

**CITY OF SNOHOMISH
Snohomish, Washington**

ORDINANCE NO. 1911

**AN ORDINANCE OF THE CITY OF SNOHOMISH, WASHINGTON
RELATING TO PUBLIC NUISANCES, AMENDING AND ADDING
PROVISIONS TO THE SNOHOMISH MUNICIPAL CODE CHAPTER
9.94 AND REPEALING ORDINANCE 1309.**

WHEREAS, it is necessary for the public health, safety and welfare to regulate, prevent and prohibit conditions which may constitute disorderly, disturbing, unsightly, unsafe, unsanitary, fly-producing, rat-harboring, and/or disease-causing places, conditions, or objects; and

WHEREAS, excessive growth of grass and weeds and the keeping of junk, refuse or litter and depositing the same on public or private property are hereby found to create conditions tending to reduce the value of private property, to interfere with the enjoyment of public and private property, to create and constitute fire and other safety and health hazards, and generally to create a menace to the health and welfare of the public and to contribute to the degradation of the character of neighborhoods and depreciation of property values; and

WHEREAS, adequate protection of the public health, safety and welfare requires that such conditions be regulated, abated and prohibited; and

WHEREAS, the current public nuisance provisions of the Snohomish Municipal Code were enacted in 1978 and significant changes have occurred both in the law and as the result of growth related conditions in the City of Snohomish; and

WHEREAS, the Snohomish City Council seeks to modernize, legalize, update and consolidate its nuisance regulations consistent with the current needs of the community; and

WHEREAS, there is an existing urgent need for immediate and effective action to provide for the abatement of existing conditions that constitute nuisances as defined in this chapter, and the existing provisions of the Snohomish Municipal Code are deemed to be inadequate for that need;

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

Section 1. Ordinances 1309 as codified in Chapters 9.94 of the Snohomish Municipal Code is hereby repealed.

Section 2. A new chapter 9.94 of the Snohomish Municipal Code is hereby adopted which shall read as follows:

Chapter 9.94

Public Nuisances

Sections:

- 9.94.010 Definitions
- 9.94.020 Prohibited Conduct
- 9.94.030 Nuisances Declared
- 9.94.040 Abatement Procedure
- 9.94.050 Liability for Continuing Nuisance
- 9.94.060 Money Collected for Abatement - Disposition
- 9.94.070 Civil Penalties
- 9.94.080 Criminal Penalties
- 9.94.090 Right of Entry
- 9.94.100 Severability
- 9.94.110 No Special Duty Created

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

- A. “Abate” means to repair, replace, remove, destroy or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the applicable department director determines is necessary in the interest of the general health, safety and welfare of the community.
- B. “Building materials” means and includes lumber, plumbing materials, wallboard, sheet metal, plaster, brick, cement, asphalt, concrete block, roofing material, cans of paint and similar materials.
- C. “Enforcement Officer” means the City Manager of the City of Snohomish or his or her designee authorized or deputized pursuant to Chapter 2.39 of the Snohomish Municipal Code.
- D. “Hearing Official” means the appeals Hearing Examiner/Official of the City of Snohomish.
- E. “Notice of Abatement” or “Notice to Abate” means a Notice to Abate Unsafe or Unlawful Condition as provided in this Chapter.
- F. "Civil violation" means a violation for which a monetary penalty may be imposed as specified in this chapter. Each day or portion of a day during which a violation occurs or exists is a separate violation pursuant to Chapter 1.01.080 of the Snohomish Municipal Code.
- G. “Owner” means and includes, any agent, lessee, owner, tenant or other person occupying or having charge or control of any premises. An owner or agent is deemed to have control if he or she has actual or constructive knowledge of the maintenance upon the premises of any nuisance as defined in this chapter.

- H. "Person" means and includes, individual, firm, partnership, corporation, and all associations of natural persons, whether acting by themselves or by an agent or employee.
- I. "Premises" means any building, lot, parcel, real estate or land or portion of land whether improved or unimproved, including adjacent sidewalks and parking strips and any lake, river, stream, drainage way or wetland.

9.94.020 Prohibited Conduct. It is a violation of this chapter for any person to permit, create, maintain, or allow, upon any premises, any of the acts or things declared in section 9.94.030 to be a public nuisance, or to fail to abate such a nuisance pursuant to lawful notice given under section 1.14.020 of the Snohomish Municipal Code.

