light pole, or any hydrant or shade tree situated upon any of the public streets or highways within the corporate limits of the city of Sultan, or to post any bill or placard upon any such telephone pole, telegraph pole or light pole, or hydrant or shade tree. (Ord. 61 § 1, 1912)

8.08.020 Violation – Penalty.

Any person violating any of the provisions of this chapter, shall be guilty of a misdemeanor and upon a conviction thereof, shall be fined in a sum not exceeding \$25.00 and costs for each offense. (Ord. 61 § 2, 1912)

Chapter 8.10 PUBLIC DISTURBANCE NOISE

Sections:

- 8.10.010 Definitions.
- 8.10.020 Exemptions.
- 8.10.030 Infraction.
- 8.10.040 Enforcement.
- 8.10.050 Separate offenses.
- 8.10.060 Punishment.
- 8.10.070 Evidence in proceedings.

8.10.010 Definitions.

For the purposes of this chapter, the following definitions shall apply:

“Public disturbance noise” shall mean the following sources of sound:

- A. Frequent, repetitive or continuous sound from any horn or siren attached to a motor vehicle except as a warning of danger or specifically permitted or required by law;
- B. Frequent, repetitive or continuous sound in connection with the starting, operating, repairing, rebuilding or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine in any residential zone which unreasonably interferes with the peace, comfort and repose of owners or occupants of real property in the residential zone;
- C. Loud or raucous sound from any activity which unreasonably interferes with the operation of any school, church, hospital, sanitarium or nursing or convalescent facility;
- D. Frequent, repetitive or continuous sound which emanates from a building structure or property, and created by musical instrument, whistle, sound amplifier, stereo, jukebox, radio, television or other device capable of reproducing or creating sound, such as sounds originating from a band session, tavern operation or commercial sales lot which unreasonably interferes with the peace, comfort and repose of owners or occupants of nearby property;
- E. Sound from a motor vehicle audio sound system, such as a radio, tape player or compact disc player, when the volume is such that the sound can be clearly heard by a person of normal hearing at a distance of more than 50 feet from the vehicle itself;
- F. Sound from carried or transported portable audio sound equipment, such as a radio, tape player or compact disc player, when the volume is such that the sound can be clearly heard by a person of normal hearing at a distance of more than 50 feet from the source of the sound;
- G. Frequent, repetitive or continuous sound which emanates from a residence, structure or property, and created by audio sound equipment, musical instruments or social gatherings which unreasonably

interferes with the peace, comfort and repose of owners or occupants of neighboring residential properties;

H. Sound from squealing or screeching of motor vehicle tires in contact with the ground or other roadway surface because of rapid acceleration, braking or excessive speed around corners except such sounds which arise from actions to avoid danger;

I. Sound originating from a motor vehicle on the public highway when the vehicle does not have a muffler in good working order or is otherwise not in compliance with applicable laws and regulations;

J. Sound from yelling, shouting, hooting, whistling or singing on or near the public streets occurring between the hours of 11:00 p.m. and 7:00 a.m. which unreasonably interferes with the peace, comfort and repose of owners or occupants of real property;

K. Sound originating from residential real property relating to temporary projects for the maintenance or repair of homes, grounds or appurtenances, including sounds from lawnmowers, power hand tools, snow removal equipment and the like when the same occurs between the hours of 10:00 p.m. and 7:00 a.m. weekdays and 10:00 p.m. and 9:00 a.m. on weekends;

L. Sounds originating from construction sites and activities, including but not limited to sounds from construction equipment, power tools and hammering between the hours of 10:00 p.m. and 7:00 a.m. weekdays and 10:00 p.m. and 9:00 a.m. on weekends except such sounds which arise from emergency construction work to protect public or personal health and safety. (Ord. 1011-09 § 1; Ord. 799-02)

8.10.020 Exemptions.

Though the following sources of sound may fall within the definitions of a "public disturbance noise" as defined in the previous section, the following sounds shall be exempt and shall not be a public disturbance noise:

A. Noise originating from aircraft in flight and sounds which originate in airports and are directly related to flight operations;

B. Noise created by safety and protective devices, such as relief valves where noise suppression would defeat the safety relief intent of the device;

C. Noise created by fire or security alarms, or noise created by emergency equipment;

D. Noise created by auxiliary equipment on motor vehicles used for highway maintenance;

E. Noise created by a special event so long as the event is in compliance with the terms and conditions of its special event permit;

F. Noise created by natural phenomenon;

G. Noise created by public utility facilities including electrical substations;

H. Noise created from local school marching bands while practicing;

I. Noise created by bells, chimes or carillon not operated for more than five minutes in any one hour from the hours of 7:00 a.m. to 10:00 p.m., but not including such noise as is artificially created and amplified and broadcast via loud speaker; and

J. Noise created by the operation of equipment or facilities of surface carriers engaged in commerce by railroad. (Ord. 799-02)

8.10.030 Infraction.

It is unlawful and a civil infraction for any person to cause or allow to be emitted a nonexempt public disturbance noise as defined by this chapter. (Ord. 799-02)

8.10.040 Enforcement.

Where the definition of "public disturbance noise" includes sound that unreasonably interferes with the peace, comfort and repose of owners or possessors of real property or neighboring property, a civil infraction notice may only be issued after receipt of such a complaint. In all other instances, a civil infraction notice may be issued without a complaint. (Ord. 1011-09 § 1; Ord. 799-02)

8.10.050 Separate offenses.

For enforcement purposes, sound emitted during separate days shall be deemed a separate violation. A day is a 24-hour period beginning with the first violation and infraction. (Ord. 1011-09 § 1; Ord. 799-02)

8.10.060 Punishment.

A first violation and infraction of this chapter shall be punished with a penalty of \$100.00. A second violation and infraction of this chapter shall be punished with a penalty of \$500.00. A third and/or subsequent violation and infraction of this chapter is a misdemeanor and shall be punished with a fine of \$500.00 and/or incarceration in jail for a period not to exceed 30 days. (Ord. 1011-09 § 1; Ord. 799-02)

8.10.070 Evidence in proceedings.

In any proceeding under this chapter, evidence of sound level through the use of sound level meter readings shall not be necessary to establish the commission of the violation. (Ord. 1011-09 § 1; Ord. 799-02)

Chapter 8.12 REGULATION OF PANHANDLING

Sections:

8.12.010 Purpose.

8.12.020 Definitions.

8.12.030 Place of panhandling.

8.12.040 Panhandling by coercion.

8.12.050 Evidence.

8.12.060 Penalties.

8.12.010 Purpose.

The purpose of this chapter is to protect citizens from the fear and intimidation accompanying certain kinds of panhandling, to promote tourism and business, and to preserve the quality of urban life while providing safe and appropriate venues for constitutionally protected activity. (Ord. 1083-10 § 1 (Exh. A))

8.12.020 Definitions.

In this chapter:

A. "Automated teller machine" means a machine, other than a telephone:

1. That is capable of being operated by a customer of a financial institution;
2. By which the customer may communicate to the financial institution a request to withdraw, deposit, or transfer funds, make payment, or otherwise conduct financial business for the customer or for another person directly from the customer's account or from the customer's account under a line of credit previously authorized by the financial institution for the customer; and
3. The use of which may or may not involve personnel of a financial institution.

B. "Coercion" means:

1. To approach or speak to a person in such a manner as would cause a reasonable person to believe that the person is being threatened with either imminent bodily injury or the commission of a criminal act upon the person or another person or upon property in the person's immediate possession;
2. To persist in panhandling after the person solicited has given a negative response;
3. To block, either individually or as part of a group of persons, the passage of a solicited person;
4. To engage in conduct that would reasonably be construed as intended to compel or force a solicited person to accede to demands;
5. To use violent or threatening gestures toward a person;
6. Willfully providing or delivering, or attempting to provide or deliver, unrequested or unsolicited services or products with a demand or exertion of pressure for payment in return; or

7. To use profane, offensive, or abusive language; this is inherently likely to provoke an immediate violent reaction.
- C. "Exterior public pay telephone" means any coin or credit card reader telephone that is:
1. Installed or located anywhere on a premises except exclusively in the interior of a building located on the premises; and
 2. Accessible and available for use by members of the general public.
- D. "Public transportation facility" means a facility or designated location that is owned, operated, or maintained by a city, county, county transportation authority, public transportation benefit area, regional transit authority, or metropolitan municipal corporation within the state.
- E. "Public transportation stop" means an area officially marked and designated as a place to wait for a bus, a light rail vehicle, or any other public transportation vehicle that is operated on a scheduled route with passengers paying fares on an individual basis.
- F. "Public transportation vehicle" has the meaning given that term in RCW 46.04.355, as currently adopted or as it may be amended in the future.
- G. "Self-service car wash" means a structure:
1. At which a vehicle may be manually washed by its owner or operator with equipment that is activated by the deposit of money in a coin-operated machine; and
 2. That is accessible and available for use by members of the general public.
- H. "Self-service fuel pump" means a fuel pump:
1. From which a vehicle may be manually filled with gasoline or other fuel directly by its owner or operator, with or without the aid of an employee or attendant of the premises at which the fuel pump is located; and
 2. That is accessible and available for use by members of the general public.
- I. "Panhandling" and all derivative forms of "solicit" mean to ask, beg, or plead, whether orally or in a written or printed manner, for the purpose of immediately receiving contributions, alms, charity, or gifts of items of value for oneself or another person. (Ord. 1083-10 § 1 (Exh. A))

8.12.030 Place of panhandling.

A. Panhandling near Designated Locations and Facilities.

1. It is unlawful for any person to solicit another person within 15 feet of:
 - a. An automated teller machine; or
 - b. The entrance of a building, unless the solicitor has written permission from the owner or occupant; or
 - c. An exterior public pay telephone; or
 - d. A self-service car wash, unless the panhandler has written permission from the owner or occupant of the business; or
 - e. A self-service fuel pump, unless the panhandler has written permission from the owner or occupant of the business; or
 - f. A public transportation stop; or
 - g. Any parked vehicle as occupants of such vehicle enter or exit such vehicle.

2. It is unlawful for a person to panhandle from another person:

- a. On private property, unless the panhandler has written permission from the owner or occupant;
- b. After sunset or before sunrise;
- c. In any public transportation facility or vehicle.

B. For purposes of subsection (A) of this section, measurement will be made in a straight line, without regard to intervening structures or objects, from the nearest point at which a solicitation is being conducted to whichever is applicable of the following:

1. The nearest entrance or exit of a facility in which an automated teller machine is enclosed or, if the machine is not enclosed in a facility, to the nearest part of the automated teller machine;
2. The nearest entrance or exit of a building;
3. The nearest part of an exterior public pay telephone;
4. The nearest part of the structure of a self-service car wash;
5. The nearest part of a self-service fuel pump;
6. The nearest point of any sign or marking designating an area as a public transportation stop; or
7. Any door of a parked vehicle that is being used by an occupant of such vehicle to enter or exit such vehicle. (Ord. 1083-10 § 1 (Exh. A))

8.12.040 Panhandling by coercion.

It is unlawful for a person to panhandle by coercion. (Ord. 1083-10 § 1 (Exh. A))

8.12.050 Evidence.

Evidence to support a conviction for a violation of this chapter may include, but is not limited to, testimony of witnesses, videotape evidence of the violation, and other admissible evidence. (Ord. 1083-10 § 1 (Exh. A))

8.12.060 Penalties.

Violation of SMC 8.12.030(A)(1) shall be a misdemeanor and, upon conviction thereof, a person is subject to a penalty of \$1,000, incarceration for up to 90 days, or both a fine and a penalty. Violation of SMC 8.12.030(A)(2) or 8.12.040 shall be a gross misdemeanor and, upon conviction thereof, a person is subject to a penalty of \$5,000, incarceration for up to one year, or both a fine and a penalty. (Ord. 1083-10 § 1 (Exh. A))

SULTAN CITY COUNCIL RETREAT AGENDA COVER SHEET

ITEM NO: D-2

DATE: March 23, 2013

SUBJECT: City of Sultan Business Licenses

CONTACT PERSON: Donna Murphy, Grants, Economic Development Coordinator

ISSUE:

The issue before the Council is to review the City of Sultan's existing Business License Ordinance for discussion at the Council retreat on March 23, 2013

BACKGROUND:

At the October 11, 2012 City Council meeting the Council adopted Resolution 12-15 amending the 2012 City of Sultan Fee Schedule that sets fees charged by the City for the various services provided to citizens and community. The amendment decreased the amount charged for an initial business license from \$75.00 to \$50.00.

The City Council also directed staff to bring the existing Business License Ordinance to the Council Retreat on March 23, 2013 for further review and discussion.

RETREAT DISCUSSION ITEMS:

City Council Retreat Discussion Items:

- A. Requirement for a license if a company is doing business in the City but not located in the City.
- B. Fee based on income.
- C. Reduced fee for Home Occupation Businesses.
- D. All new Sultan based businesses pay half for the first 3 years

Staff polled the following Cities regarding the above four Discussion Items

City	Item A	Item B	Item C	Item D
Duvall	Yes, if have 4 or more calls to the City.	No	No	No
Carnation	Yes, temporary 3 day license - \$15	No	Yes, \$50 (Commercial is \$75)	No
Snohomish	Yes, flat fee of \$25 - Non resident	No	No	No

Attachment A: City of Sultan Business License Ordinance

Chapter 5.04 BUSINESS LICENSES

Sections:

- 5.04.010 Purpose.
- 5.04.020 Definitions.
- 5.04.030 Business license required.
- 5.04.040 Separate licenses required.
- 5.04.050 Change in nature or location of business.
- 5.04.060 Exemptions.
- 5.04.070 Issuance of license.
- 5.04.080 License to be posted.
- 5.04.085 License – Exhibit.
- 5.04.090 Licenses not transferable.
- 5.04.100 Fraudulent use of business license.
- 5.04.110 Approval of business license.
- 5.04.120 Inspections – Right of entry.
- 5.04.125 Use of streets.
- 5.04.127 Hours and notice.
- 5.04.130 Terms of license.
- 5.04.140 Renewal.
- 5.04.150 Penalty for late renewal.
- 5.04.160 Denial, revocation or suspension of license.
- 5.04.170 Appeal process – Request for hearing.
- 5.04.180 Appeal to the superior court.
- 5.04.190 License fees.
- 5.04.200 Violation.
- 5.04.210 General business license application – Public record.

5.04.010 Purpose.

The provisions of this chapter shall be deemed an exercise of the power of the city to license for revenue and to regulate and ensure the legal conduct of businesses and to assist in the effective administration of health, fire, building, zoning and other codes of the city. (Ord. 1078-10 § 1)

5.04.020 Definitions.

The following words, terms and phrases when used in this chapter shall have the following meanings, except where the content clearly indicates a different meaning:

A. "Business" includes all activities, occupations, trade, pursuits, or professions located and/or engaged in within the city with the object of gain, benefit or advantage to the person engaging in the same, or to any other person or class, directly or indirectly. It also includes but is not limited to general contractors, subcontractors, home occupations, multifamily dwelling units, mobile home parks and businesses temporarily conducted within the city including but not limited to traveling salespersons.

B. "Business enterprise" means each location at which a person engages in business within the city.

C. "City" means the city of Sultan, Washington.

D. "Employee" means any person employed at any business and/or business enterprise who performs any part of his/her duties within the city, except casual laborers not employed in the usual course of business. All officers, agents, dealers, franchisees, etc., of a corporation or business trust, and partners of a partnership, are "employees" within this definition.

E. "Engaging in business" means commencing, conducting or continuing in any business or carrying on of any form of activity for gain, profit or advantage, whether direct or indirect, within the city whether or not an office or physical location for the business lies within the city.

F. "Licensee" means any business granted a business license.

G. "Person" includes one or more persons of either sex; corporations, including not-for-profit corporations and municipal corporations, partnerships, including limited partnerships; associations, joint ventures or any other entity capable of having an action at law brought against such entity, but excluding employees.

H. "Premises" shall mean and include all lands, structures and places, and any personal property, which either is affixed to or is used in connection with any such business conducted on such premises.

I. "Peddler" and/or "solicitor" means:

1. All persons, both principals and agents, as well as employers and employees, who shall sell, offer for or expose for sale, or who shall trade, deal or traffic in any personal property or services in the city by going from house to house or from place to place or by indiscriminately approaching individuals.

2. Sales by sample or for future delivery, and executory contracts of sale by solicitors or peddlers are embraced within subsection (I)(1) of this section; provided, however, that this chapter is not applicable to any salesperson or canvasser who solicits trade from wholesale or retail dealers within the city.

3. Any person, both principals and agents, as well as employers and employees, who, while selling or offering for sale any goods, wares, merchandise or anything of value, stands in a doorway or any unenclosed vacant lot, parcel of land or in any other place not used by such person as a permanent place of business.

