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County Council

SNOHOMISH COUNTY, WASHINGTON

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J.C. \_\_\_\_\_ J.M. \_\_\_\_\_  
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103

ORDINANCE NO. 85-017  
Creating Title 28 In  
Snohomish County Code  
Land Use Enforcement



BE IT ORDAINED:

Section 1. A new Title 28 is hereby created in the Snohomish County Code providing for Land Use Enforcement.

Section 2. New Sections of the Snohomish County Code, Title 28, are adopted as follows:

Title 28  
LAND USE ENFORCEMENT

Chapters:

- 28.08 Generally
- 28.12 Notices and Orders of the Director
- 28.16 Suspension and Revocation of Permits
- 28.20 Recovery of Civil Penalty and Cost of Abatement
- 28.24 Severability

Chapter 28.08  
GENERALLY

Sections:

- 28.08.010 Administration.
- 28.08.020 Definitions.
- 28.08.030 Declaration of Nuisance.
- 28.08.040 Right of Entry.
- 28.08.050 Abatement Proceedings - Authorized.
- 28.08.060 Abatement Proceedings - Legal Relief.
- 28.08.070 Technical Review Committee.
- 28.08.080 Misdemeanor.
- 28.08.090 Civil Penalties - Procedures.
- 28.08.100 Civil Penalties - General Requirements.
- 28.08.110 Civil Penalties - Schedules.

28.08.010 Administration. The directors are authorized to utilize the procedures of this title in order to enforce against violations of any land use or other ordinance within their administrative jurisdiction.

28.08.020 Definitions. For the purpose of this title, the words and phrases designated in this section shall be defined as follows:

A. Committee, Enforcement Technical Review. "Enforcement technical review committee" means the committee established by Section 28.08.070 for the purpose of reviewing and coordinating enforcement actions by the directors.

B. Director(s) "Director or Directors" means the directors of the Department of Planning and Community Development, the Department of Public Works, or such other person as the council shall by ordinance authorize to utilize the provisions of this title, and shall also include any duly authorized representative of such director(s).

C. Examiner, Hearing. "Hearing Examiner" means the Snohomish County Hearing Examiner, as created by Ordinance 80-11, codified in Chapter 2.02, Snohomish County Code, or his duly authorized representative.

D. Nuisance. "Nuisance" is defined as unlawfully doing an act or omitting to perform a duty, which act or omission annoys, injures or endangers the comfort, repose, health or safety of others, or offends decency; unlawfully interferes with, obstructs or tends to obstruct, or renders dangerous for passage, any lake or navigable river, bay, stream, canal or basin, or any public park, square, street or highway; or which in any way renders other persons insecure in life or in the use of property.

E. Nuisance, Public. "Public nuisance" as used in this title, is defined as a nuisance which affects equally the rights of an entire community or neighborhood, although the extent of the nuisance may be unequal.

F. Ordinance, the Land Use. "Land use ordinance" includes the ordinance codified in this title and any other existing or future ordinances of the county which regulate the use and development of land, including but not limited to the following ordinances and amendments thereto: the zoning code (Title 18), the subdivision code (Title 19), the mobile home code (Title 17.28), building code (Title 17), fire code (Title 16), shoreline management permit ordinance (Title 21), drainage ordinance (Title 24), grading code (Title 17), flood hazard ordinance (Title 27) and rights-of-way code (Title 13).

G. Permit. "Permit" means any form of certificate, approval, registration, license or other written permission given to any person to engage in any activity as required by law, ordinance or regulation. The term "permit" shall not include any conditional use permit, special use permit, variance, preliminary or final plat approval or any rezone.

H. Person. "Person" as used in this title, includes any natural person, organization, corporation or partnership and their agents representative or assigns.

28.08.030 Declaration of nuisance. All violations of land use ordinances are determined to be detrimental to the public health, safety and welfare and are public nuisances. All conditions which are determined by a director to be in violation of any land use ordinance shall be subject to the provisions of this title and shall be

corrected by any reasonable and lawful means, as provided in this title.