9.94.030 Nuisances Declared. The following specific acts, omissions, places and conditions are declared to be public nuisances:

- A. Erecting, continuing or using any building or other place in the city for the exercise of any trade, employment or manufacture, which by occasioning noxious exhalation, offensive smells or other annoyances, becomes injurious and dangerous to the health, comfort or property of individuals or the public.
- B. Causing or allowing any offal, filth, poison, or noisome substance to be collected or to remain in any place, street, highway, or alley in the city to the prejudice of others.
- C. Building or maintaining any structure in such condition as to be dangerous to the health of the citizens of the city.
- D. Obstructing or encroaching upon or rendering unsafe for passage any public highway, private way, street, alley, park, square, driveway, lake, or stream in the city.
- E. Carrying on, within the city limits, a business of manufacturing gunpowder, nitroglycerin, or other highly explosive substance, or mixing or grinding the materials therefore, in any place within two hundred fifty yards of any building in existence at the time such business may be commenced.
- F. Any wrecked, inoperable, abandoned or disassembled trailer, house trailer, boat, tractor, automobile or other vehicle, or any parts thereof. A junk vehicle includes apparently inoperable, immobile, disassembled or extensively damaged vehicles. Evidence of inoperability and damage includes, but is not limited to a buildup of debris that obstructs use, a broken window or windshield, a missing wheel, a flat tire, a non-functional motor or transmission, missing bumpers, or missing license plates; provided nothing herein shall prevent the keeping or storage of any vehicle on private property which is screened from view.
- G. Camping, placing, standing or locating any occupied trailer, house car, camp car, or mobile home on any street, alley, or highway, within the City, except within a trailer camp. Trailers, house cars, camp cars or mobile homes shall not be located for more than twenty-four hours on any street, alley, or highway within the City, subject to any other regulations or restrictions for that street, alley or highway, and may not be used for living and/or sleeping accommodations.

- H. Placing, depositing, keeping, having or leaving in or upon any private lot, building, structure or premises, or in or upon any street, avenue, park, parkway or public or private place in the city any one or more of the following conditions, places or things:
1. Any putrid, unsound or unwholesome bones, meat, hides, skins, or the whole or any part of any dead animal, fish or fowl.
 2. Privies, vaults, cesspools, sumps, pits or like places which are not securely protected from flies or rats, or which are foul or malodorous.
 3. Filthy or littered trash-covered cellars, house yards, factory yards, vacant areas in rear of stores, vacant lots, houses, buildings or premises.
 4. Animal manure in any quantity which is not securely protected from flies and the elements, or which is kept or handled in violation of any ordinances of the City.
 5. Poison oak or poison ivy (whether growing or otherwise), liquid household waste, human excreta, garbage, butcher's trimmings and offal, parts of fish, or any other vegetable or animal matter in any quantity; provided nothing in this chapter shall prevent the temporary retention of waste in receptacles in the manner approved by the city or the dumping of nonputrifying waste in a place and manner approved by the city.
 6. Tin cans, bottles, glass cans, small pieces of scrap iron, wire, material, bric-a-brac, broken crockery, broken glass, broken plaster, scrap building materials, and all such trash or abandoned material unless the same be kept in covered bins or galvanized iron receptacles approved by the city.
 7. Trash, litter, weeds or grass, rags, accumulations of empty barrels, boxes, crates, packing cases, mattresses, bedding, excelsior, packing straw, or other packing materials, lumber not piled, scrap iron, abandoned stoves, kitchen appliances, tin and other metal not neatly piled, or anything whatsoever in which flies or rats may breed or multiply or which may be a fire danger.
 8. Any abandoned unattended or discarded icebox, refrigerator, freezer or other container having an air-tight door or lid and a snap lock or other locking device which may not be easily released from the inside when such lid or door is in a closed position.
 9. Allowing trees and shrubs to overhang the public sidewalk with less than nine feet of vertical clearance; allowing trees and shrubs to overhang the public street with less than twelve feet of vertical clearance; or allowing grass and weeds to attain a height of over six inches on private property pursuant to section 8.20.112 of the Snohomish Municipal Code.
 10. Causing or allowing any other nuisance as defined in section 9.94.030 or other provision of the Snohomish Municipal Code.
 11. Any other act, omission, condition or thing which:

- a. Unreasonably injures or endangers the comfort, repose, health or safety of others, or
- b. Offends public decency, or
- c. Is offensive to the senses of reasonable persons, or
- d. In any way renders other persons insecure in life or use of property.