J. "Transient merchant" means any person, firm or corporation who engages temporarily in the business of selling and delivering goods, wares or merchandise within the city, and who, in furtherance of such purposes, hires, leases, uses or occupies any building, structure or vacant lot, motor vehicle, trailer or railroad car. (Ord. 1078-10 § 1)

5.04.030 Business license required.

It is unlawful for any person to conduct, operate, engage in or practice any business in the city without having first obtained a business license for the current calendar year or unexpired portion thereof, and paying the fees prescribed herein, unless such activity is exempt as provided in SMC 5.04.060. (Ord. 1078-10 § 1)

5.04.040 Separate licenses required.

A separate business license shall be obtained for each separate location within the city at which the business is conducted. A separate business license shall be obtained for each different and discrete business conducted within the city by any person, whether at the same location as another licensed business. (Ord. 1078-10 § 1)

5.04.050 Change in nature or location of business.

Each business license shall authorize a particular type of business at the designated location. Any change in the nature of the business shall necessitate a new application for a business license. A change of location shall be reported in writing to the city clerk within 10 days of the change and, if in compliance with zoning and business regulatory ordinances, the existing business license shall be transferred to the new location. (Ord. 1078-10 § 1)

5.04.060 Exemptions.

The following shall be exempt from the provisions of this chapter:

- A. Minors engaged in business or operating a business concern where no other person is employed by the minor.
- B. The United States or instrumentality thereof and the state of Washington or any municipal subdivision thereof, with respect to any exercise of government functions.
- C. All special events sponsored by the city, but not to include participating commercial peddlers.
- D. Nonprofit organizations carried on by religious, civic, charitable, benevolent, nonprofit, cultural or youth organizations.
- E. Business where the sale or contract for services occurs on business premises outside of the city and the only event occurring within the city is the mere delivery of the goods and services to the customer or client.
- F. Any farmer, gardener, or other person who sells, delivers or peddles any fruits, vegetables, berries or any farm produce or edibles raised, gathered, or produced by such person within the state.
- G. Peddlers operating at any city-sponsored or authorized civic event for a time period not to exceed five consecutive days, so long as each peddler's name, address and telephone number is submitted to the city, in advance of the civic event, to be maintained in the city records.
- H. Vendors operating at a farmers' or public market or other city-sponsored or approved activity under the provisions of a temporary use permit; provided, that the name, address and telephone number of each vendor is provided in advance to the city to be maintained in the city records. (Ord. 1078-10 § 1)

5.04.070 Issuance of license.

Applications for a business license shall be made either with the city of Sultan or with the State of Washington Department of Licensing giving such information as is deemed reasonably necessary to enable the enforcement of this chapter. Said application shall be accompanied by payment of the application fee. (Ord. 1078-10 § 1)

5.04.080 License to be posted.

All licenses issued pursuant to this chapter authorizing the operation or conducting of any occupation, business, trade or entertainment at a specified location shall be posted in a conspicuous place at such location. The licensee at the request of any interested person shall display such license. (Ord. 1078-10 § 1)

5.04.085 License – Exhibit.

Peddlers, solicitors and transient merchants are required to exhibit their license displayed on their person and fully visible while conducting any peddling activities. (Ord. 1078-10 § 1)

5.04.090 Licenses not transferable.

No license issued under the provisions of this chapter shall be transferable or assignable unless otherwise specifically provided for; except that a license may be transferred when a business changes its structure of ownership; provided, however, that a new business license shall be required upon a substantial change of ownership, whereby those primarily accountable for the business have changed. (Ord. 1078-10 § 1)

5.04.100 Fraudulent use of business license.

No person holding a city business license shall suffer or allow any other person for whom a separate license is required to operate under or display such person's license and no person may maintain a business license obtained through false or fraudulent application or return of any false statement or representation in or in connection with any such application or return for such business license. (Ord. 1078-10 § 1)

5.04.110 Approval of business license.

All licenses approved for issuance by the city clerk shall be conditioned upon compliance at all times with all applicable ordinances, regulations and statutes of the city and the state of Washington. (Ord. 1078-10 § 1)

5.04.120 Inspections – Right of entry.

The city clerk, or designee, or authorized representative of the planning and building department are authorized to make such inspections of licensed premises and take such action as may be required to enforce the provisions of any business license or regulation ordinance. (Ord. 1078-10 § 1)

5.04.125 Use of streets.

No peddler shall have any exclusive right to any location in the public streets, nor be permitted a stationary location, nor be permitted to operate in any congested area where operations might impede or inconvenience the public. For the purpose of this section, the judgment of a police officer, exercised in good faith, shall be conclusive as to whether the area is congested or the public impeded or inconvenienced. (Ord. 1078-10 § 1)

5.04.127 Hours and notice.

No person shall engage in the business of peddler or solicitor between the hours of 8:00 p.m. and 9:00 a.m. (Ord. 1078-10 § 1)

5.04.130 Terms of license.

All business licenses shall have a term as determined by the State of Washington Department of Licensing in cooperation with the city. The city license term or expiration date will be coordinated with the terms or expiration date of all other licenses or permits required by the state for each business. (Ord. 1078-10 § 1)

5.04.140 Renewal.

Renewals shall be handled by the State of Washington Department of Licensing in coordination with the city finance director. (Ord. 1078-10 § 1)

5.04.150 Penalty for late renewal.

If any license issued under this chapter is not obtained in a timely manner or renewed by the date of expiration of the existing license, then the new application must be accompanied by a fee of 150 percent of the regular fee payable upon application under this chapter. (Ord. 1078-10 § 1)

5.04.160 Denial, revocation or suspension of license.

A business license issued under this chapter may be revoked, suspended or denied for any one or more of the following reasons:

- A. Failure to comply with any federal, state or local laws or regulations.
- B. Failure to comply with any of the terms and conditions imposed by the city on the issuance of the business license.
- C. Conduct of the business or activity in a manner which endangers the public health, welfare, or safety.
- D. When the license was procured by fraud, false representation or evasions or suppression of material fact. (Ord. 1078-10 § 1)

5.04.170 Appeal process – Request for hearing.

Upon denial, suspension or revocation of a license, the city clerk shall, by certified mail, give written notice of such action to the applicant, which notice shall include a written report summarizing the complaints, objections and information received and considered by the city clerk and further stating the basis for such action. The applicant must appeal the decision for denial, suspension or revocation within 10 calendar days of receipt of the notice by filing a written notice of appeal and request for hearing with the city clerk. Upon receipt by the city clerk of the appeal notice, a hearing shall be set before the city council. Notice of the hearing shall be given to the appellant at least 10 days prior to the hearing. At such hearing, the appellant shall be entitled to be heard and introduce evidence on his behalf. (Ord. 1078-10 § 1)

5.04.180 Appeal to the superior court.

The decision of the city council is final unless an appeal of the decision is filed with the Snohomish County superior court within 30 calendar days from the date the city council decision was served upon or was mailed to the appellant. The decision for suspension or revocation of a license under this chapter shall be stayed during administrative and judicial review, but refusal to issue an initial license shall not be stayed. (Ord. 1078-10 § 1)

5.04.190 License fees.

The fee for the business license required by this chapter shall be as established by resolution of the city council. The fee may be prorated as necessary to conform to SMC 5.04.130. (Ord. 1078-10 § 1)

5.04.200 Violation.

A. Any violation of this chapter shall be deemed a misdemeanor and shall be punished by a fine not to exceed \$500.00 and any person who engages in or carries on any business subject to the provisions of this chapter without obtaining a business license, or who carries on such activities in violation of this chapter, shall be guilty of a separate violation of this chapter for each day during which the business is so engaged in or carried on, and any owner who fails or refuses to pay the business license fee or any part thereof on or before the due date shall be deemed to be operating a business without having a proper license to do so.

B. Collection. Any license fee or tax due and unpaid and delinquent under this chapter, and all penalties thereon, may be collected by civil action, which remedy shall be in addition to any and all other existing remedies and penalties. (Ord. 1078-10 § 1)

5.04.210 General business license application – Public record.

General business license applications made to the city clerk pursuant to this chapter shall be public information subject to inspection by all persons except to the extent those records may be deemed to be private or would result in unfair competitive disadvantage to such business enterprise if disclosed, all as more particularly described in Chapter 42.17 RCW. (Ord. 1078-10 § 1)

SULTAN CITY COUNCIL RETREAT AGENDA ITEM COVER SHEET

ITEM NO: D-3
DATE: March 23, 2013
SUBJECT: Sewer Connection Status
CONTACT PERSON: Ken Walker – City Administrator
Mick Matheson, P.E. – Public Works Director

ISSUE:

The issue before the city council is to discuss the capability of the existing Sewer System to handle the projected flows from proposed and future development.

SUMMARY

The capacity of the existing Waste Water Treatment Plant is 121 single-family units according to RH2, Inc..

There are 219 outstanding letters of sewer availability. While they expire at various dates during the next 3 years, they significantly exceed the available connection slots.

Project	ERU	Council Action	Expiration
Cascade Breeze	30	Resolution 06-07	6/8/2013
Greens Estates	65	Development agreement	2/27/2015
Hammer	81	Resolution 07-19	8/23/2014
Twin Rivers	25	Resolution 08-06	01/24/2015
Steen Park	18	Resolution 07-16	Final Plat

Currently no projects are in the development phase in Sultan. But it appears that the situation may be changing. Two developers are currently talking with Staff concerning a total of 391 units. Rusty Drivstuen with Sky Ridge Estates, 230 units, and Arndt Development with 161 units.

It will be problematic for these developments to move forward unless the city is able to issue letters of sewer availability. It is hard to envision the city doing this given the shortage of almost 100 units based on the existing letters of availability.

While it is assumed that few of the previously allocated units will actually be connected to the waste water treatment system, the city needs to be proactive in addressing this matter.

RH2 prepared a study entitled "City of Sultan Main Pump Station Alternatives Report" that identified upgrades to the Main Pump at a cost of between \$59,000 and \$320,000 that would add 180 single family units. This preliminary study has resulted in the city awarding a contract to RH2 to provide professional engineering services to provide bid ready design plans and specifications for upgrades to the Main Pump Station, assist the city with bidding and construction contract award, and to provide technical support during construction. The increase of 180 units combined with the existing 121 units will result in the city barely covering the letters of commitment that have already been issued.

Staff needs direction from City Council to explore the potential solutions and costs to this problem before it impacts development within the city.



RECEIVED
JUN 08 2011

BY:.....

RH2 ENGINEERING, INC
www.rh2.com
mailbox@rh2.com
1.800.720.8052

June 7, 2011

BELLINGHAM
454 W Horton Rd
Bellingham, WA 98226
(tel) 360.676.0836
(fax) 360.676.0837

Mr. Mick Matheson, P.E.
Public Works Director
City of Sultan
PO Box 1199
Sultan, WA 98294-1199

Sent Via: U.S. Mail

BOTHELL
12100 NE 195th St, Ste 100
Bothell, WA 98011
(tel) 425.951.5400
(fax) 425.398.2774

Subject: Sewer Flow Analyses for Arndt Development

EAST WENATCHEE
300 Simon St SE, Ste 5
East Wenatchee, WA 98802
(tel) 509.886.2900
(fax) 509.886.2313

Dear Mr. Matheson:

This letter contains the results of the flow analyses for the proposed Arndt development sewer infrastructure, located on the north side of 132nd Street in the northeast portion of the City of Sultan's (City) limits. These analyses were performed using a computer model of the City's existing sewer system to determine the capability of the existing system to handle the projected flows from the proposed development. This letter summarizes the results of the analyses and the operational conditions assumed in the hydraulic model.

RICHLAND
114 Columbia Point Dr, Ste C
Richland, WA 99352
(tel) 509.946.5181
(fax) 509.946.4630

BACKGROUND

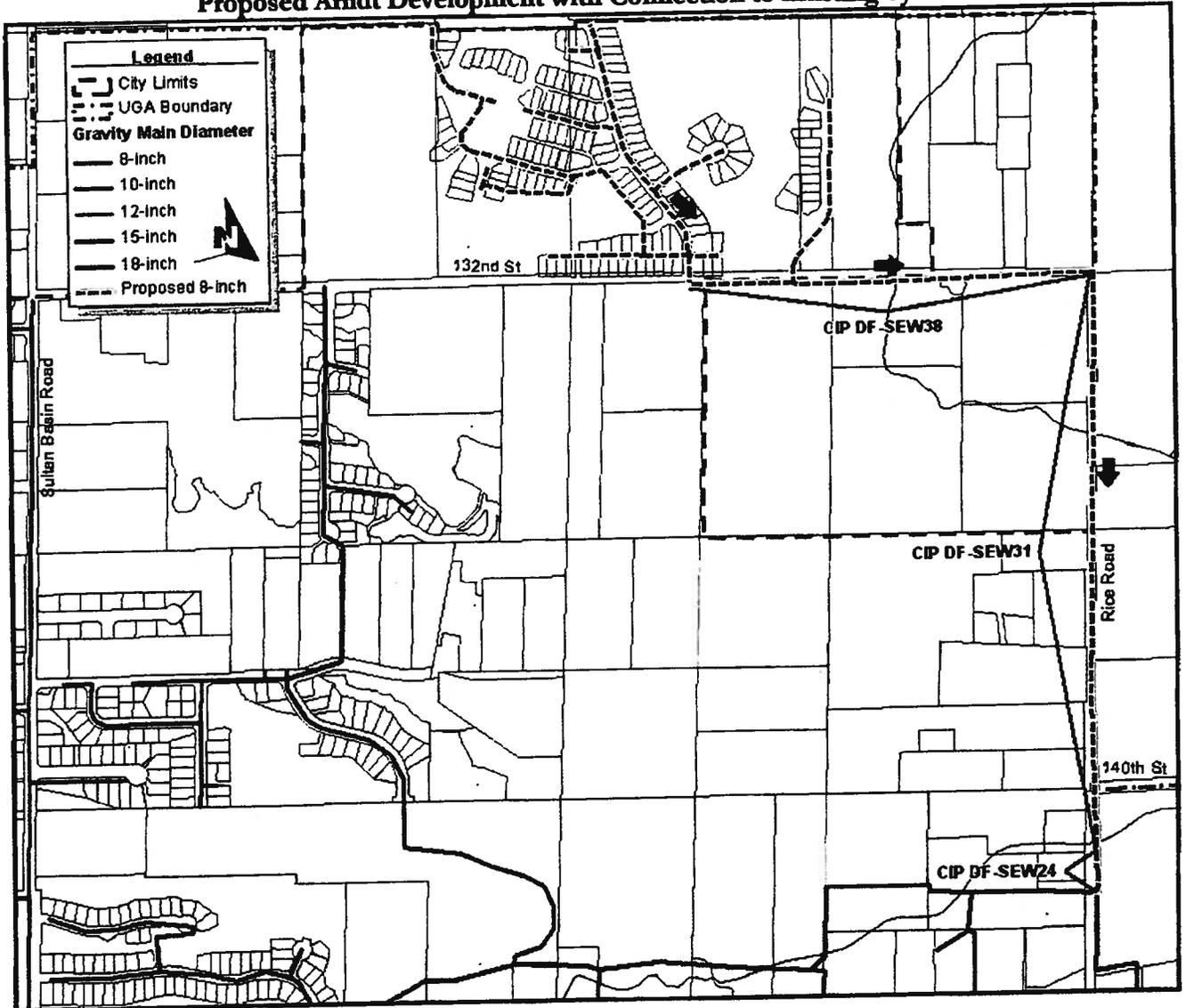
RH2 Engineering, Inc., (RH2) received an email request from the City on May 3, 2011, to determine the ability of the City's existing wastewater system to handle the projected Arndt development flows for the proposed 157 single-family residential homes and seven duplexes. The City considers all one and two unit residential dwellings to be single-family residences. The City's existing and future system was analyzed based on a draft AutoCAD site plan (X515LT12.dwg) provided by PLACE Consultants, Inc., on April 19, 2011, and estimated flows based on Table 4-12 of the City's 2009 Draft General Sewer Plan as well as estimated flows established in the City's 2005 General Sewer Plan. For both analyses, it was assumed that the proposed development will connect to the existing sewer system at the intersection of Rice Road and approximately 140th Street, as shown in Figure 1.

SILVERDALE
2021 NW Myhre Rd, Ste 107
Silverdale, WA 98383
(tel) 360.698.6528
(fax) 360.698.0510

TACOMA
One Pacific Building
621 Pacific Ave, Ste 104
Tacoma, WA 98402
(tel) 253.272.3059
(fax) 425.398.2774



Figure 1
Proposed Arndt Development with Connection to Existing System





At the time of analysis, full development plans were not available. Therefore, the following assumptions were made:

- The proposed 171 single-family home development will connect to the existing system via capital improvement plan (CIP) items DF-SEW31, DF-SEW24 and DF-SEW38, as shown in the City's *2009 Draft General Sewer Plan*, which are located at 132nd Street and Rice Road. Other alternative routes are available to the developer. The route outlined in the *2009 Draft General Sewer Plan* and identified in the *2005 General Sewer Plan* (Figure 7-1) was selected for consistency.
- Sewer main within the proposed development will be 8-inch PVC.
- Minimum sewer main slope will be 0.5 percent.
- Minimum sewer main invert depth will be 6 feet.

FLOW ANALYSES RESULTS

Analyses were performed to determine the capability of the sewer system to handle the projected flow from the proposed development. The proposed development's flow was calculated as determined in the City's *2009 Draft General Sewer Plan* and the City's *2005 General Sewer Plan*.

2009 Draft General Sewer Plan

The projected average daily flow is based on Table 4-12 of the City's *2009 Draft General Sewer Plan*, which has been reproduced as Table 1 of this letter, and assumes the number of people per single-family residence is 2.99 (per Table 4-4 of the City's *2009 Draft Water System Plan*). The average day domestic sewage component is assumed to be 70 gallons per capita per day. This number does not include inflow and infiltration. The inflow and infiltration components were added to the average day domestic sewage component per Table 1. The inflow and infiltration components shown in Table 1 is consistent with Table 4-2 of the *City of Sultan WWTP Upgrade Engineering Report* prepared by Brown and Caldwell in September 2006. The proposed development's average daily flow is calculated to be 49,242 gallons per day (34 gallons per minute). The peak hourly flow is assumed to be 4 times the average daily flow, resulting in a flowrate of 137 gallons per minute. The resulting peak hourly flow of the City's Main Pump Station basin is 1,541 gallons per minute, which is more than the pump station's firm capacity of 1,500 gallons per minute.