28.08.040 Right of entry. A. Whenever necessary to make an inspection to enforce or determine compliance with the provisions of any land use ordinance, or whenever a director or his duly authorized inspector has cause to believe that a violation of any land use ordinance has been or is being committed, an inspector may enter any building, structure, property or portion thereof at reasonable times to inspect the same.

B. If such building, structure, property or portion thereof is occupied, the inspector shall present identification credentials, state the reasons for the inspection and demand entry.

C. If such building, structure, property or portion thereof is unoccupied, the inspector shall first make a reasonable effort to locate the owner or other persons having charge or control of the building, structure, property or portion thereof and demand entry. If the inspector is unable to locate the owner or such other persons, and he has reason to believe that conditions therein create an immediate and irreparable land use or safety hazard, he shall make entry.

D. It is unlawful for any owner or occupant or any other person having charge, care or control of any building, structure, property or portion thereof to fail or neglect after proper demand has been given to permit prompt entry thereon where the inspector has reason to believe that conditions therein create an immediate and irreparable land use or safety hazard.

E. Unless entry is consented to by the owner or person in control of any building, structure, property or portion thereof or conditions are believed to exist which create an immediate and irreparable land use or safety hazard, the inspector, prior to entry, shall obtain a search warrant as authorized by applicable law.

28.08.050 Abatement proceedings - Authorized. In addition to or as an alternative to any other judicial or administrative remedy provided in this title or by law or other ordinance, a director may order a land use ordinance violation to be abated. A director may order any person who creates or maintains a violation of any land use ordinance, or rules and regulations adopted thereunder, to commence corrective work and to complete the work within such time as a director determines reasonable under the circumstances. If the required corrective work is not commenced or completed within the time specified, a director may proceed to abate the violation and cause the work to be done. He will charge the costs thereof as a lien against the property and as both a joint and separate personal obligation of any person who is in violation.

28.08.060 Abatement proceedings - Legal relief. Notwithstanding the existence or use of any other remedy, a director may seek legal or equitable relief to enjoin any acts or practices or abate any

conditions which constitute or will constitute a violation of any land use ordinance or rules and regulations adopted thereunder.

28.08.070 Technical review committee. A. There is established the enforcement technical review committee, consisting of one designated representative from each of the following departments or offices: the Department of Planning and Community Development, the Department of Public Works, and the office of the Prosecuting Attorney. The committee shall select one member as its chairperson. The committee shall meet periodically and at such times as it deems necessary to carry out the functions specified in this title.

B. The functions of the committee include the following:

1. Assure coordinated enforcement in cases involving multiple violations;
2. Review and recommend appropriate enforcement actions in the case of complex or protracted violations or in any other case requested by a director;
3. Develop efficient methods of identifying and enforcing violations and avoiding duplication of enforcement functions among county and other agencies.

28.08.080 Misdemeanor. As an alternative to any other judicial or administrative remedy provided in this title or by law or other ordinance, any person who willfully or knowingly violates any land use ordinance, or rules and regulations adopted thereunder, or any order issued pursuant to this title, or by each act of commission or omission procures, aids or abets such violation, is guilty of a misdemeanor and upon conviction shall be punished as provided in Snohomish County Code, 1.01.100. Each day such violation continues shall be considered an additional misdemeanor offense.

28.08.090 Civil penalties - Procedures. A. Any person or organization who violates any land use ordinance, or rules and regulations adopted thereunder, or the conditions of any permit issued pursuant to such ordinance, rule or regulation, or who, by any act of commission or omission procures, aids or abets such violation shall be subject to civil penalties as provided in this chapter.

B. Civil penalties may be directly assessed by the appropriate director by means of a notice and order issued pursuant to Chapter 28.12 or may be recovered by legal action filed in Snohomish County Superior Court by the prosecuting attorney on behalf of Snohomish County.