9.94.040 Abatement Procedure.

- A. Upon receipt of information or upon personal observation that a nuisance exists as defined in chapter 9.94.030 of the Snohomish Municipal Code, the Enforcement Officer shall cause an investigation of the matter and premises involved. If the Enforcement Officer determines that a nuisance exists he or she shall file a written finding to that effect with the City Manager.
- B. After having filed a finding that a nuisance exists, the Enforcement Officer shall require the owner of the premises involved to abate the nuisance at his or her own cost and expense, in whole or in part. The Enforcement Officer shall give written notice to the owner as prescribed in this section, describing the property involved, the condition to be corrected, and a specified reasonable time within which the owner must correct the condition, which shall be not less than five (5) days, or more than ten (10) days from the date of service by mail as evidenced by the postmark on the notice. The notice must further specify (a) that if the owner fails to abate the nuisance within the specified period of time, the City shall cause the work to be performed and shall assess all or any portion of the cost thereof against the owner; (b) that the owner may be liable for civil penalties for each day or part of day that the condition continues to exist following the notice, (c) that the owner alternatively may be liable to criminal prosecution, as provided in Section 1.01.080 of the Snohomish Municipal Code; and (d) that the owner has a right to appeal the notice as provided in Chapter 1.14 of the Snohomish Municipal Code. The required notice shall be in substantially the following form:

NOTICE TO ABATE UNSAFE OR UNLAWFUL CONDITION (NUISANCE)

(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 Enforcement Officer of the City of Snohomish has determined, pursuant to chapter 9.94 of the Snohomish Municipal Code, that there exists upon or adjoining said premises the following condition contrary to the provisions of chapter 9.94.030 of the Snohomish Municipal Code:

You are hereby further notified to abate that condition to the satisfaction of the City within _____ days of the date of this notice. If you do not abate the condition within _____ days the City will abate the condition at your expense. In addition, your failure to abate the condition will be considered a violation for which you may incur monetary penalties as provided in Section

1.01.080, Snohomish Municipal Code, for each day or part of day that the condition continues to exist.

Alternatively, failure to abate a nuisance may be prosecuted as a misdemeanor under Section 1.01.080, Snohomish Municipal Code.

You have the right to appeal this notice within fifteen (15) days of the notice to abate as provided in Chapter 1.14, Snohomish Municipal Code.

Thank you for your immediate attention to this matter.

Department Director

Date

- C. The notice given by the Enforcement Officer to the owner shall be deposited in the United States mail with a return receipt requested or shall be personally served by delivering a copy thereof to the owner or by leaving the same with a person of suitable age and discretion at the owner's place of residence. If the owner is not a resident of City of Snohomish, the notice shall be served by leaving the same with the tenant in possession of the property or, if there is no such tenant, by posting a copy of the notice in a conspicuous place on the property involved and by mailing a copy thereof to the owner at his or her last known address, if any, service by mail will be deemed complete at the end of the third full day following its deposit in the U.S. Mail, postage prepaid.
- D. Upon serving the notice prescribed in this chapter, the Enforcement Officer shall file with the City Manager's Office a certificate of service, in the following form:

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the attached Notice to Abate Unsafe or Unlawful Condition was served upon the person (or persons) to whom it was addressed by (check one or more of the following):

- Delivering the copy to each of the addressees personally;
- Leaving the copy at the owner's place of residence with a person of suitable age and discretion; or
- Leaving the copy with the tenant in possession of the property; or
- Mailing a copy, certified mail with return receipt requested, to the owner at his (her) last known address, postage prepaid; or
- Leaving a copy posted on the vacant premises and mailing a copy, certified mail with return receipt requested, to the owner (who is not a City resident) at his (her) last known residence, postage prepaid.