As noted in the *2009 Draft General Sewer Plan*, the Main Pump Station, force main and associated gravity sewer main has been identified by City staff as a capacity limitation in the wastewater collection system. The Main Pump Station, force main and gravity main that enters the wastewater treatment plant is near capacity on a maximum day. The City's Capital Improvement Plan, presented in the *2009 Draft General Sewer Plan*, outlines a number of improvement projects to be completed at the Main Pump Station and wastewater treatment plant. These projects are required to resolve near term growth capacity issues. The improvements include a Main Pump Station Alternatives Analysis (CIP WW1), WWTP Influent Gravity Sewer Main Replacement (CIP WW1) and Upgrades to the Main Pump Station (CIP WW1). The *2009 Draft General Sewer Plan* should be consulted for further details regarding these improvement projects. In addition, CIP WW1 is identified in the City's Capital Improvement Plan that is included in the City's *2005 General Sewer Plan*. Additional development cannot be supported without Main Pump Station and associated force and gravity main improvements.



Table 1
Unit Rates for Sewer Flow Projections (Draft 2009 General Sewer Plan Table 4-12)
 Source: City of Sultan WWTTP Upgrade Engineering Report, Brown and Caldwell, 2006

Flow Classification	Projected Sewer Flow Rates	
Average Day Domestic Sewage ⁴	70	gallons per capita day
Peak Day Domestic Sewage ⁴	79	gallons per capita day
Average Day Winter Groundwater Infiltration ¹	68	gallons per day/acre
Average Day Summer Groundwater Infiltration ¹	30	gallons per day/acre
RDII Average Dry Weather Day ^{2,3}	10	gallons per day/acre
RDII Average Wet Weather Day ^{2,3}	160	gallons per day/acre
RDII Average Day Maximum Month ^{2,3}	385	gallons per day/acre
RDII Peak Day ^{2,3}	1,300	gallons per day/acre

(1) Groundwater infiltration is based on existing winter dry weather average flow less summer infiltration, divided by the served population. See Appendix I.

(2) RDII: Rain Induced Infiltration

(3) RDII is based on the average flow for that period less average winter dry weather flow, divided by the 2005 service area which is 650 acres. Peak day RDII is based on the EPA criteria for non-excessive RDII, since new developments can be constructed following stringent specifications for inflow and infiltration control. See Appendix I.

(4) Peak Day Domestic Sewage = 1.13 times average day

2005 General Sewer Plan

The projected average daily flow was also calculated based on Tables 4-5 and 4-8 of the City's 2005 *General Sewer Plan*. Based on these tables, the average day domestic sewage component during the maximum month is assumed to be 300 gallons per capita per ERU. This number does not include inflow and infiltration. The inflow and infiltration components, determined to be 140 gallons per day per acre and 200 gallons per day per acre, respectively, were added to the average day domestic sewage component. The proposed development's average daily flow is calculated to be 69,000 gallons per day (48 gallons per minute). The peak hourly flow is 3.8 times the average daily flow during the maximum month, resulting in a flowrate of 182 gallons per minute. The resulting peak hourly flow of the City's Main Pump Station basin is 1,586 gallons per minute, which is more than the pump station's firm capacity of 1,500 gallons per minute. Improvements to the Main Pump Station and associated force and gravity main pipes are also required using this analysis.

CONCLUSION

The proposed improvements necessary to connect the proposed Arndt development to the City's existing collection system (shown in Figure 1) and resolve the resulting Main Pump Station and associated wastewater treatment plant influent capacity issues are listed below.

- Approximately 7,500 linear feet of 8-inch diameter PVC pipe within the proposed development.
- Approximately 1,500 linear feet of 8-inch diameter PVC pipe in 132nd Street from the eastern extent of the proposed development to Rice Road, identified as CIP DF-SEW38 in the City's 2009 *Draft General Sewer Plan* and as sewer interceptor Q in the City's 2005 *General Sewer Plan*.



- Approximately 3,200 linear feet of 8-inch diameter PVC pipe in Rice Road from 132nd Street to approximately 140th Street, identified as CIPs DF-SEW24 and DF-SEW31 in the *City's 2009 Draft General Sewer Plan* and as sewer interceptor P in the *City's 2005 General Sewer Plan*.
- As identified in the *City's 2009 Draft General Sewer Plan*, improvement projects are required at the Main Pump Station and wastewater treatment plant influent piping. These projects include a Main Pump Station Alternatives Analysis (CIP WW1), WWTP Influent Gravity Sewer Main Replacement (CIP WW1) and Upgrades to the Main Pump Station (CIP WW1). It is anticipated that these projects will be completed within the next six years as part of the City's 6-year capital improvement plan. The City's 6-year capital improvement plan should be consulted on the exact timing of these projects.

The developer may elect to construct the proposed development in phases. The maximum number of units that can be constructed without exceeding the capacity of the City's Main Pump Station is 121 single-family units. This calculation is based on an approximate development area of 0.33 acres per each single-family unit.

The sewer collection piping, manholes and associated appurtenances should be designed and installed per the City's sewer standards.

If you have any questions regarding the analyses, please call me at (425) 951-5458. Thank you for the opportunity to assist you with this project.

Sincerely,
RH2 ENGINEERING, INC.

Karla S. Kasick, P.E.
Project Engineer

RW/KSK/se/ms



cc: Ms. Deborah Knight, City Administrator, City of Sultan

6/7/11

*Specifics re: ...
conditional letter of ...
if not in place by city*

July 21, 2011

Mr. Harland McElheny, P.E
Place Consultants
21801 West Lost Lake Road
Snohomish, WA 98296

RE: Arndt PUD

Dear Harland:

This letter is in response to our meeting with you and your client, Keith Arndt on June 28, 2011 to discuss the water and sewer analysis letters prepared by RH2 dated June 7, 2011. You requested clarification on items presented in both the RH2 letters and requested additional information.

Water

Right-of-way dedication or a public utility easement(s) are needed for the proposed 128th Street water main extension. You asked whether the City was willing to take the lead on obtaining said right-of-way or easements. I have discussed this matter with Deborah Knight (City Administrator) and Margaret King (City Attorney). The 128th Street water main is required to provide necessary fire flow to the Arndt PUD project and is identified as a Developer Funded Improvement on Figure 9-1 *Proposed Water System Improvements* in the April 2011 Water System Plan. Since the 128th Street water main is necessary for the Arndt PUD property to be developed, it is the City's position that it is the applicant's responsibility to take the lead to obtain easements or right-of-way.

You asked that the City verify the easterly limit of the existing 12-inch water main in 132nd Street SE. The existing water main terminates at a tee located ten feet east of the intersection of 132nd Street SE and 328th Avenue SE. The Arndt PUD will be required to extend this 12-inch main from this tee to the east to serve the proposed project. RH2 is updating their June 7, 2011 letter titled "Water System Hydraulic Analyses for Arndt Development" to reflect this requirement. This letter will be forwarded to you under separate cover.

Sanitary Sewer

You requested that RH2 modify their June 7, 2011 letter titled "Sewer Flow Analyses for Arndt Development" to add another column to Table 1 on page 4 to show projected flow rates based on the 2005 General Sewer Plan. Please refer to their updated letter dated June 30, 2011 (copy attached).

We also discussed capacity issues at the City's wastewater treatment plant. RH2's letter titled "Sewer Flow Analyses for Arndt Development" dated June 7, 2011 states on page 5 that there is currently capacity in the existing wastewater system for 121 single-family units (121 ERU's). The City also shared with you a list of projects with sewer letter of availability that have received preliminary or final plat approval and their respective expiration dates.

Project	ERU	Council Action	Expiration
Cascade Breeze	30	Resolution 06-07	6/8/2013
Greens Estates	65	Development agreement	2/27/2015
Hammer	81	Resolution 07-19	8/23/2014
Twin Rivers	25	Resolution 08-06	01/24/2015
Steen Park	18	Resolution 07-16	Final Plat

The number of ERU's for these projects total 219 and capacity exists for only 121. Specific bottlenecks that must be addressed to increase capacity are outlined in RH2's June 7, 2011 letter on page 5 in the last bullet item. It is anticipated that these projects will be completed within the next six years as part of the City's 6-year capital improvement plan.

It is also possible the City will not complete these improvements within the next six years and that the improvements would need to be funded and constructed by those developments requiring the additional capacity.

You raised a question during our meeting about issuance of a conditional sewer availability letter given the above described capacity issues. I have discussed this with Deborah Knight and Margaret King, and the City is willing to issue a conditional availability letter (certificate of concurrency) under SMC 16.108.120. More specifically, that sanitary sewer is available for your project provided the capacity issues are addressed either by the City as outlined in the 6-year capital improvement plan, by the applicant, or other developments requiring the additional capacity.

Please call me at 360.793.2262 if you have any questions.

Sincerely,

Mick Matheson, PE
Public Works Director

Cc: Deborah Knight, City Administrator
Robert Martin, Community Development Director
Margaret King, Kenyon Disend

ENCLOSURE

SULTAN CITY COUNCIL AGENDA ITEM COVER SHEET

ITEM NO: Discussion D 4

DATE: March 23, 2013

SUBJECT: Council Training and Code of Ethics

CONTACT PERSON: Laura Koenig, Clerk/Deputy Finance Director

ISSUE

The issue is to discuss training opportunities for Council members and to review a Code of Ethics ordinances for potential adoption.

SUMMARY:

Council Training

At a recent council meeting, it was recommended the Council Procedures be amended to require specific training for newly elected officials.

The Council Meeting Procedures specifically address the rules for meetings and the procedures for running the meeting.

The Council could, by Resolution, adopt a training requirement for newly elected officials. City staff has prepared a manual for newly elected officials and conducts a brief orientation. The documents included in the manual are:

- Code City Handbook
- Councilmember's Handbook
- Public Records Act
- Small City Resource Guide
- Open Public Meetings Act
- Appearance of Fairness Doctrine
- The Bidding Book
- Knowing the Territory
- Sultan Council Meeting Procedures
- Adopted policies of the city

The Association of Washington Cities also offers training opportunities throughout the year. The training for 2013 includes:

- Newly elected officials workshop – held in Goldbar last month.
- AWC Annual Conference – June 25-28 in the Tri Cities.
- Municipal Budget and Fiscal Management – August 22-23 in Leavenworth.
- IACC Conference (infrastructure funding sources) – October 22-25 in Wenatchee.

The City is a member of the Cities Insurance Association of Washington and they provide training for councils and staff at no charge. Attachment A provides a summary of some of the training opportunities offered to the city.

Code of Ethics:

It is common for cities to adopt as a part of their municipal code a chapter establishing a Code of Ethics that applies to elected officials, employees and appointed members of boards and commissions. Ethical behavior has been a topic of discussion at the council meetings over the past year.

Staff has provided copies of codes from three cities (Attachment B). The codes all have a similar purpose:

The purpose of this chapter to establish ethical standards of conduct for all officers and employees of the city, whether elected or appointed, paid or unpaid; to set forth those acts that are incompatible with such standards; to require disclosure by such officers and employees of private financial or other interests in matters affecting the city; and to provide effective means for enforcement thereof.

The council can elect to adopt codes similar to those found in RCW 42.23, Code of Ethics for Municipal Officers (Attachment C) or as the City of Monroe, modify the code and require higher minimum standards of conduct.

Staff has no recommendation on the adoption of an ethics code for the city. Staff is seeking input and direction from the council as to their interest in the adoption of an ethics code.

- Attachments:
- A. Training List from CIAW
 - B. Sample Ethics Codes
 - C. RCW 42.23

Confidentiality in the Workplace

90 minutes

In today's times everyone needs to be aware of what is involved in confidentiality and what liability is involved. The purpose of this workshop is to understand the definition and importance of confidentiality, know what information is confidential and be aware of the liability involved in a confidentiality breach. You will learn the four point test to determine confidentiality and become familiar with "incidental disclosures" and how to minimize a breach of confidentiality. We will also discuss what management's responsibility is regarding rumors.

Defensive Driving

3 hours

Becoming aware of the common mistakes to avoid while operating a vehicle can save lives and reduce claim frequency. This basic three-hour course is offered at your location, for anyone in your organization that operates a vehicle. This interactive course offers participants the basic tools of defensive driving and will analyze the common mistakes in driving that lead to accidents. The class is intended for general audiences, yet can be tailored for problematic drivers.

Diversity in the Workplace

90 minutes

In this workshop, we will take a look at what diversity is and why talking about diversity is important. We will look at the legal requirements that drive diversity, as well as who can commit and experience harassment in the workplace and when the company is liable for such harassment. We will examine the best practices regarding perceptions and stereotypes, as well as what works when leading a respectful workplace. Also covered is understanding the role and responsibility of every employee in keeping your organization in compliance with the law and meeting policy objectives.

Driver Training Simulator

Offered exclusively to programs administered by Canfield, the Driver Training Simulator is a three-channel plasma screen immersive driving environment. This training can be adapted for any driving situation. Drivers will be trained to recognize and anticipate hazardous driving situations in difficult and common city environments, environmental factors such as adverse weather, and practice collision-avoidance when backing. This training will help reduce accidents by reinforcing positive decision making through training in realistic risk-free situations.

Enhancing Workplace Climate

60 minutes

Dissatisfaction with workplace culture is one of the foremost reasons employees leave their jobs. This workshop reveals the latest research in relation to workplace climate including: workplace climate and its impact on liability, the role of leadership in fostering an enhanced workplace, and how employees define successful leadership. Each session is designed to meet the needs of both leadership and employees alike. By blending current research with contemporary best-practice analysis, participants learn the essential building blocks to enhance their workplaces.

Law Enforcement Training Simulator (LETS)

Our LETS system will be brought to your location by a certified firearms/use-of-force team. This virtual reality simulator provides law enforcement and security personnel with challenging and realistic training in use-of-force. The simulator is equipped with a variety of weapons, including: handguns, Taser, Bushmaster M-4 Patrol rifle and OC spray. With the virtual reality system, attendees are placed in a variety of scenarios demanding a split-second thought process. This simulator will help control use-of-force claims, yet more importantly, save the lives of law enforcement officers and security personnel.

Maintaining a Professional Work Environment

90 minutes

All workplaces face personnel issues that can have a negative impact on every aspect of business. While rules, procedures, policies, and codes of conduct attempt to prevent problems by setting clear expectations, no organization is totally free of workforce difficulties. This workshop addresses conduct that can create a breach or violation of workplace professionalism. Harassment, bullying, teasing, intimidation, workplace relationships, rumors, confidentiality, silence, violence, and retaliation are examples of topics discussed in a deterrent approach. Too often we operate in a crisis mode waiting until the problem explodes and are then forced to address the issue. Dealing with sensitive issues is most effective when it is done in a prevention format, which is the focus of this workshop.

Managing Conflict

90 minutes

All relationships, personal and professional, experience some kind of conflict; this is normal, natural and sometimes necessary for growth and development. In this workshop we will discuss the myths and truths, the greatest mistakes and the ingredients that are involved in conflict. You will learn how to manage conflict, develop your communications skills and resolve conflict within your organization.

Public Officials Liability / Creating Balance

60 minutes

This workshop is tailored to elected officials, administrators and supervisors. Attendees are offered a detailed understanding of the role each individual plays in the composition of a well-managed organization. The presentation conveys: roles, public duty, negligence, liability pitfalls, litigation traps, punitive damage exposures and many other relevant topics geared to protect and enhance the position of a public official. In addition, our presenter will provide a short and concise overview of insurance coverage, exclusions, and personal liability as it relates to public official's liability.

Public Records Request

90 minutes

The goal of this workshop is to harness the collective knowledge and talent of the Public Records Officers to increase transparency and Public Records Act compliance through education. This is a basic compliance course highlighting a detailed review of the basics for handling public records, guidance on E-Records, social media and metadata, and tips for dealing with difficult requests and training your employees.

Sexual Harassment in the Workplace

90 minutes

This training helps participants identify and apply the important elements of carefully and correctly handling sexual harassment issues and complaints. This workshop offers a detailed overview of what sexual harassment is while also explaining: legal definitions, prevention techniques, and how to handle sexual harassment complaints. Participants will learn to identify, take action and distinguish potential issues before they occur.

Team Building I

2.5 hours

Meaningful personal interaction between staff is essential to an enjoyable and productive workplace. In this workshop, a certified True Colors presenter, through individual assessment, will translate complicated personality and learning theory into practical application. Participants will learn essential tools to bridge the gaps in communication, trust and respect. This educational and motivational opportunity can initiate the difference between a strong, transparent and efficient workplace versus problematic indifference.

Team Building II

90 minutes

In our Team Building II training the trainer will review the four core values presented in Team Building I. After providing a refresher of the basic awareness seminar, the presenter will apply personality characteristic theory to intrapersonal communication, motivation, time management, dealing with stress and handling change. This seminar is designed to be customized to the organization's needs. Other areas of focus can be added.

Chapter 2.52 CODE OF ETHICS¹

Sections:

- 2.52.010 Purpose and scope.
- 2.52.020 Definitions.
- 2.52.030 Ethical standards.
- 2.52.040 Conflicts of interest.
- 2.52.050 Gifts and gratuities.
- 2.52.060 Confidential information – Disclosure prohibited.
- 2.52.070 Prohibited conduct after leaving the city.
- 2.52.080 Board of ethics – Public officials.
- 2.52.090 Miscellaneous provisions.
- 2.52.100 Appeal – Penalties for violation.
- 2.52.110 Severability.