C. Civil penalties assessed by means of a notice and order shall be collected in accordance with the lien, personal obligation and other procedures specified in this title. Civil penalties assessed in a legal action in Superior Court shall be collected in the same manner as judgments in civil actions.

28.08.100 Civil penalties - General requirements. A. Any person engaged in the development, management, sale, rental or use of

property solely for the purpose of residential occupancy by said person or his or her immediate family shall be deemed to be engaged in noncommercial ventures for purposes of this chapter. All other persons shall be deemed to be engaged in commercial ventures for purposes of this chapter.

B. Each and every day or portion thereof during which any violation is committed, continued, permitted or not corrected shall be deemed a violation for purposes of this title. Civil penalties for failure to obtain any required permit shall begin to accrue on the first day activity subject to the permit requirement is commenced and shall cease to accrue on the day the permit is obtained. Civil penalties for violation of any Order to Cease violation shall begin to accrue on the first day the said order is posted and shall cease on the day the violation is actually stopped.

28.08.110 Civil penalties - Schedules. A. A civil penalty for a violation of any land use ordinance by a person engaged in commercial ventures as defined in Section 28.08.100 above shall be assessed at a rate of two hundred fifty dollars (\$250) per day per violation.

B. A civil penalty for a violation of any land use ordinance by a person engaged in noncommercial ventures as defined in Section 28.08.100 above shall be assessed at the rate of one hundred dollars (\$100) per day per violation.

C. Penalties for the second separate violation of a like nature by the same person shall be double the rates identified in subsections A and B of this section. Penalties for any separate violation of a like nature beyond a second violation by the same person shall be triple the rates identified in subsections A and B of this section.

Chapter 28.12  
NOTICES AND ORDERS TO CORRECT AND/OR ABATE

Sections:

- 28.12.010 Initiation.
- 28.12.020 Issuance - Contents.
- 28.12.030 Issuance - Supplemental.
- 28.12.040 Service.
- 28.12.050 Administrative conference.
- 28.12.060 Appeals.
- 28.12.070 Final order - Designated.
- 28.12.080 Final order - Enforcement.

28.12.010 Initiation. A. Whenever a director has reason to believe that a use or condition exists in violation of any land use ordinance, or rules and regulations adopted thereunder, he is authorized to initiate enforcement action under Sections 28.08.060 or 28.08.080, and/or, at his option, he may commence an administrative notice and order proceeding under this chapter to cause the assessment of a civil penalty pursuant to Section 28.08.090, abatement pursuant to Section 28.08.050, or suspension and revocation of any permits issued pursuant to Chapter 28.16.

B. Pending commencement and completion of the notice and order procedure provided for in this chapter, a director may cause an Order to Cease violation to be posted on the subject property or served on persons engaged in any work or activity in violation of a land use ordinance. The effect of such an order shall be to require the immediate cessation of such work or activity until authorized by a director to proceed.

28.12.020 Issuance - Contents. A. Whenever a director has reason to believe that violation of a land use ordinance or any rules and regulations adopted thereunder will be most promptly and equitably terminated by an administrative notice and order proceeding, he shall issue a written notice and order directed either to the owner or operator of the source of the violation, the person in possession of the property where the violation originates or the person otherwise causing or responsible for the violation. Such notice and order may be issued by any director alone or, where violations of more than one county ordinance, rule or regulation exist, in conjunction with a notice and order issued by another director.

B. The notice and order shall contain:

1. The street address, when available, and a legal description of real property and/or description of personal property sufficient for identification of where the violation occurred or is located;

2. A statement that a director has found the person to be in violation of a land use ordinance with a brief and concise description of the conditions found to be in violation;

3. A statement of the corrective action required to be taken. If a director has determined that corrective work is required, the order shall require that all required permits be secured, that work physically be commenced and that the work be completed within such times as a director determines are reasonable under the circumstances;

4. A statement specifying the amount of any civil penalty assessed on account of the violation and, if applicable, the conditions on which assessment of such civil penalty is contingent;

5. Statements advising that:

a. If any required work is not commenced or completed within the times specified, a director will proceed to cause abatement of the violation and cause the work to be done and charge the costs thereof as a lien against the property and as a joint and separate personal obligation of any person in violation, and

b. If any assessed civil penalty is not paid, a director will charge the amount of the penalty as a lien against the property and as a joint and separate personal obligation of any person in violation;

6. A statement advising that the order shall become final, unless, no later than ten days after the notice and order are served, any person aggrieved by the order requests in writing an appeal before the hearing examiner.