Enforcement Officer

Date

- E. A person to whom a notice of abatement has been issued may appeal the issuance of the notice by filing a written notice of appeal with the Hearing Examiner/Official within fifteen (15) calendar days from the date of service of the notice pursuant to Chapter 1.14 of the Snohomish Municipal Code. The notice of appeal need not be in a particular form but must clearly state that the person identified in the notice of appeal is the person to whom a notice of abatement was given, the date of the notice of abatement and the notice of appeal, and the reason or reasons why the person believes the notice to be in error. The Hearing Examiner/Official shall review the appeal and shall make a determination, after considering all pertinent facts, within ten (10) days. The procedure for review by the Hearing Examiner/Official including rules of evidence shall follow the rules prescribed for hearings before that Hearing Examiner/Official, insofar as is reasonably possible and appropriate. If no such rules exist, the Hearing Examiner/Official shall formally adopt as its rules, insofar as appropriate, the hearing procedures of the Snohomish Civil Service Commission relating to contested cases. The Hearing Examiner/Official's decision shall be in writing, and shall be filed with the City Clerk. A copy of the decision shall be mailed promptly to the property owner, and, if the decision finds that the nuisance exists, the decision shall notify the property owner of the amount of time within which the nuisance must be abated.
- F. If the notice is not timely or correctly appealed or if the appeal fails, and if the nuisance has not been abated within the time prescribed in the notice, the City shall cause the nuisance to be abated and shall charge the cost thereof against the property owner. The charges shall be considered as a personal obligation of the owner to the City, and shall be enforceable by the City in the same manner as other monetary claims.
- G. The costs of abatement, when borne by the City, may be assessed against the real property upon which the costs were incurred unless paid. The Enforcement Officer shall forward such costs to the City Treasurer, who shall certify them to the county treasurer for assessment on the tax rolls.

9.94.050 Liability for Continuing Nuisance. Every successive owner or occupant of property who neglects to abate a continuing nuisance upon or in the use of such property caused by a former owner, is liable in the same manner as the owner who created it.

9.94.060 Money Collected for Abatement - Disposition. All money collected for abatement purposes as provided in this chapter shall be paid to the City Treasurer, shall be credited to the General Fund.

9.94.070 Civil Penalties. Any person, firm, corporation, their agents or servants, who shall violate any of the provisions of this chapter of the Snohomish Municipal Code has committed a civil infraction for which civil penalties may be assessed for each day or part of day that the violation continues pursuant to section 1.01.080. Routine Infractions shall be cited and processed in accordance with Chapter 1.14 of the Snohomish Municipal Code.

9.94.080 Criminal Penalties.

- A. As an alternative to any other penalty provided in this chapter or by law, any person who knowingly violates any provision of this chapter shall be guilty of a misdemeanor.

- B. Any person who knowingly obstructs or hinders or provides false information to any officer or agent of the City of Snohomish or other governmental unit in the enforcement of this chapter is guilty of a gross misdemeanor.
- C. Any violation that is required by state law to be prosecuted as a criminal offense shall not be prosecuted as a civil infraction under this code.

9.94.090 Right of Entry. The right of entry shall be according to the regulations provided for Enforcement Officers and pursuant to section 2.39.050 of the Snohomish Municipal Code.

9.94.100 Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held illegal, invalid or unconstitutional by the decision of any court, that decision shall not affect the validity of the remaining portions. The City Council hereby declares that it would have approved this ordinance and each section, subsection, sentence, clause and phrase hereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared illegal, invalid or unconstitutional.

9.94.110 No Special Duty Created. It is expressly the purpose of this Ordinance to provide for and promote the health, safety and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited a by the terms of this ordinance.

No provision or term used in this ordinance is intended to impose any duty whatsoever upon the City or any of its officer, agents or employees for whom the implementation or enforcement of this ordinance shall be discretionary and not mandatory.

Nothing contained in this Ordinance is intended nor shall he construed to create or form the basis of any liability on the part of the City, or its officers, employees or agents, for any injury or damage resulting from any action or inaction on the part of the City, its officers, employees or agents.

PASSED by the City Council and APPROVED by the Mayor this 16th day of November 1999.

CITY OF SNOHOMISH

By _____
Jeff Soth, Mayor

ATTEST:

By _____
Molly Linville, City Clerk

APPROVED AS TO FORM:

By _____
Grant Weed, City Attorney

Date of Publication: _____

Effective Date (5 days after publication): _____