2.52.010 Purpose and scope.

The purpose of the Monroe code of ethics is to provide for a clear statement of the minimum standards of ethical conduct expected of both city officials and employees and to provide a means for local enforcement and local responsibility for compliance with adopted standards. The Monroe ethics code contains standards similar to the provisions of state statute found in Chapter 42.23 RCW governing the ethical conduct expected of local government officials and employees statewide. However, in certain respects the Monroe ethics code modifies and requires higher minimum standards of conduct as determined appropriate by the legislative body of the city, after consideration of public comment and the recommendations of the appointed board of ethics. (Ord. 003/2010 § 1 (Exh. A))

2.52.020 Definitions.

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

- A. "Advisory opinion" means an opinion rendered by the board of ethics, based upon hypothetical circumstances, indicating how the board would rule on a matter having the same or sufficiently parallel facts, should an adversary proceeding develop.
- B. Benefits, Gain, Profit, or Interest. These are terms that apply only to situations or contracts involving business transactions, employment matters, and other financial interests and do not apply to situations or contracts that confer no financial benefit.
- C. "Confidential information" means:

1. Specific information, rather than generalized knowledge, that is not available to the general public on request; or

2. Information made confidential by law including but not limited to taxpayer information, RCW 82.32.330; information regarding organized crime, RCW 43.43.856; criminal history information, Chapter 10.97 RCW; medical records, Chapter 70.02 RCW; and juvenile records, RCW 13.50.010; or

3. Information that is initially disclosed or discussed in executive session, and which is not available to the general public on request; however

4. Confidential information does not include information authorized by the mayor or a majority vote of the council to be disclosed.

D. "Contract" means any written or otherwise binding agreement for services, sale, lease, purchase, construction or repair.

E. Day. Unless otherwise specified, all references to "day" or "days" as to deadlines in this chapter shall be calendar days as opposed to business days.

F. "De minimis" means small, slight, or trifling.

G. "Employee" means any person holding a regularly compensated position of employment with the city. This does not include members of the city council and persons who serve on city boards and commissions.

H. Financial Interest. A public official or city employee shall be deemed to have a financial interest in any business entity contracting or attempting to contract with the city when the public official or city employee:

1. Is a creditor or debtor of the business entity, or has any form of ownership interest in any business entity in an amount or value greater than a one percent interest in the business entity; or

2. Is a paid employee, agent, consultant or officer of any corporation, partnership, joint venture, business or other entity.

I. "Gift" means anything of economic value without adequate and lawful consideration. "Gift" does not include the following:

1. Items from family members or friends where it is clear beyond a reasonable doubt that the gift was not made as part of any design to gain or maintain influence in the city or with the recipient in connection with city matters;

2. Items related to the outside business of the recipient that are customary and not related to the recipient's performance of official duties;

3. Items exchanged among officials and employees or a social event hosted or sponsored by a city officer or city employee for coworkers;

4. Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in an official capacity. As used in this section, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

5. Items an official or employee is authorized by law to accept;

6. Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide nonprofit professional, educational, trade association or charitable institution. As used in this subsection, "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;

7. Items returned by the recipient to the donor within thirty days of receipt or donation to a charitable organization, without the taking of a tax deduction;

8. Campaign contributions or other items reported or regulated under Chapter 42.17 RCW;

9. Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group;

10. Awards, prizes, scholarships, or other items provided in recognition of professional, academic or scientific achievement; and

11. The solicitation, acceptance, receipt, or regulation of political campaign contributions regulated in accordance with provisions of federal, state, or local laws governing campaign finances.

J. "Hypothetical circumstances" means circumstances of fact framed in such a manner as to call for an opinion from the board based on a series of assumptions and not based on the known or alleged past or current conduct of a specific public official or employee that could be the basis of a complaint under MMC 2.52.080.

K. "Immediate family" means husband, wife, father, mother, brother, sister, son, daughter, stepchildren, stepparents, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law or life partner as is, or may be, defined by state and/or federal law.

L. "Official act or action" means any legislative, administrative, appointive or discretionary act of any officer or employee of the city or any agency, board, committee or commission thereof.

M. "Prima facie showing" means evidence which, standing alone and unexplained, would maintain the proposition and claimed violation of this chapter set forth in the complaint.

N. "Public official" means all elected city officials including the mayor and members of the city council, together with appointive members of city boards and commissions.

O. "Remote interest" may be deemed to exist where an individual is:

1. An unpaid officer, board member, or other person who functions in a decision-making capacity which can influence policy or funding of a corporation, partnership, joint venture or other entity;
2. A landlord or tenant of an entity contracting with the city of Monroe;
3. A holder of less than one percent of the shares of, or ownership interest in, a business entity contracting with the city; or
4. Involved in a transaction with the city for de minimis sales of goods or services totaling less than one thousand two hundred dollars in any calendar year. Municipal officers, as defined in Chapter 42.23 RCW, as now or hereafter amended, shall not qualify for this remote interest.

No interest is deemed to be remote where a public official or employee influences or attempts to influence any other public official or employee to take any action that financially benefits the offending public official or employee by or through the interest. (Ord. 003/2010 § 1 (Exh. A))

2.52.030 Ethical standards.

In order to avoid becoming involved or implicated in a conflict of interest or impropriety or, just as important, an appearance of conflict of interest or impropriety, public officials and city employees shall not:

- A. Knowingly use their office or position for personal or family gain or profit; or
- B. Use city-owned property or city services for personal or family gain or profit; or
- C. Use information acquired in confidence by reason of their official position from a city customer, supplier, lessee or contractor for other than city purposes. (Ord. 003/2010 § 1 (Exh. A))

2.52.040 Conflicts of interest.

A. Public officials and city employees shall not knowingly engage in activities which are in conflict, or which have the potential to create a conflict, with performance of official duties. Examples of conflicts or potential conflicts of interest include, but are not necessarily limited to, circumstances where a public official or city employee:

1. Influences the selection or nonselection of, or the conduct of, business between the city and any entity in which the public official or city employee has a financial interest.
2. Accepts any retainer, compensation, gift or anything of value that is contingent upon a specific action or nonaction by the public official or city employee.
3. Intentionally uses or discloses information not available to the general public and acquired by reason of his or her official position which benefits himself or herself, family, friends or others.

B. Public officials and city employees shall not take part in any council action, as that term is defined in Chapter 42.30 RCW, concerning any contract, property, or other matter of any kind, in which the public official, city employee or his or her immediate family has a financial interest, or which otherwise creates a conflict of interest.

C. Public officials and city employees shall not be deemed to violate subsection (B) of this section when they only have a remote interest in a contract or sale. Public officials and department heads shall disclose the fact and extent of a remote interest for the official minutes of the city council prior to the city council taking any action related to the interest and, thereafter, all action taken by the city council related to such interest shall be by a vote sufficient for the purpose without counting the vote of the public official or city employee having the remote interest.

D. Members of the city of Monroe, Washington, boards, commissions, and city staff are prohibited from being awarded contracts with the city. Exceptions to this rule are those covered by the CBA, RCW and WAC. This subsection was submitted to the Monroe city council as an initiative with enough required signatures to be submitted to the voters. The city council adopted the initiative as an ordinance as an alternative to placing on the ballot. Consequently, to the extent required by law, this subsection shall be construed as superseding any conflicting city requirements or requirements that otherwise operate to illegally amend the requirements of an initiative.

E. Notwithstanding subsection (D) of this section, public officials and city employees may have a beneficial interest in a contract with the city under the following circumstances:

1. If an item of business relating to the contract comes before the public official or city employee, the official or employee must identify the contract on the record and recuse himself or herself from acting in any way on that item, including remaining in the meeting room during any discussion of the item; and
2. The official or employee has not lobbied the city to enter into the contract; and
3. The official or employee has not influenced city policy with the primary purpose of creating the need for the contract; and
4. The contract cannot be made by, through or under the supervision of the official or employee, in whole or in part, or for the benefit of his or her office. (Ord. 003/2010 § 1 (Exh. A))

2.52.050 Gifts and gratuities.

Public officials and city employees shall not, directly or indirectly, solicit any gift or accept or receive any gift, whether it be money, services, loan, travel, entertainment, hospitality, promise, or any other form, under the following circumstances:

- A. It could be reasonably inferred or expected that the gift was intended to influence them in the performance of their official duties; or

B. The gift was intended to serve as a reward for any official action on their part.

Public officials and city employees may accept de minimis gifts such as, but not limited to, calendars, coffee mugs, flowers, candy, and other similar items that are given as a customary business practice and have no material significance to the recipient, with such gifts from any one source not to exceed one hundred dollars in value in any twelve-month period. City employees should report any gift to their immediate supervisor.

This section shall not apply to gifts made to the city. All such gifts shall be given to the mayor for official disposition. (Ord. 003/2010 § 1 (Exh. A))

2.52.060 Confidential information – Disclosure prohibited.

Public officials and city employees shall not, except as required or reasonably believed to be required for the performance of his/her duties, disclose confidential information gained by reason of his/her official position or use such information for his/her own personal interest. "Confidential information" is all information, whether transmitted orally or in writing, that the employee has been informed, is aware, or has reason to believe is intended to be used only for city purposes, is not intended for public disclosure, or is otherwise of such a nature that it is not, at the time, a matter of public record or public knowledge. Confidential information includes, but is not limited to, personal information regarding city officials and employees; private financial and other personal information provided by city taxpayers, license holders, contractors, and customers; intelligence and investigative information, including the identity of persons filing complaints; formulas, designs, drawings, and research data obtained or produced by the city and preliminary, nonfinal assessments, opinions, and recommendations concerning city policies and actions. Any public official who is uncertain as to whether certain information is confidential should consult the mayor or city administrator. An employee who is uncertain as to whether certain information is confidential should consult their immediate supervisor or department head. (Ord. 003/2010 § 1 (Exh. A))

2.52.070 Prohibited conduct after leaving the city.

Former public officials and city employees shall not disclose or use proprietary or other information gained by reason of their city employment unless the information is a matter of public knowledge or is available to the public on request. No former public official or city employee shall, during the period of one year after leaving city office or employment:

A. Assist any person in proceedings on a matter in which he or she was officially involved, participated or acted in the course of duty;

B. Represent any person as an advocate in any matter in which the former public official or city employee was officially involved while a city officer or employee;

C. Participate as a competitor in any competitive selection process for a city contract in which he or she assisted the city in determining the project or work to be done or the process to be used.

Public officials and city employees, who contract with a former public official or city employee for expert or consultant services within one year of the latter's leaving city office or employment, shall promptly inform the city administrator about the agreement.

The prohibitions listed above shall not apply to former employees acting on behalf of a governmental agency unless such assistance or representation is adverse to the interest of the city. (Ord. 003/2010 § 1 (Exh. A))

2.52.080 Board of ethics – Public officials.

There is hereby created a board of ethics for city of Monroe public officials. The purpose of this board is to issue advisory opinions on the provisions of this code of ethics and to review and report to the city council on any alleged violations of the code of ethics, all as set forth below. The board shall also provide recommendations on amendments to the ethics ordinance, as directed by the city council:

A. Composition. The board of ethics shall be composed of five members. None of these may be a public official, city employee or immediate family of either. The mayor shall appoint the board members, with the confirmation of the city council. The board of ethics must be citizens of the United States and residents of the city they serve for at least one year before their appointment to the ethics board.

The regular term of office for members of the board of ethics shall be three years. Each member shall hold office until a successor is appointed and confirmed. Regular terms shall commence January 1st and end December 31st. Initial terms shall be staggered with two members appointed for terms beginning upon their appointment in 2004 and ending December 31, 2004; two members appointed for terms beginning upon their appointment and ending December 31, 2005; and one member appointed for a term beginning upon his or her appointment and ending December 31, 2006. After expiration of the initial terms, subsequent appointees shall serve a regular three-year term.

The board shall elect from its membership a presiding officer who shall be referred to as a chairman, chairwoman, or chairperson, as may be appropriate, who shall serve for a period of one year, unless reelected.

A majority of the board of ethics shall constitute a quorum. The board shall meet as frequently as it deems necessary, or at the request of the mayor or a quorum of the city council. The board shall adopt procedures governing the conduct of its meetings, hearings and the issuance of opinions.

B. Specific Complaint Against a Public Official.

1. Any person may submit a written complaint to the mayor or city administrator alleging one or more violations of this ethics code by a public official. The allegation shall set forth specific facts with precision and detail, sufficient for a determination of sufficiency by the board. The complaint shall also set forth the specific sections and subsections of this code that the facts violate, and the reasons why. Complaints should be signed by the person or persons submitting them, include the

submitter's correct name, address at which mail may be personally delivered to the submitter, and the telephone number at which the submitter may be contacted.

2. The mayor or his/her designee shall inform the public official and the council of the complaint and shall submit the complaint to the board for determination of sufficiency of the complaint within twenty-four hours of its receipt. Voicemail, email or similar notification of the defendant is acceptable if actual notice is not immediately practicable. A copy of the complaint shall also be sent to the defendant by registered mail within three days of receipt. A complaint cannot be sufficient unless it precisely alleges and describes unjustified acts which constitute a prima facie showing of a violation of a specified provision or provisions of this code. The purpose of requiring that the complaint be sufficient is to ensure that the complaint is supported by identifiable facts, and to ensure that the complaint is not based on frivolous charges.

3. The complainant shall have the responsibility for proving the allegations in the complaint by a preponderance of the evidence.

4. Complaints shall be subject to a two-year statute of limitation. The limitations period shall commence from the date that information on completion of the alleged misconduct was reasonably available to the public.

5. Complaints may be amended as authorized by the decision-maker as justice requires; provided, that the timeframes of the review process provide the defendant with a fair opportunity to respond.

6. All public officials and employees, excluding the alleged violator, shall observe strict confidentiality as to the complaint and alleged violator until the review is complete, to the extent that the information is acquired as a result of a person's status as a public official or employee. Confidentiality after completion shall be maintained unless the complaint or finding is released through a public disclosure request filed with the city attorney. City officials and employees may divulge information to the extent necessary to defend against inaccurate or misleading public information about their involvement in the complaint review process. The ethics board and/or city council may divulge information to the extent necessary to correct any inaccurate or misleading public information about the complaint review process. Any person who violates this subsection shall not be subject to criminal penalties; however, a violation of this subsection may result in disciplinary action against such person. The city council may remove a member of the board of ethics from the board if it determines that the member has violated this subsection.

7. The board shall hold a hearing for the purpose of determining sufficiency of written complaints. The board shall begin the hearing no later than twenty days after the complaint is received and shall conclude the hearing(s) no later than twenty-four days after it receives the complaint; provided, however, that the running of these time periods shall be tolled and the complaint proceedings shall be stayed in the event the board makes application to the city council for continuance of the proceedings. Such continuances may only be granted by the city council when

there is demonstrable and compelling reason(s) to do so, and may not exceed ten days. The board shall render a written report, setting forth its findings of sufficiency as to whether or not the individual against whom the complaint was filed may have violated the code of ethics.

8. The determination of sufficiency or insufficiency by the board is final and binding, and no administrative or other legal appeal is available. If the finding is one of sufficiency of the complaint, then the complaint shall be heard and reported as set forth below.

9. No report may be issued by the board, unless a person or entity complained against has had an opportunity to present information on his, her or its behalf at a hearing before the board.

10. A copy of the written report on sufficiency shall be delivered to the city council, person complained against, and the complaining party within ten days of conclusion of the hearing, unless a longer time period has been requested by the person complained against, and has been approved by the board or unless a longer time period has been requested by the board and has been approved by the city council.

11. In the event the written report provides that the board has found sufficiency in the allegations against whom the complaint has been filed, the matter shall be referred for hearing to the city's hearings examiner unless the defendant requests the matter be heard by the ethics board. (Hearings examiners will be rotated from a rotational roster maintained by the city and shall be licensed and practicing attorneys who are not residents of the city.)

a. Hearings by a hearings examiner or the ethics board must be held within twenty days of a finding of sufficiency unless an extension is requested, or granted, by the defendant. The hearing must be concluded within ten days of commencement of the hearing unless extended by the request or agreement of the defendant.

b. Findings of fact and conclusions and opinion of the hearings examiner or the ethics board must be received by the council no later than seven days after the conclusion of the hearing.

c. The complainant or defendant may request a subpoena for documentary evidence or the attendance of witnesses by making a written application to the mayor describing in detail the subject matter of the proposed subpoena and an explanation of why such information is reasonably necessary in order to conduct the hearing. The subpoena may be issued in the event the mayor determines the subpoena request is reasonable, relevant to the complaint and within the subpoena power of the city. The request for a subpoena shall be submitted to the mayor within two business days after the determination of sufficiency and the mayor shall have two business days to issue a decision. In the event the mayor denies the request or the complaint alleges a violation of the ethics code by the mayor, the defendant or complainant may request a decision from the city council. City council review shall be scheduled for the next regular city council business meeting or study session, unless an earlier special meeting

is available. The commencement of the hearing on the merits shall be delayed until five days after the council makes a decision on whether to issue a subpoena.

12. In the event the final determination by either the hearings examiner or the ethics board provides that the individual against whom the complaint has been filed has violated the code of ethics, the council shall convene and render its decision within seven days of the receipt of said determination unless an extension is requested by the defendant and granted by council. In the event that the city council members agree by majority vote that one or more of the violations occurred, then as to the violations the city council may take any of the following actions by a majority vote of the council; provided, that penalties may only be based upon violations alleged in the complaint or amended complaint and not upon other violations discovered during the complaint process:

a. Admonition. An admonition shall be a verbal nonpublic statement made by the mayor to the individual.

b. Reprimand. A reprimand shall be administered to the individual by letter. The letter shall be approved by the city council and shall be signed by the mayor. If the individual objects to the content of such letter, he or she may file a request for review of the letter of reprimand with the city council. The city council shall review the letter of reprimand in light of the report and the request for review, and may take whatever action appears appropriate under the circumstances. The action of the city council shall be final and not subject to further review.

c. Censure. A censure shall be a written statement administered personally to the individual. The individual shall appear at a time and place directed by the city council to receive the censure. Notice shall be given at least twenty days before the scheduled appearance at which time a copy of the proposed censure shall be provided to the individual. Within five days of receipt of the notice, the individual may file a request for review of the content of the proposed censure with the city council. Such a request will stay the administration of the censure. The city council shall review the proposed censure in light of the report and the request for review, and may take whatever action appears appropriate under the circumstances. The action of the city council shall be final and not subject to further review. If no such request is received, the censure shall be administered at the time and place set. It shall be given publicly, and the individual shall not make any statement in support of or in opposition thereto or in mitigation thereof. A censure shall be deemed administered at the time it is scheduled whether or not the individual appears as required.

d. Removal. In the event the individual against whom the complaint has been filed is a member of a city board, commission, committee, or other multi-member bodies appointed by the mayor with the approval of the city council, the city council may, by a majority vote, remove the individual from such board, commission or committee; provided, however, that nothing in this section authorizes the city council to remove a council member or the mayor from his or her office.

13. Proceedings by the board or the hearings examiner when they relate to action involving a person shall be made in executive session; however, upon request of the person involved, the proceeding shall be open to the public. The complaint, the determination of sufficiency or no sufficiency, and written report of the board or the hearings examiner shall be considered public records.

14. Action by the city council shall be by majority vote. If the proceeding involves a member of the city council, the member does not vote on any matter involving the member. As provided in RCW 35A.12.100, the mayor shall vote in the case of a tie, except if the action is against the mayor. Deliberation by the council may be in executive session; however, upon request of the person complained against, the meeting shall be open to the public.

15. A complaint cannot be sufficient unless it precisely alleges and describes unjustified acts, which constitute a prima facie showing of a violation of a specified provision or provisions of this code.

C. Specific Complaint Against a City Employee Official. In the event the individual against whom the complaint has been filed is a city employee, the city shall follow the appropriate discipline, through the employee's supervisor and/or department head, procedures as outlined in the appropriate bargaining agreement, employee handbook, civil service rules, and/or standard operating procedures. Employees also have the right to appeal through the court system as regulated by state and federal law. (Ord. 003/2010 § 1 (Exh. A))

2.52.090 Miscellaneous provisions.

The board of ethics shall also render written opinions concerning the applicability of the code of ethics to hypothetical circumstances or situations upon the request of the mayor or any councilmember. Requests for opinions from the public must be approved by either the mayor or a majority vote of council.

The city shall release copies of any written report resulting from a review of a complaint and any written censures or reprimands issued by the city council in response to public records requests as consistent with Chapter 42.17 RCW and any other applicable public disclosure laws.

The mayor shall provide staff, as he or she deems appropriate, to assist the board of ethics.

Board members shall be reimbursed by the city for reasonable expenses incurred in their exercise of the official business of the board, consistent with the expense reimbursement policies of the city.

This chapter shall not apply as to those official acts, actions, or activities which occurred prior to the adoption of this code of ethics.

The city clerk shall cause a copy of this code of ethics to be distributed to every public officer of the city within thirty days after enactment of the ordinance codified in this chapter. The ordinance codified in this chapter will also be made available on the city's Web page and hard copies will be made available upon request. (Ord. 003/2010 § 1 (Exh. A))

2.52.100 Appeal – Penalties for violation.

Appeal of a decision of the board of ethics that the code of ethics has been violated, or a decision of the city council as to an admonition, reprimand, censure, or removal, may be filed with the Snohomish County superior court, Washington State. Any person who files with the ethics board a false charge of misconduct on the part of any public official or public employee when the person knows it is false shall be guilty of a misdemeanor. In addition to criminal penalties, violators shall pay a civil penalty of five hundred dollars, or three times the economic value of anything received in violation of this chapter, whichever is greater. Any monetary penalty assessed civilly shall be placed in the city's general fund. (Ord. 003/2010 § 1 (Exh. A))

2.52.110 Severability.

If any section, subsection, paragraph, sentence, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of this chapter, it being hereby expressly declared that this chapter and each section, subsection, paragraph, sentence, clause, and phrase thereof would have been adopted irrespective of the fact that any one or more other sections, subsections, paragraphs, sentences, clauses, or phrases be declared invalid or unconstitutional. (Ord. 003/2010 § 1 (Exh. A))

1

Code reviser's note: Ordinance 003/2010 § 1 provides: "The provisions creating a hearing examiner system shall only go into effect once an initial roster of hearing examiners has been confirmed by the City Council."

Chapter 2.80 CODE OF ETHICS

Sections:

- 2.80.010 Declaration of policy.
- 2.80.020 Use of public property.
- 2.80.030 Obligations to citizens.
- 2.80.040 Code of ethics.
- 2.80.045 Confidentiality.
- 2.80.050 Penalties.
- 2.80.060 Board of ethics – Organization.
- 2.80.070 Board of ethics – Powers and duties.
- 2.80.080 Board of ethics – Meetings.
- 2.80.090 Board of ethics – Hearings and investigations.
- 2.80.100 Board of ethics – Review by city council.

2.80.010 Declaration of policy.

High moral and ethical standards among public officials and public employees are essential to gain and maintain the confidence of the public because such confidence is essential to the conduct of free government. They are agents of the people and hold their positions for the benefit of the people. The proper operation of democratic government requires of public officials and employees that they be independent and impartial when establishing policy and that their positions never be used for personal gain. A code of ethical conduct is necessary for the guidance of public officials where conflicts do occur as well as to prevent conflicts of interest. (Ord. 770 § 1, 1972).

2.80.020 Use of public property.

No official or employee shall request or permit the use of city owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as city policy for the use of such official or employee in the conduct of official business. (Ord. 770 § 2(a), 1972).

2.80.030 Obligations to citizens.

No official or employee shall grant, nor shall any citizen attempt to obtain, any special consideration, treatment or advantage beyond that which is available to every other citizen. (Ord. 770 § 2(b), 1972).

2.80.040 Code of ethics.

The purpose of the code of ethics is to assist city officials and employees to establish guidelines to govern their own conduct. The code is also intended to help develop traditions of responsible public service. No official or employee shall engage in any act which is in conflict with the performance of his official duties. An official or employee shall be deemed to have conflict of interest if he:

(1) Receives or has any financial interest in any sale to or by the city of any service or property when such financial interest was received with the prior knowledge that the city intended to purchase such property or obtain such service;

(2) Accepts or seeks for others any service, information or thing of value on more favorable terms than those granted to the public generally, from any person, firm or corporation having dealings with the city, except such service, information or thing of value may be accepted in an amount not in excess of \$50.00 from a single source per calendar year so long as it could not be reasonably expected that such service, information or thing of value would influence the vote, action, or judgment of the officer or employee, or be considered a reward for action or inaction. The value of gifts given to an official's or employee's family member or guest shall be attributed to the official or employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family or social relationship exists between the donor and the family member or guest;

(3) Accepts any gift or favor from any person, firm or corporation having any dealings with the city if he knows or has reason to know that it was intended to obtain special consideration;

(4) Influences the selection of or the conduct of business with a corporation, person or firm having business with the city if he personally or through household relatives has financial interest in or with the corporation, person or firm;

(5) Is an employee, officer, partner, director or consultant of any corporation, firm or person having business with the city, unless he has disclosed such relationship as provided by this chapter;

(6) Engages in or accepts private employment or renders services for private industry when such employment or service is incompatible with the proper discharge of his official duties or would impair his independence of judgment or action in the performance of his official duties;

(7) Appears in behalf of a private interest before any regulatory governmental agency, or represents a private interest in any action or proceeding against the interest of the city in any litigation to which the city is a party, unless he has a personal interest and this personal interest has been disclosed to the regulatory governmental agency. A city councilman may appear before regulatory governmental agencies on behalf of constituents in the course of his duties as a representative of the electorate or in the performance of public or civic obligations; however, no official or employee shall accept a retainer or compensation that is contingent upon a specific action by a city agency;

(8) Directly or indirectly possess a substantial or controlling interest in any business entity which conducts business or contracts with the city, or in the sale of real estate, materials, supplies or services to the city, without disclosing such interest as provided by this chapter. An interest is not a substantial interest if such interest does not exceed one-tenth of one percent of the outstanding securities of the business concern; or, if the interest is an unincorporated business concern, one percent of the net worth of such concern; or the financial interest of a corporation, person or firm does not exceed five percent of the net worth of the employee and his household relatives;

(9) As a city councilman has a financial or other private interest in any legislation or other matters coming before the council and fails to disclose such an interest on the records of the city council. This provision shall not apply if the city councilman disqualifies himself from voting by stating the nature and extent of such interest. Any other official or employee who has a financial or other private interest, and who participates in discussion with or gives an official opinion to the city council and fails to disclose on the records of the city council the nature and extent of such interest is in violation of this chapter;

(10) Violates any ordinance or resolution of the city;

(11) Violates the confidentiality of his position;

(12) Makes any false statement or representation of any public record or document in a willful disregard of the truth of such statement or representation. (Ord. 2623 § 1, 2006; Ord. 808 § 1, 1973; Ord. 770 § 3, 1972).

2.80.045 Confidentiality.

The city imposes the duty of every city employee, city advisor, and city council member to maintain his confidence on any city business or information pertaining to the city of which he has knowledge regardless whether that knowledge is gained in his or her normal work; provided, however, this confidence shall not apply to matters of public record as defined by Initiative 276 and subsequent amendments thereto, nor to matters which are necessary to relate or converse about in the performance of the official duties of that city employee, advisor and/or council member. One does not maintain his confidence as used herein by speaking, writing or uttering in any manner to persons who are not at the time of such speaking, writing or uttering in the employ of, advisor to, or council member of the city. (Ord. 808 § 2, 1973).

2.80.050 Penalties.

Any person willfully violating this chapter is guilty of a misdemeanor and is subject to the civil penalties provided herein for the negligent violation of this chapter.

An employee of the city found guilty of a negligent violation of this chapter is subject to civil penalties up to and including termination from employment and/or loss of pay not to exceed one month's salary.

Any elected official found guilty of a negligent violation of this chapter is subject to a civil penalty of loss of pay not to exceed one month's salary. In addition to the sanctions for aiding, abetting, seeking or requesting a violation of this chapter, any person or organization which willfully attempts to secure preferential treatment in its dealings with the city by offering any valuable gifts, whether in the form of services, loan, thing or promise, or any other form to any city official or employee, shall have its current contracts with the city canceled and shall not be able to bid on any other city contracts for a period of two years. (Ord. 770 § 4, 1972).

2.80.060 Board of ethics – Organization.

There is created a board of ethics, composed of three members, one to be appointed by the mayor, one to be appointed by two-thirds vote of the city council, and the third, who shall be chairman, to be appointed by the other two members. The terms of the board members shall be three years. The first three members shall be appointed for one-, two- and three-year terms, respectively. The chairman shall have a three-year term. The terms of the other two are to be determined by lot. No member of the board of ethics shall simultaneously hold any city office, elected or appointed, nor shall he be an employee of the city. Any member of the board of ethics may be removed for just cause by a two-thirds vote of the city council, after written charges have been served on such member and a public hearing has been held by the city council. (Ord. 929 § 2, 1977).

2.80.070 Board of ethics – Powers and duties.

(1) The board of ethics shall be purely an advisory board to the city council.

(2) The board shall perform the following duties:

(a) Upon request of a city official or employee, the board shall render advisory opinions, in writing, concerning questions of ethics, conflicts of interest and the applicability of this chapter. Written copies of such opinions shall be released only when the board deems it to be in the public interest. Upon release, copies shall be delivered to the requesting party and to the mayor. Such opinions may be made public only upon deleting such material as may be necessary to protect the confidence and privacy of city officials and employees.

(b) Upon receiving a written complaint regarding a violation of this chapter, accompanied by proof that said written complaint has been served upon the party who is accused, the board shall investigate said complaint and, if it deems it necessary, shall conduct a hearing and issue findings as provided below.

(c) Upon its own motion, the board may investigate any suspected or alleged violation of this chapter and, if it deems it necessary, shall conduct a hearing and issue findings as provided below; provided, however, no such hearing shall be conducted unless the accused is first served with written copy of the allegations against him.

(d) The board shall keep such records as may be necessary for the proper administration of this chapter. (Ord. 929 § 3, 1977).

2.80.080 Board of ethics – Meetings.

The board shall meet as frequently as it deems necessary. A majority of the board shall constitute a quorum. Meetings shall be open or closed to the public at the discretion of the board and as allowed under the Washington State Open Meetings Act. (Ord. 929 § 4, 1977).

2.80.090 Board of ethics – Hearings and investigations.

In the course of an investigation, the board may determine that it is necessary to conduct a hearing. If the investigation involves accusations against an officer or employee, such hearings shall be closed to the

public unless such officer or employee requests that it be a public hearing. The board may administer oaths in connection with any matter under inquiry. Any witness in a proceeding before the board shall have the right to be represented by counsel. No informality in any proceedings or hearings, or in the manner of taking testimony before the board, shall invalidate any decision or findings made, approved or confirmed by the board. At the conclusion of each investigation, the board shall render written findings of fact and recommendations. Copies of the same shall be delivered to the party who was the subject of the investigation, the mayor and the city council. (Ord. 929 § 5, 1977).

2.80.100 Board of ethics – Review by city council.

The city council shall review the findings and recommendations of the board of ethics. No such findings or recommendations shall be final or effective unless and until approved and implemented by resolution of the city council. The city council, in its discretion, may render its decision based upon the findings and recommendations of the board of ethics without further investigation or public hearing. (Ord. 929 § 6, 1977).

Home

<

>

Chapter 2.80 CODE OF ETHICS

Sections:

- [2.80.010 Purpose.](#)
- [2.80.020 Definitions.](#)
- [2.80.030 Prohibited conduct.](#)
- [2.80.040 Disclosure of interest in legislative action.](#)
- [2.80.050 Ethics hearing officer – Position created.](#)
- [2.80.060 Ethics hearing officer – Powers and duties.](#)
- [2.80.070 Hearings.](#)
- [2.80.080 Recommendations of the ethics hearing officer.](#)
- [2.80.090 Criminal violations – Prosecuting authority – Penalties.](#)
- [2.80.100 Relation of chapter to Chapter 42.23 RCW.](#)

2.80.010 Purpose.

A. The proper operation of democratic representative government requires that elected and appointed public officers and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels of the government structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. Accordingly, it is the purpose of this chapter to establish ethical standards of conduct for all officers and employees of the city, whether elected or appointed, paid or unpaid; to set forth those acts that are incompatible with such standards; to require disclosure by such officers and employees of private financial or other interests in matters affecting the city; and to provide effective means for enforcement thereof. This chapter shall not be construed so as to impair the ability of city officers and employees to participate in ceremonial, representational, or informational functions in the pursuit of their official duties.

B. This chapter shall be liberally construed in favor of protecting the public's interest in full disclosure of conflicts of interest and promoting ethical standards of conduct for city officers and employees.

C. This chapter shall be interpreted and applied in a manner consistent with the maxim that "De minimis non curat lex" and to allow inadvertent minor violations to be corrected and cured without full hearing in conformance with the spirit and purpose of this code. (Ord. 762 § 1, 1996).

2.80.020 Definitions.

For the purpose of interpreting and enforcing the code of ethics, the following definitions shall apply:

A. "Business entity" means any corporation, general or limited partnership, sole proprietorship (including a private consultant operation), joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not organized for profit.

B. "City agency" means every department, office, ethics hearing officer, commission, or committee of the city, or any subdivision thereof, but excludes public corporations and ad hoc advisory committees.

C. "City officer or employee" means any person holding a position by election, appointment, or employment in the service of the city or city agency, whether paid or unpaid, including members of any ethics hearing officer, committee or commission.

D. "Compensation" means anything of economic value, however designated, which is paid, loaned, advanced, granted, given or transferred for or in consideration of personal services to any person.

E. "Beneficial interest" means any direct or indirect, pecuniary or material benefit, other than a remote interest, accruing to a city officer or employee as a result of a contract, transaction, zoning decision or other matter which is or may be the subject of an official act or act by or with the city, except for such contracts, transactions, zoning decisions or other matters which by their terms and by the substance or their provisions confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated. For purposes of this chapter, a city officer or employee shall be deemed to have an interest in the affairs of:

1. The officer or employee's spouse or dependent children;
2. Any person or business entity with whom a contractual relationship, whether oral or written, exists with the city officer or employee;
3. Any business entity in which the city officer or employee is an officer, director, member or employee;
4. Any business entity in which the public officer or employee controls or owns, directly or indirectly, in excess of one percent of the total stock, or an interest totaling \$5,000 or more in value; and
5. Any person or business entity with whom a contractual relationship, whether oral or written, exists with the city officer or employee; provided, however, that a contractual obligation of less than \$500.00, or a commercially reasonable lien made in the ordinary course of business, or a contract for a commercial retail sale, shall not be deemed to create an interest in violation of this code.

F. "Gift" means anything of economic value in excess of \$20.00, regardless of the form, without adequate and lawful considerations; provided, it does not include the solicitation, acceptance, or receipt of political campaign contributions regulated in accordance with provisions of federal, state, or local laws governing campaign finances.

G. "Immediate family" means any person who is:

1. A spouse or domestic partner;
2. Any dependent parent, parent-in-law, child or son-in-law or daughter-in-law; or
3. Any parent, parent-in-law, child, son-in-law, daughter-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of the city officer or employee.

H. "Official act or action" means any legislative, administrative, appointive or discretionary act of any city officer or employee of the city or any ethics hearing officer, committee or commission thereof.

I. "Person" means any individual, association, corporation, or other legal entity.

J. "Remote interest" means:

1. That of a nonsalaried officer of a nonprofit corporation;
2. That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;
3. That of a landlord or tenant of a contracting party;
4. That of a holder of less than one percent of the shares of a corporation or cooperative which is a contracting party. (Ord. 929 § 1, 2003; Ord. 762 § 1, 1996).

2.80.030 Prohibited conduct.

A. Disqualification from Acting on City Business. No city officer or employee, while holding such office or employment, shall:

1. Engage in any transaction or activity, which is, or would to a reasonable person appear to be, in conflict with or incompatible with the proper discharge of official duties, or which impairs, or would to a reasonable person appear to impair, the officer's or employee's independence of judgment or action in the performance of official duties and fail to disqualify himself or herself from official action in those instances where the conflict occurs.
2. Have a financial or other private interest, other than a remote interest as defined in this chapter, direct or indirect, personally or through a member of his or her immediate family, or business entity, in any matter upon which the officer or employee is required to act in the discharge of his or her official duties, and fail to disqualify himself or herself from acting or participating.
3. Fail to disqualify himself or herself from acting on any transaction which involves the city and any person who is, or at any time within the preceding 12-month period has been, a private client of his or hers, or of his or her firm or partnership.

4. Have a financial or other private interest, other than a remote interest as defined in this chapter, direct or indirect, personally or through a member of his or her immediate family, or business entity, in any contract or transaction to which the city or any city agency may be a party, and fail to disclose such interest to the appropriate city authority prior to the formation of the contract or the time the city or city agency enters into the transaction.

B. Improper Use of Official Position. No city officer or employee, while holding such office or employment, shall:

1. Use his or her official position for a purpose that is, or would to a reasonable person appear to be, primarily for the private benefit of the officer or employee, rather than primarily for the benefit of the city; or to achieve a private gain or an exemption from duty or responsibility for the officer or employee or any other person.

2. Use or permit the use of any person, funds, or property under his or her official control, direction, or custody, or of any city funds or city property, for a purpose which is, or to a reasonable person would appear to be, for other than a city purpose; provided, that nothing shall prevent the private use of city property which is available on equal terms to the public generally (such as the use of library books or tennis courts) the use of city property in accordance with municipal policy for the conduct of official city business (such as the use of a city automobile), if in fact the property is used appropriately; or the use of city property for participation of city or its officials in activities of associations of governments or governmental officials.

3. Except in the course of official duties, assist any person in any city transaction where such city officer's or employee's assistance is, or to a reasonable person would appear to be, enhanced by that officer's or employee's position with the city; provided, that this subsection shall not apply to any officer or employee appearing on his or her own behalf or representing himself or herself as to any matter in which he or she has a proprietary interest, if not otherwise prohibited by this chapter or any other applicable ordinance, regulation or statute.

4. Regardless of prior disclosure thereof, have a financial interest, direct or indirect, personally or through a member of his or her immediate family, in a business entity doing or seeking to do business with the city, and influence or attempt to influence the selection of, or the conduct of business with, such business entity by the city.

C. Acceptance of Gifts or Loans. No city officer or employee, while holding such office or employment, and for a period of one year after leaving city employment, shall solicit or receive any retainer, gift, loan, entertainment, favor or proprietary reward, or other thing of monetary value from any person or entity where the retainer, gift, loan, entertainment, favor, or other thing of monetary value had been solicited, or received or given or, to a reasonable person, would appear to have been solicited, received or given, with intent to give or obtain special consideration of influence as to any action by such officer in his or her

official capacity; provided, that nothing shall prohibit contributions for election campaigns which are solicited or received and reported in accordance with applicable law.

D. Disclosure of Confidential or Privileged Information. No city officer or employee, while holding such office or employment, or at any time after leaving office or employment, shall disclose or use any confidential or privileged information gained by reason of his or her official position for a purpose which is for other than a city purpose; provided, that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge, or which is available to the public on request.

E. Financial or Beneficial Interest in City Transactions. No city officer or employee, while holding such office or employment, shall:

1. Regardless of prior disclosure thereof, hold or acquire a beneficial interest, direct or indirect, personally or through a member of his or her immediate family, in any contract which, in whole or in part, is, or which may be, made by, through, or under the supervision of such officer or employee or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity, or reward in connection with such contract from any other person or entity beneficially interested therein, in violation of Chapter 42.23 RCW.

2. Regardless of prior disclosure thereof, be beneficially interested, directly or indirectly, other than a remote interest, in any contract or transaction which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract or transaction from any other person beneficially interested therein, in violation of Chapter 42.23 RCW. This subsection shall not apply to the furnishing of water, other utility services, or other services of the city at the same rates and on the same terms as are available to the public generally, or to any other transaction specifically exempted by Chapter 42.23 RCW.

F. Quasi-Judicial Proceedings, Reporting of Violations, False Statements. No city-appointed officer or employee, while holding such office or employment, shall:

1. Participate in or influence any pending quasi-judicial proceeding if the city official or employee has a financial or personal interest in the matter.

2. Intimidate, harass, discipline or otherwise take any improper action against a member of the public, a city officer or employee solely because he or she in good faith has reported a violation of this code of ethics, or any other written city code or policy.

3. Induce or direct any city officer or employee to make any false statement or representation of any public record or document in willful disregard of the truth of such statement or representation.

G. Prohibited Conduct After Leaving City Office or Employment.

1. No former officer or employee shall, for a period of one year after leaving city office or employment:

a. Assist any person in proceedings involving the agency of the city with which he was previously employed, or on a matter in which he or she was officially involved, participated or acted in the course of duty.

b. Represent any person as an advocate in any matter in which the former officer or employee was officially involved while a city officer or employee.

c. Participate as a competitor in any competitive selection process for a city contract in which he or she assisted the city in determining the project or work to be done or the process to be used.

2. A city officer, who contracts with a former city officer or employee for expert or consultant services within one year of the latter's leaving city office or employment, shall promptly inform the city administrator about the agreement.

3. The prohibition of subsection (G)(1) of this section shall not apply to former employees acting on behalf of a governmental agency unless such assistance or representation is adverse to the interest of the city. (Ord. 929 § 2, 2003; Ord. 762 § 1, 1996).

2.80.040 Disclosure of interest in legislative action.

A. Any member of council who has a financial interest or personal interest in any proposed legislation before the council shall disclose on the record the nature and extent of such interest. If the member of council would be especially benefited by such legislation, the member of council shall not participate in the discussion or vote upon such matter.

B. Any other city officer or employee who has a financial or personal interest in any proposed legislative action of the council and who participates in the discussion with or gives an official opinion or recommendation to the council shall disclose on the record the nature and extent of such interest. (Ord. 762 § 1, 1996).

2.80.050 Ethics hearing officer – Position created.

There is hereby created the office of ethics hearing officer, who shall be appointed by the mayor and confirmed by the city council. The ethics hearing officer shall be an attorney not holding any other elective or appointive office with the city. The ethics hearing officer may be removed from office with or without cause by the mayor with the concurrence of the city council. The compensation of the ethics hearing officer, and other terms and conditions of the engagement, shall be set forth in a written contract. (Ord. 762 § 1, 1996).

2.80.060 Ethics hearing officer – Powers and duties.

The ethics hearing officer shall have the following powers and duties:

A. The ethics hearing officer shall be a quasi-judicial fact finder.

B. The ethics hearing officer shall perform the following duties:

1. Upon request of a city officer or employee, the ethics hearing officer shall render advisory opinions, in writing, to any officer or employee having doubt as to the applicability of any provision of this chapter to a particular situation, or as to the definition of terms used herein. Officers and employees may rely upon such written opinions, which shall be binding upon the city until amended or revoked, unless material facts were misstated or omitted in the request for the advisory opinion. Advisory opinions shall be filed with the city clerk and shall be public records, except to the extent necessary to preserve protected privacy interests under RCW 42.17.310; and further provided, the opinion shall be stated in general issue and opinion format, without disclosure of the identity of the person requesting it.

2. Upon receiving a written complaint regarding a violation of this chapter, accompanied by proof that said written complaint has been served upon the party who is alleged to be in violation, the ethics hearing officer shall investigate said complaint and, upon making a determination that the complaint is legally sufficient and that it is supported by probable cause, conduct a hearing and issue findings and recommendation as provided below.

3. Determinations of legal sufficiency and probable cause shall be made within 30 days after receipt of any complaint. Any complaint which the hearing officer determines is not legally sufficient or not to be supported by probable cause shall be dismissed.

4. Proceedings before the ethics hearing officer shall be recorded, and proper minutes of all meetings and actions shall be kept. (Ord. 929 § 3, 2003; Ord. 762 § 1, 1996).

2.80.070 Hearings.

The ethics hearing officer shall make no findings and recommendation without first conducting a hearing, which shall be held within 30 days after the determination of legal sufficiency and probable cause; provided, any matter which the ethics hearing officer determines would be deemed minor or inadvertent even if the allegations were proven may be summarily dismissed without further proceedings, with the findings of legal sufficiency and probable cause noted in the minutes of the proceedings, if the officer or employee stipulates in writing to appropriate corrective measures to ensure such conduct will not continue or reoccur. All hearings shall be closed to the public unless the officer or employee whose conduct is the subject of the hearing requests that it be a public hearing. All testimony before the ethics hearing officer shall be sworn on oath or affirmation, subject to the laws of perjury of the state of Washington. Any party or witness in a proceeding before the ethics hearing officer shall have the right to be represented by counsel. Within 20 days after the conclusion of a hearing, the ethics hearing officer shall render written findings of fact and recommendations. Copies of the same shall be delivered to the party who was the subject of the hearing, complainant, the mayor, and the city council. (Ord. 762 § 1, 1996).

2.80.080 Recommendations of the ethics hearing officer.

A. If the ethics hearing officer determines that a city employee has violated the provisions of this code, the ethics hearing officer may recommend to the mayor that the employee be subject to disciplinary action. In addition to any other penalty otherwise provided by law, a violation shall be cause for suspension, discharge or removal from office, or such other disciplinary action as may, by the appropriate city authority, be deemed necessary and proper, and consistent with the city personnel manual, and/or state law. A written report of the disciplinary action taken as a result of the ethics hearing officer's recommendation shall be made by the appropriate city authority to the ethics hearing officer within 14 days after receipt of the ethics hearing officer's recommendation.

B. This section shall not derogate from employee rights under any collective bargaining agreement or city personnel manual or rules promulgated thereunder.

C. If the ethics hearing officer determines the mayor or a council member has violated a provision of the code of ethics, then he shall issue a "Letter of Censure."

D. If the ethics hearing officer determines any person has willfully and knowingly violated the provisions of this chapter, he may refer the matter to the prosecuting authority for action under SMC 2.80.090. (Ord. 762 § 1, 1996).

2.80.090 Criminal violations – Prosecuting authority – Penalties.

A. Any officer or employee who knowingly and willfully violates the provisions of this chapter shall be guilty of a misdemeanor.

B. The prosecuting authority for violations of this chapter shall be appointed by the mayor and confirmed by the city council. The prosecuting attorney shall not be the city attorney or city prosecuting attorney. If the ethics hearing officer recommends criminal prosecution of any elected officer, and prosecuting authority has not previously been appointed and confirmed, then the prosecuting authority shall be appointed by the King County prosecuting attorney. The prosecuting authority shall not have authority to prosecute any matters except those referred by the ethics hearing officer pursuant to SMC 2.80.080(D).

C. Any person convicted of a violation of this chapter shall be punished by imprisonment for not more than 90 days, or a fine of not more than \$1,000, or by both such imprisonment and fine. (Ord. 762 § 1, 1996).

2.80.100 Relation of chapter to Chapter 42.23 RCW.

The conduct of all city officers and employees shall meet the requirements of both this chapter and Chapter 42.23 RCW. When a higher standard of conduct is established by this chapter than by Chapter 42.23 RCW, the standards of this chapter shall control; provided, this chapter shall not be construed to permit any act or omission that is prohibited by Chapter 42.23 RCW. (Ord. 929 § 4, 2003).

Home

<

>

**Chapter 2.80
CODE OF ETHICS****Sections:**

- 2.80.010 Purpose.
- 2.80.020 Definitions.
- 2.80.030 Prohibited conduct.
- 2.80.040 Disclosure of interest in legislative action.
- 2.80.050 Ethics hearing officer – Position created.
- 2.80.060 Ethics hearing officer – Powers and duties.
- 2.80.070 Hearings.
- 2.80.080 Recommendations of the ethics hearing officer.
- 2.80.090 Criminal violations – Prosecuting authority – Penalties.
- 2.80.100 Relation of chapter to Chapter 42.23 RCW.

2.80.010 Purpose.

A. The proper operation of democratic representative government requires that elected and appointed public officers and employees be independent, impartial, and responsible to the people; that government decisions and policy be made in the proper channels of the government structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. Accordingly, it is the purpose of this chapter to establish ethical standards of conduct for all officers and employees of the city, whether elected or appointed, paid or unpaid; to set forth those acts that are incompatible with such standards; to require disclosure by such officers and employees of private financial or other interests in matters affecting the city; and to provide effective means for enforcement thereof. This chapter shall not be construed so as to impair the ability of city officers and employees to participate in ceremonial, representational, or informational functions in the pursuit of their official duties.

B. This chapter shall be liberally construed in favor of protecting the public's interest in full disclosure of conflicts of interest and promoting ethical standards of conduct for city officers and employees.

C. This chapter shall be interpreted and applied in a manner consistent with the maxim that "De minimis non curat lex" and to allow inadvertent minor violations to be corrected and cured without full hearing in conformance with the spirit and purpose of this code. (Ord. 762 § 1, 1996).

2.80.020 Definitions.

For the purpose of interpreting and enforcing the code of ethics, the following definitions shall apply:

A. "Business entity" means any corporation, general or limited partnership, sole proprietorship (including a private consultant operation), joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not organized for profit.

B. "City agency" means every department, office, ethics hearing officer, commission, or committee of the city, or any subdivision thereof, but excludes public corporations and ad hoc advisory committees.

C. "City officer or employee" means any person holding a position by election, appointment, or employment in the service of the city or city agency, whether paid or unpaid, including members of any ethics hearing officer, committee or commission.

D. "Compensation" means anything of economic value, however designated, which is paid, loaned, advanced, granted, given or transferred for or in consideration of personal services to any person.

E. "Beneficial interest" means any direct or indirect, pecuniary or material benefit, other than a remote interest, accruing to a city officer or employee as a result of a contract, transaction, zoning decision or other matter which is or may be the subject of an official act or act by or with the city, except for such contracts, transactions, zoning decisions or other matters which by their terms and by the substance or their provisions confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated. For purposes of this chapter, a city officer or employee shall be deemed to have an interest in the affairs of:

1. The officer or employee's spouse or dependent children;
2. Any person or business entity with whom a contractual relationship, whether oral or written, exists with the city officer or employee;
3. Any business entity in which the city officer or employee is an officer, director, member or employee;
4. Any business entity in which the public officer or employee controls or owns, directly or indirectly, in excess of one percent of the total stock, or an interest totaling \$5,000 or more in value; and
5. Any person or business entity with whom a contractual relationship, whether oral or written, exists with the city officer or employee; provided, however, that a contractual obligation of less than \$500.00, or a commercially reasonable lien made in the ordinary course of business, or a contract for a commercial retail sale, shall not be deemed to create an interest in violation of this code.

F. "Gift" means anything of economic value in excess of \$20.00, regardless of the form, without adequate and lawful considerations; provided, it does not include the solicitation, acceptance, or receipt of political campaign contributions regulated in accordance with provisions of federal, state, or local laws governing campaign finances.

G. "Immediate family" means any person who is:

1. A spouse or domestic partner;
2. Any dependent parent, parent-in-law, child or son-in-law or daughter-in-law; or

3. Any parent, parent-in-law, child, son-in-law, daughter-in-law, sibling, uncle, aunt, cousin, niece or nephew residing in the household of the city officer or employee.

H. "Official act or action" means any legislative, administrative, appointive or discretionary act of any city officer or employee of the city or any ethics hearing officer, committee or commission thereof.

I. "Person" means any individual, association, corporation, or other legal entity.

J. "Remote interest" means:

1. That of a nonsalaried officer of a nonprofit corporation;
2. That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;
3. That of a landlord or tenant of a contracting party;
4. That of a holder of less than one percent of the shares of a corporation or cooperative which is a contracting party. (Ord. 929 § 1, 2003; Ord. 762 § 1, 1996).

2.80.030 Prohibited conduct.

A. Disqualification from Acting on City Business. No city officer or employee, while holding such office or employment, shall:

1. Engage in any transaction or activity, which is, or would to a reasonable person appear to be, in conflict with or incompatible with the proper discharge of official duties, or which impairs, or would to a reasonable person appear to impair, the officer's or employee's independence of judgment or action in the performance of official duties and fail to disqualify himself or herself from official action in those instances where the conflict occurs.
2. Have a financial or other private interest, other than a remote interest as defined in this chapter, direct or indirect, personally or through a member of his or her immediate family, or business entity, in any matter upon which the officer or employee is required to act in the discharge of his or her official duties, and fail to disqualify himself or herself from acting or participating.
3. Fail to disqualify himself or herself from acting on any transaction which involves the city and any person who is, or at any time within the preceding 12-month period has been, a private client of his or hers, or of his or her firm or partnership.
4. Have a financial or other private interest, other than a remote interest as defined in this chapter, direct or indirect, personally or through a member of his or her immediate family, or business entity, in any contract or transaction to which the city or any city agency may be a party, and fail to disclose such interest to the

appropriate city authority prior to the formation of the contract or the time the city or city agency enters into the transaction.

B. Improper Use of Official Position. No city officer or employee, while holding such office or employment, shall:

1. Use his or her official position for a purpose that is, or would to a reasonable person appear to be, primarily for the private benefit of the officer or employee, rather than primarily for the benefit of the city; or to achieve a private gain or an exemption from duty or responsibility for the officer or employee or any other person.

2. Use or permit the use of any person, funds, or property under his or her official control, direction, or custody, or of any city funds or city property, for a purpose which is, or to a reasonable person would appear to be, for other than a city purpose; provided, that nothing shall prevent the private use of city property which is available on equal terms to the public generally (such as the use of library books or tennis courts) the use of city property in accordance with municipal policy for the conduct of official city business (such as the use of a city automobile), if in fact the property is used appropriately; or the use of city property for participation of city or its officials in activities of associations of governments or governmental officials.

3. Except in the course of official duties, assist any person in any city transaction where such city officer's or employee's assistance is, or to a reasonable person would appear to be, enhanced by that officer's or employee's position with the city; provided, that this subsection shall not apply to any officer or employee appearing on his or her own behalf or representing himself or herself as to any matter in which he or she has a proprietary interest, if not otherwise prohibited by this chapter or any other applicable ordinance, regulation or statute.

4. Regardless of prior disclosure thereof, have a financial interest, direct or indirect, personally or through a member of his or her immediate family, in a business entity doing or seeking to do business with the city, and influence or attempt to influence the selection of, or the conduct of business with, such business entity by the city.

C. Acceptance of Gifts or Loans. No city officer or employee, while holding such office or employment, and for a period of one year after leaving city employment, shall solicit or receive any retainer, gift, loan, entertainment, favor or proprietary reward, or other thing of monetary value from any person or entity where the retainer, gift, loan, entertainment, favor, or other thing of monetary value had been solicited, or received or given or, to a reasonable person, would appear to have been solicited, received or given, with intent to give or obtain special consideration of influence as to any action by such officer in his or her official capacity; provided, that nothing shall prohibit contributions for election campaigns which are solicited or received and reported in accordance with applicable law.

D. Disclosure of Confidential or Privileged Information. No city officer or employee, while holding such office or employment, or at any time after leaving office or employment, shall disclose or use any confidential or privileged information gained by reason of his or her official position for a purpose which is for other than a city purpose; provided, that nothing shall prohibit the disclosure or use of information which is a matter of public knowledge, or which is available to the public on request.

E. Financial or Beneficial Interest in City Transactions. No city officer or employee, while holding such office or employment, shall:

1. Regardless of prior disclosure thereof, hold or acquire a beneficial interest, direct or indirect, personally or through a member of his or her immediate family, in any contract which, in whole or in part, is, or which may be, made by, through, or under the supervision of such officer or employee or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity, or reward in connection with such contract from any other person or entity beneficially interested therein, in violation of Chapter 42.23 RCW.

2. Regardless of prior disclosure thereof, be beneficially interested, directly or indirectly, other than a remote interest, in any contract or transaction which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract or transaction from any other person beneficially interested therein, in violation of Chapter 42.23 RCW. This subsection shall not apply to the furnishing of water, other utility services, or other services of the city at the same rates and on the same terms as are available to the public generally, or to any other transaction specifically exempted by Chapter 42.23 RCW.

F. Quasi-Judicial Proceedings, Reporting of Violations, False Statements. No city-appointed officer or employee, while holding such office or employment, shall:

1. Participate in or influence any pending quasi-judicial proceeding if the city official or employee has a financial or personal interest in the matter.

2. Intimidate, harass, discipline or otherwise take any improper action against a member of the public, a city officer or employee solely because he or she in good faith has reported a violation of this code of ethics, or any other written city code or policy.

3. Induce or direct any city officer or employee to make any false statement or representation of any public record or document in willful disregard of the truth of such statement or representation.

G. Prohibited Conduct After Leaving City Office or Employment.

1. No former officer or employee shall, for a period of one year after leaving city office or employment:

- a. Assist any person in proceedings involving the agency of the city with which he was previously employed, or on a matter in which he or she was officially involved, participated or acted in the course of duty.
 - b. Represent any person as an advocate in any matter in which the former officer or employee was officially involved while a city officer or employee.
 - c. Participate as a competitor in any competitive selection process for a city contract in which he or she assisted the city in determining the project or work to be done or the process to be used.
2. A city officer, who contracts with a former city officer or employee for expert or consultant services within one year of the latter's leaving city office or employment, shall promptly inform the city administrator about the agreement.
 3. The prohibition of subsection (G)(1) of this section shall not apply to former employees acting on behalf of a governmental agency unless such assistance or representation is adverse to the interest of the city. (Ord. 929 § 2, 2003; Ord. 762 § 1, 1996).

2.80.040 Disclosure of interest in legislative action.

A. Any member of council who has a financial interest or personal interest in any proposed legislation before the council shall disclose on the record the nature and extent of such interest. If the member of council would be especially benefited by such legislation, the member of council shall not participate in the discussion or vote upon such matter.

B. Any other city officer or employee who has a financial or personal interest in any proposed legislative action of the council and who participates in the discussion with or gives an official opinion or recommendation to the council shall disclose on the record the nature and extent of such interest. (Ord. 762 § 1, 1996).

2.80.050 Ethics hearing officer – Position created.

There is hereby created the office of ethics hearing officer, who shall be appointed by the mayor and confirmed by the city council. The ethics hearing officer shall be an attorney not holding any other elective or appointive office with the city. The ethics hearing officer may be removed from office with or without cause by the mayor with the concurrence of the city council. The compensation of the ethics hearing officer, and other terms and conditions of the engagement, shall be set forth in a written contract. (Ord. 762 § 1, 1996).

2.80.060 Ethics hearing officer – Powers and duties.

The ethics hearing officer shall have the following powers and duties:

- A. The ethics hearing officer shall be a quasi-judicial fact finder.
- B. The ethics hearing officer shall perform the following duties:
 1. Upon request of a city officer or employee, the ethics hearing officer shall render advisory opinions, in writing, to any officer or employee having doubt as to

the applicability of any provision of this chapter to a particular situation, or as to the definition of terms used herein. Officers and employees may rely upon such written opinions, which shall be binding upon the city until amended or revoked, unless material facts were misstated or omitted in the request for the advisory opinion. Advisory opinions shall be filed with the city clerk and shall be public records, except to the extent necessary to preserve protected privacy interests under RCW 42.17.310; and further provided, the opinion shall be stated in general issue and opinion format, without disclosure of the identity of the person requesting it.

2. Upon receiving a written complaint regarding a violation of this chapter, accompanied by proof that said written complaint has been served upon the party who is alleged to be in violation, the ethics hearing officer shall investigate said complaint and, upon making a determination that the complaint is legally sufficient and that it is supported by probable cause, conduct a hearing and issue findings and recommendation as provided below.

3. Determinations of legal sufficiency and probable cause shall be made within 30 days after receipt of any complaint. Any complaint which the hearing officer determines is not legally sufficient or not to be supported by probable cause shall be dismissed.

4. Proceedings before the ethics hearing officer shall be recorded, and proper minutes of all meetings and actions shall be kept. (Ord. 929 § 3, 2003; Ord. 762 § 1, 1996).

2.80.070 Hearings.

The ethics hearing officer shall make no findings and recommendation without first conducting a hearing, which shall be held within 30 days after the determination of legal sufficiency and probable cause; provided, any matter which the ethics hearing officer determines would be deemed minor or inadvertent even if the allegations were proven may be summarily dismissed without further proceedings, with the findings of legal sufficiency and probable cause noted in the minutes of the proceedings, if the officer or employee stipulates in writing to appropriate corrective measures to ensure such conduct will not continue or reoccur. All hearings shall be closed to the public unless the officer or employee whose conduct is the subject of the hearing requests that it be a public hearing. All testimony before the ethics hearing officer shall be sworn on oath or affirmation, subject to the laws of perjury of the state of Washington. Any party or witness in a proceeding before the ethics hearing officer shall have the right to be represented by counsel. Within 20 days after the conclusion of a hearing, the ethics hearing officer shall render written findings of fact and recommendations. Copies of the same shall be delivered to the party who was the subject of the hearing, complainant, the mayor, and the city council. (Ord. 762 § 1, 1996).

2.80.080 Recommendations of the ethics hearing officer.

A. If the ethics hearing officer determines that a city employee has violated the provisions of this code, the ethics hearing officer may recommend to the mayor that the employee be subject to disciplinary action. In addition to any other penalty

otherwise provided by law, a violation shall be cause for suspension, discharge or removal from office, or such other disciplinary action as may, by the appropriate city authority, be deemed necessary and proper, and consistent with the city personnel manual, and/or state law. A written report of the disciplinary action taken as a result of the ethics hearing officer's recommendation shall be made by the appropriate city authority to the ethics hearing officer within 14 days after receipt of the ethics hearing officer's recommendation.

B. This section shall not derogate from employee rights under any collective bargaining agreement or city personnel manual or rules promulgated thereunder.

C. If the ethics hearing officer determines the mayor or a council member has violated a provision of the code of ethics, then he shall issue a "Letter of Censure."

D. If the ethics hearing officer determines any person has willfully and knowingly violated the provisions of this chapter, he may refer the matter to the prosecuting authority for action under SMC 2.80.090. (Ord. 762 § 1, 1996).

2.80.090 Criminal violations – Prosecuting authority – Penalties.

A. Any officer or employee who knowingly and willfully violates the provisions of this chapter shall be guilty of a misdemeanor.

B. The prosecuting authority for violations of this chapter shall be appointed by the mayor and confirmed by the city council. The prosecuting attorney shall not be the city attorney or city prosecuting attorney. If the ethics hearing officer recommends criminal prosecution of any elected officer, and prosecuting authority has not previously been appointed and confirmed, then the prosecuting authority shall be appointed by the King County prosecuting attorney. The prosecuting authority shall not have authority to prosecute any matters except those referred by the ethics hearing officer pursuant to SMC 2.80.080(D).

C. Any person convicted of a violation of this chapter shall be punished by imprisonment for not more than 90 days, or a fine of not more than \$1,000, or by both such imprisonment and fine. (Ord. 762 § 1, 1996).

2.80.100 Relation of chapter to Chapter 42.23 RCW.

The conduct of all city officers and employees shall meet the requirements of both this chapter and Chapter 42.23 RCW. When a higher standard of conduct is established by this chapter than by Chapter 42.23 RCW, the standards of this chapter shall control; provided, this chapter shall not be construed to permit any act or omission that is prohibited by Chapter 42.23 RCW. (Ord. 929 § 4, 2003).

This page of the Snoqualmie Municipal Code is current through Ordinance 1095, passed May 29, 2012.
Disclaimer: The City Clerk's Office has the official version of the Snoqualmie Municipal Code. Users should contact the City Clerk's Office for ordinances passed subsequent to the ordinance cited above.

City Website:
<http://www.ci.snoqualmie.wa.us/>
(<http://www.ci.snoqualmie.wa.us/>)
City Telephone: (425) 453-6525
Code Publishing Company
(<http://www.codepublishing.com/>)

Chapter 42.23 RCW**CODE OF ETHICS FOR MUNICIPAL OFFICERS — CONTRACT INTERESTS**

42.23.010 Declaration of purpose.

42.23.020 Definitions.

42.23.030 Interest in contracts prohibited -- Exceptions.

42.23.040 Remote interests.

42.23.050 Prohibited contracts void -- Penalties for violation of chapter.

42.23.060 Local charter controls chapter.

42.23.070 Prohibited acts.

42.23.900 Construction -- Chapter applicable to state registered domestic partnerships -- 2009 c 521.

42.23.010**Declaration of purpose.**

It is the purpose and intent of this chapter to revise and make uniform the laws of this state concerning the transaction of business by municipal officers, as defined in chapter 268, Laws of 1961, in conflict with the proper performance of their duties in the public interest; and to promote the efficiency of local government by prohibiting certain instances and areas of conflict while at the same time sanctioning, under sufficient controls, certain other instances and areas of conflict wherein the private interest of the municipal officer is deemed to be only remote, to the end that, without sacrificing necessary public responsibility and enforceability in areas of significant and clearly conflicting interests, the selection of municipal officers may be made from a wider group of responsible citizens of the communities which they are called upon to serve.
[1961 c 268 § 2.]

42.23.020**Definitions.**

For the purpose of chapter 268, Laws of 1961:

- (1) "Municipality" shall include all counties, cities, towns, districts, and other municipal corporations and quasi municipal corporations organized under the laws of the state of Washington;
- (2) "Municipal officer" and "officer" shall each include all elected and appointed officers of a municipality, together with all deputies and assistants of such an officer, and all persons exercising or undertaking to exercise any of the powers or functions of a municipal officer;
- (3) "Contract" shall include any contract, sale, lease or purchase;
- (4) "Contracting party" shall include any person, partnership, association, cooperative, corporation, or other business entity which is a party to a contract with a municipality.
[1961 c 268 § 3.]

42.23.030**Interest in contracts prohibited — Exceptions.**

No municipal officer shall be beneficially interested, directly or indirectly, in any contract which may be made by, through or under the supervision of such officer, in whole or in part, or which may be made for the benefit of his or her office, or accept, directly or indirectly, any compensation, gratuity or reward in connection with such contract from any other person beneficially interested therein. This section shall not apply in the following cases:

- (1) The furnishing of electrical, water or other utility services by a municipality engaged in the business of furnishing such services, at the same rates and on the same terms as are available to the public generally;

- (2) The designation of public depositaries for municipal funds;
- (3) The publication of legal notices required by law to be published by any municipality, upon competitive bidding or at rates not higher than prescribed by law for members of the general public;
- (4) The designation of a school director as clerk or as both clerk and purchasing agent of a school district;
- (5) The employment of any person by a municipality for unskilled day labor at wages not exceeding two hundred dollars in any calendar month. The exception provided in this subsection does not apply to a county with a population of one hundred twenty-five thousand or more, a city with a population of more than one thousand five hundred, an irrigation district encompassing more than fifty thousand acres, or a first-class school district;
- (6)(a) The letting of any other contract in which the total amount received under the contract or contracts by the municipal officer or the municipal officer's business does not exceed one thousand five hundred dollars in any calendar month.

(b) However, in the case of a particular officer of a second-class city or town, or a noncharter optional code city, or a member of any county fair board in a county which has not established a county purchasing department pursuant to RCW

36.32.240, the total amount of such contract or contracts authorized in this subsection (6) may exceed one thousand five hundred dollars in any calendar month but shall not exceed eighteen thousand dollars in any calendar year.

(c)(i) In the case of a particular officer of a rural public hospital district, as defined in RCW 70.44.460, the total amount of such contract or contracts authorized in this subsection (6) may exceed one thousand five hundred dollars in any calendar month, but shall not exceed twenty-four thousand dollars in any calendar year.

(ii) At the beginning of each calendar year, beginning with the 2006 calendar year, the legislative authority of the rural public hospital district shall increase the calendar year limitation described in this subsection (6)(c) by an amount equal to the dollar amount for the previous calendar year multiplied by the change in the consumer price index as of the close of the twelve-month period ending December 31st of that previous calendar year. If the new dollar amount established under this subsection is not a multiple of ten dollars, the increase shall be rounded to the next lowest multiple of ten dollars. As used in this subsection, "consumer price index" means the consumer price index compiled by the bureau of labor statistics, United States department of labor for the state of Washington. If the bureau of labor statistics develops more than one consumer price index for areas within the state, the index covering the greatest number of people, covering areas exclusively within the boundaries of the state, and including all items shall be used.

(d) The exceptions provided in this subsection (6) do not apply to:

(i) A sale or lease by the municipality as the seller or lessor;

(ii) The letting of any contract by a county with a population of one hundred twenty-five thousand or more, a city with a population of ten thousand or more, or an irrigation district encompassing more than fifty thousand acres; or

(iii) Contracts for legal services, except for reimbursement of expenditures.

(e) The municipality shall maintain a list of all contracts that are awarded under this subsection (6). The list must be made available for public inspection and copying;

(7) The leasing by a port district as lessor of port district property to a municipal officer or to a contracting party in which a municipal officer may be beneficially interested, if in addition to all other legal requirements, a board of three disinterested appraisers and the superior court in the county where the property is situated finds that all terms and conditions of such lease are fair to the port district and are in the public interest. The appraisers must be appointed from members of the American Institute of Real Estate Appraisers by the presiding judge of the superior court;

(8) The letting of any employment contract for the driving of a school bus in a second-class school district if the terms of such contract are commensurate with the pay plan or collective bargaining agreement operating in the district;

(9) The letting of an employment contract as a substitute teacher or substitute educational aide to an officer of a second-class school district that has two hundred or fewer full-time equivalent students, if the terms of the contract are commensurate with the pay plan or collective bargaining agreement operating in the district and the board of directors has found, consistent with the written policy under RCW 28A.330.240, that there is a shortage of

substitute teachers in the school district;

(10) The letting of any employment contract to the spouse of an officer of a school district, when such contract is solely for employment as a substitute teacher for the school district. This exception applies only if the terms of the contract are commensurate with the pay plan or collective bargaining agreement applicable to all district employees and the board of directors has found, consistent with the written policy under RCW 28A.330.240, that there is a shortage of substitute teachers in the school district;

(11) The letting of any employment contract to the spouse of an officer of a school district if the spouse was under contract as a certificated or classified employee with the school district before the date in which the officer assumes office and the terms of the contract are commensurate with the pay plan or collective bargaining agreement operating in the district. However, in a second-class school district that has less than two hundred full-time equivalent students enrolled at the start of the school year as defined in *RCW 28A.150.040, the spouse is not required to be under contract as a certificated or classified employee before the date on which the officer assumes office;

(12) The authorization, approval, or ratification of any employment contract with the spouse of a public hospital district commissioner if: (a) The spouse was employed by the public hospital district before the date the commissioner was initially elected; (b) the terms of the contract are commensurate with the pay plan or collective bargaining agreement operating in the district for similar employees; (c) the interest of the commissioner is disclosed to the board of commissioners and noted in the official minutes or similar records of the public hospital district prior to the letting or continuation of the contract; and (d) the commissioner does not vote on the authorization, approval, or ratification of the contract or any conditions in the contract.

A municipal officer may not vote in the authorization, approval, or ratification of a contract in which he or she is beneficially interested even though one of the exemptions allowing the awarding of such a contract applies. The interest of the municipal officer must be disclosed to the governing body of the municipality and noted in the official minutes or similar records of the municipality before the formation of the contract.

[2007 c 298 § 1; 2006 c 121 § 1; 2005 c 114 § 1; 1999 c 261 § 2; 1997 c 98 § 1; 1996 c 246 § 1. Prior: 1994 c 81 § 77; 1994 c 20 § 1; 1993 c 308 § 1; 1991 c 363 § 120; 1990 c 33 § 573; 1989 c 263 § 1; 1983 1st ex.s. c 44 § 1; prior: 1980 c 39 § 1; 1979 ex.s. c 4 § 1; 1971 ex.s. c 242 § 1; 1961 c 268 § 4.]

42.23.040

Remote interests.

A municipal officer is not interested in a contract, within the meaning of RCW

42.23.030, if the officer has only a remote interest in the contract and the extent of the interest is disclosed to the governing body of the municipality of which the officer is an officer and noted in the official minutes or similar records of the municipality prior to the formation of the contract, and thereafter the governing body authorizes, approves, or ratifies the contract in good faith by a vote of its membership sufficient for the purpose without counting the vote or votes of the officer having the remote interest. As used in this section "remote interest" means:

- (1) That of a nonsalaried officer of a nonprofit corporation;
- (2) That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary;
- (3) That of a landlord or tenant of a contracting party;
- (4) That of a holder of less than one percent of the shares of a corporation or cooperative which is a contracting party.

None of the provisions of this section are applicable to any officer interested in a contract, even if the officer's interest is only remote, if the officer influences or attempts to influence any other officer of the municipality of which he or she is an officer to enter into the contract.

[1999 c 261 § 3; 1961 c 268 § 5.]

42.23.050

Prohibited contracts void — Penalties for violation of chapter.

Any contract made in violation of the provisions of this chapter is void and the performance thereof, in full or in part, by a contracting party shall not be the basis of any claim against the municipality. Any officer violating the provisions of this chapter is liable to the municipality of which he or she is an officer for a penalty in the amount of five hundred dollars, in addition to such other civil or criminal liability or penalty as may otherwise be imposed upon the officer by law.

In addition to all other penalties, civil or criminal, the violation by any officer of the provisions of this chapter may be grounds for forfeiture of his or her office.

[1999 c 261 § 4; 1961 c 268 § 6.]

42.23.060

Local charter controls chapter.

If any provision of this chapter conflicts with any provision of a city or county charter, or with any provision of a city-county charter, the charter shall control if it contains stricter requirements than this chapter. The provisions of this chapter shall be considered as minimum standards to be enforced by municipalities.

[1999 c 261 § 5; 1961 c 268 § 16.]

42.23.070

Prohibited acts.

(1) No municipal officer may use his or her position to secure special privileges or exemptions for himself, herself, or others.

(2) No municipal officer may, directly or indirectly, give or receive or agree to receive any compensation, gift, reward, or gratuity from a source except the employing municipality, for a matter connected with or related to the officer's services as such an officer unless otherwise provided for by law.

(3) No municipal officer may accept employment or engage in business or professional activity that the officer might reasonably expect would require or induce him or her by reason of his or her official position to disclose confidential information acquired by reason of his or her official position.

(4) No municipal officer may disclose confidential information gained by reason of the officer's position, nor may the officer otherwise use such information for his or her personal gain or benefit.

[1994 c 154 § 121.]

42.23.900

Construction — Chapter applicable to state registered domestic partnerships — 2009 c 521.

For the purposes of this chapter, the terms spouse, marriage, marital, husband, wife, widow, widower, next of kin, and family shall be interpreted as applying equally to state registered domestic partnerships or individuals in state registered domestic partnerships as well as to marital relationships and married persons, and references to dissolution of marriage shall apply equally to state registered domestic partnerships that have been terminated, dissolved, or invalidated, to the extent that such interpretation does not conflict with federal law. Where necessary to implement chapter 521, Laws of 2009, gender-specific terms such as husband and wife used in any statute, rule, or other law shall be construed to be gender neutral, and applicable to individuals in state registered domestic partnerships.[2009 c 521 § 104.]

SULTAN CITY COUNCIL RETREAT AGENDA ITEM COVER SHEET

ITEM NO: D-5
DATE: March 23, 2013
SUBJECT: Puget Sound Regional Council – New funding rules
CONTACT PERSON: Mick Matheson, P.E. – Public Works Director 

ISSUE:

The issue before the city council is to discuss new funding rules for federal grant projects.

SUMMARY:

The Puget Sound Regional Council and WSDOT held a workshop on Wednesday, February 20th to discuss the procedures and requirements for programming funds into the Regional and State Transportation Improvement Programs (TIPs). Mick Matheson and Ken Walker attended.

The primary takeaways from the workshop were:

- Project descriptions on grant applications should be as general as possible (for example, don't be specific about sidewalk widths, asphalt depths, etc). If the project description is specific, the receiving agency will be held to the description.
- Once federal funds are accepted for design, the receiving agency must keep moving forward and obligate right-of way acquisition, and construction funding. **If a project is not fully constructed within ten years of receipt of federal funding for design, the receiving agency must return all monies received.**
- Reporting requirements for agencies will be more arduous. WSDOT will be requiring frequent updates explaining in detail why a project is being delayed. As long as a good faith effort is expended to move projects forward, money will not be taken away until the ten year threshold is hit.

**SULTAN CITY COUNCIL
RETREAT AGENDA ITEM COVER SHEET**

ITEM NO: D-6

DATE: March 23, 2013

SUBJECT: Planning Board Geographic Representation
Proposal to Limit Membership to Residents of City Limits and City
Urban Growth Area

CONTACT PERSON: Robert Martin, Community Development Director

ISSUE:

There are currently no residency requirements for appointment to the Planning Board.
Is the Council interested in establishing residency requirements?

BACKGROUND:

At point in the city's recent past, issues with the Planning Commission initiated modifications to the Sultan Municipal Code (SMC) 2.17, Department of Community Development (**Attachment A**). Those changes included revision of the Planning Commission to the current Planning Board, and elimination of residency requirements. Appointments to the Planning Board since 2008 have included several members who do not reside inside of the City Limits or the Urban Growth Area.

While these members have served the city well, some with great dedication, the Mayor is proposing to the Council that the time has come for the community to move past the previous issues, and to reinstitute residency requirements for the Planning Board similar to other communities of our size in the region.

DISCUSSION:

Attachment B presents the Planning Board (Commission) residency requirements for Monroe, Duvall, Snohomish, and Carnation. While there are some differences in the details, all of these communities have code requirements for residency.

As a starting point for discussion, the most common residency requirement is that a Planning Board member needs to live within the City Limits or the Urban Growth Area of the community.

Staff is seeking direction on the following:

1. Should SMC 2.17 be amended to provide for residency requirements?
2. Should residency be defined as inside of the City Limits?
3. Should residency include the Urban Growth Area?
4. Should residency include any larger geographic area?

ATTACHMENTS:

Attachment A: Excerpts from CPSGMHB case Fallgatter VI
Attachment B: SMC 2.17, Department of Community Development

ATTACHMENT A

**RESIDENCY REQUIREMENTS FOR PLANNING BOARD MEMBERSHIP
SIMILAR JURISDICTIONS IN THE AREA**

MONROE

2.32.010 Created – Membership – Compensation.

A. Pursuant to the authority conferred by Chapter 35A.63 RCW, as amended, there is created a city planning commission consisting of seven members who shall be appointed by the mayor and confirmed by the city council. All members of the planning commission shall reside within the city limits of the city of Monroe, except the mayor may appoint and the city council confirm one commissioner from the city of Monroe's urban growth area to fill a vacant position.

DUVALL

Members of the planning commission shall be residents of the city, live within the Duvall Urban Growth Area, or be owners of a business located in Duvall. The council and mayor shall strive to maintain Duvall residents as a majority on the commission. Provided, however, that if a commission member living in the city moves outside the city limits but within the UGA, he or she will not be automatically disqualified from continuing to serve even if it creates a majority of nonresident commissioners. Members are subject to the provisions of applicable law. In the event of resignation or removal by the mayor and city council, a new member shall be appointed and confirmed as soon as possible to fill the uncompleted term. A member of the planning commission may be removed by the mayor subject to approval by a majority of the full city council.

SNOHOMISH

2.06.030 Residency Requirements.

The majority of all board and commission members must live within the city limits. Members of the Civil Service Commission are required to be City residents as set forth in RCW 41.12.030. These residency requirements shall commence immediately. Current Board and Commission members who do not fulfill the residency requirements shall be allowed to finish their current terms but will not be eligible for reappointment. If a board or commission

member moves out of the area, that member is no longer eligible to serve. Exceptions to the above regulations are listed in section 2.06.035. (Ord. 1825, 1997)

2.06.035 Exceptions to the Residency Requirements:

A. Members of the Planning Commission and the Parks and Recreation Board must live within the City's urban growth boundary as defined by the most current adopted Community Development Plan Map; and

CARNATION

2.40.010 - Planning board.

There shall be a planning board which shall consist of five members to be appointed by the city council. The board members shall be appointed for two-year terms. At the time of appointment the council minutes shall designate the position to which the board member is being appointed and shall state the expiration date of the member's term. A serving member's term shall be automatically extended beyond the expiration date until the member's successor is appointed and confirmed. Any references in this code to a planning commission shall be construed as references to the planning board.

(Ord. 721 § 1, 2007; Ord. 611 § 3 (part), 2000)

2.40.020 - Residency requirement.

At least three members of the planning board shall be residents of the city of Carnation. The remaining two members may be appointed as either residents within the urban growth area boundary, or one as a Carnation business owner/operator who lives within the greater Carnation area.

ATTACHMENT B

Chapter 2.17 DEPARTMENT OF COMMUNITY DEVELOPMENT

Sections:

<u>2.17.010</u>	Department created.
<u>2.17.020</u>	Designation of department of community development as planning agency.
<u>2.17.030</u>	Position established.
<u>2.17.040</u>	Appointment.
<u>2.17.050</u>	Powers and duties of director.
<u>2.17.060</u>	Salary.
<u>2.17.070</u>	Senior planner and staff.
<u>2.17.080</u>	Planning board.
<u>2.17.090</u>	Appointments to planning board.
<u>2.17.100</u>	Terms of appointments to the planning board.
<u>2.17.110</u>	Vacancy.
<u>2.17.120</u>	Removal from membership on the planning board.
<u>2.17.130</u>	Meetings of the planning board.
<u>2.17.140</u>	Quorum for meeting of the planning board.
<u>2.17.150</u>	Rules and regulations.
<u>2.17.160</u>	Powers and duties.

2.17.010 Department created.

There is created a separate administrative department in and for the city of Sultan entitled the department of community development, to consolidate all planning, environmental and permitting functions into a single department under the supervision of a director of community development. (Ord. 1091-10 § 1; Ord. 904-06 § 1)

2.17.020 Designation of department of community development as planning agency.

The department of community development is hereby designated as the planning agency for the city of Sultan to perform all duties, directly or indirectly, by contract or agreement, required of a planning agency as imposed by law. Where provisions in the Revised Code of Washington or the city's municipal code reference a "planning agency" and/or "planning commission," from and after the effective date of the ordinance codified in this section, such references shall refer to the department of community development. (Ord. 1091-10 § 1; Ord. 924-06 § 1; Ord. 904-06 § 1)

2.17.030 Position established.

There is established the position of director of the department of community development in and for the city of Sultan. (Ord. 1091-10 § 1; Ord. 904-06 § 1)

2.17.040 Appointment.

The mayor shall have the power of appointment and removal of the director of the department of community development. Such appointment and removal shall be subject to confirmation by a majority vote of the city council. (Ord. 1091-10 § 1; Ord. 904-06 § 1)

2.17.050 Powers and duties of director.

The powers, duties and responsibilities of the director of the department of community development, except where the director may act in a quasi-judicial manner, shall be subject to the direction, authority and supervision of the city administrator, and shall include, without limitation, the following:

A. Perform, or cause to be performed for the city, all duties as imposed under the Sultan Municipal Code on the city planner and/or zoning official;

B. Issue administrative determinations under the city's unified development code;

C. Serve as the city's designated official under the State Environmental Policy Act (SEPA);

D. Perform directly or by designee all duties imposed on officials of the city of Sultan under SMC Titles 15, 16, 17, 21, and 22;

E. Appoint and supervise the performance of a senior planner, and such permit technicians as authorized by the city's annual budget;

F. Except where he/she acts in a quasi-judicial capacity, supervise the performance of the city's building official and the city's code enforcement officer;

G. Participate in and prepare an annual budget for the department of community development; and

H. Cause to be performed the duties of the department of community development as established by this chapter. (Ord. 1091-10 § 1; Ord. 904-06 § 1)

2.17.060 Salary.

The director of the department of community development shall receive a salary in such amount as the city council may from time to time establish by ordinance for a permanent hire, and such amount as the mayor may negotiate and the council approve by resolution for an interim appointment. (Ord. 1091-10 § 1; Ord. 904-06 § 1)

2.17.070 Senior planner and staff.

A senior planner and staff as authorized by the city's budget may be appointed by the director of the department of community development. (Ord. 1091-10 § 1; Ord. 904-06 § 1)

2.17.080 Planning board.

There is hereby established a planning board consisting of five members.

The term "planning board" shall be synonymous with the term "planning commission" and either term may be used in referring to the planning board. The term "planning board member" shall be synonymous with the term "planning commissioner" and may be used interchangeably. (Ord. 1091-10 § 1; Ord. 924-06 § 2)

2.17.090 Appointments to planning board.

All members of the planning board shall be appointed by the mayor and confirmed by the city council. Appointments shall be made in a nondiscriminatory manner, without regard to age, race, sex or political affiliation. (Ord. 1091-10 § 1; Ord. 924-06 § 3)

2.17.100 Terms of appointments to the planning board.

Appointments to the planning board shall be for a term of two years, unless the appointment is to fill the balance of an existing term, in which event the term shall be the balance of the term. Members may be reappointed for up to three consecutive terms, after which at least two years shall lapse before the same person shall be available for appointment for up to three additional terms, after which another two years shall lapse before the person is available for appointment to further terms on the same cycle. (Ord. 1091-10 § 1; Ord. 924-06 § 4)

2.17.110 Vacancy.

A member's position on the planning board shall be deemed vacant if a member resigns, or if a member misses 25 percent of the meetings, including regular meetings, workshops, joint meetings or other duly advertized meetings of the board, within a calendar year. (Ord. 1091-10 § 1; Ord. 924-06 § 5)

2.17.120 Removal from membership on the planning board.

A member of the planning board may be removed by the mayor for inefficiency, neglect of duty or malfeasance in office. (Ord. 1091-10 § 1; Ord. 924-06 § 6)

2.17.130 Meetings of the planning board.

The planning board shall meet a minimum of once a month, and conduct such other meetings as required to complete the duties assigned to the planning board. Notice of said meeting shall be issued by the director in accordance with the requirements of law. Each January, the board shall set the schedule of regular meetings for the year. (Ord. 1091-10 § 1; Ord. 924-06 § 7)

2.17.140 Quorum for meeting of the planning board.

The presence of a minimum of three members shall constitute a quorum. Except to adjourn, no action may be taken in the absence of a quorum. Final action of the planning board in the form of a recommendation shall require the affirmative vote of a majority of the members present when a quorum has been established. (Ord. 1091-10 § 1; Ord. 924-06 § 8)

2.17.150 Rules and regulations.

The planning board may adopt rules and regulations for the conduct of its affairs. In the absence of any such rules and regulations, the planning board shall follow the most analogous rules used either by the city council for its meetings or by the city's hearing examiner. (Ord. 1091-10 § 1; Ord. 924-06 § 9)

2.17.160 Powers and duties.

A. The planning board is to act as an advisory body to the city council on the comprehensive plan, development standards as presented in the zoning code, subdivision code, and related land use codes of the city, and other matters related to land use as delegated by the city council. The planning board has a role in seeking information from and taking information to the community;

B. In consultation with the director of community development, the planning board shall review and monitor the city's comprehensive plan and development regulations, both as defined in the Growth Management Act of the state of Washington, to establish a list of tasks to be undertaken to keep the city's comprehensive plan and development regulations up-to-date and in compliance with the Growth Management Act;

C. In consultation with the director of community development, the planning board shall implement a public participation process and conduct such public meetings and hearings as required to fulfill the city's public participation obligations under Chapter 36.70A RCW;

D. In consultation with the director (of community development), the planning board shall develop Sultan's comprehensive plan and/or updates and amendments thereto, and revise development regulations that implement its comprehensive plan and make recommendation concerning the same to the director of community development and to the city council;

E. In consultation with the director of community development, the planning board shall annually make a recommendation for training and assistance to the board and a budget request to the city council. (Ord. 1091-10 § 1; Ord. 924-06 § 10)