28.12.030 Issuance - Supplemental. At any time other than during the pendency of an appeal, a director may add to, rescind in part or otherwise modify a notice and order by issuing a supplemental notice and order. The supplemental notice and order shall be governed by the same procedures applicable to all notices and orders contained in this title.

28.12.040 Service. Service of the notice and order shall be made upon all persons identified in the notice and order either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested. If the address of any such person cannot reasonably be ascertained, a copy of the notice and order shall be mailed to such person at the address of the location of the violation. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this chapter. Service by certified mail in the manner provided in this section shall be effective on the date of postmark. The notice and order may be, but is not required to be, posted on the subject property.

28.12.050 Administrative conference. At any time other than during the pendency of an appeal, an informal administrative conference may be conducted by a director for the purposes of bringing communications between concerned parties and providing a forum for efficient resolution of any violation. A director may call a conference in response to a request from any person aggrieved by the director's order. The director may, but is not required to, involve the enforcement technical review committee. As a result of information developed at the conference, the director may affirm, modify or revoke his order. The administrative conference is optional with a director, and is not a prerequisite to utilization of any of the enforcement provisions described in this title.

28.12.060 Appeals. A. Any person aggrieved by the order of a director may, upon payment of a filing fee in accordance with Snohomish County Code, Section 17.02.014, request in writing within ten days of the service of the notice and order an appeal hearing before the Snohomish County hearing examiner. The request shall cite the notice and order appealed from and contain a brief statement of the reasons for seeking the appeal hearing.

B. A record shall be made at the appeal hearing and the hearing examiner shall have such rule-making and other powers necessary for conduct of the hearing as are specified by Chapter 2.02, Snohomish County Code. Such appeal hearing shall be conducted within a reasonable time after receipt of the request for appeal. Written notice of the time and place of the hearing shall be given at least ten days prior to the date of the hearing to each appealing party, to the director whose order is being appealed and to other interested persons who have requested in writing that they be so notified. The director whose order is being appealed may submit a report and other evidence indicating the basis for the enforcement order.

C. Each party shall have the following rights, among others:

1. To call and examine witnesses on any matter relevant to the issues of the hearing;
2. To introduce documentary and physical evidence;
3. To impeach any witness regardless of which party first called him to testify;
4. To rebut evidence against him;
5. To represent himself or to be represented by anyone of his choice who is lawfully permitted to do so.

D. Following review of the evidence submitted, the hearing examiner shall make written findings and conclusions, and shall affirm or modify the order previously issued if he finds that a violation has occurred. He shall reverse the order if he finds that no violation occurred. The written decision of the hearing examiner shall be mailed by certified mail, postage prepaid, return receipt requested to all the parties.

E. Whenever possible, the appeal from a director's order shall be combined with any other appeal from county enforcement actions



relating to the same subject matter and falling within the jurisdiction of the hearing examiner.

28.12.070 Final Order - Designated. A. Any order duly issued by a director pursuant to the procedures contained in this title shall become final ten days after service of the notice and order unless a written request for hearing is received and filed with the Community Development Division within the ten-day period.

B. An order which is subjected to the appeal procedure shall become final ten days after mailing of the hearing examiner's decision unless within that time period an aggrieved person initiates review by appeal to the Snohomish County Council pursuant to Snohomish County Code, Section 2.02.170.

28.12.080 Final order - Enforcement. A. If, after any order duly issued by a director has become final, the person to whom such order is directed fails, neglects or refuses to obey such order, including refusal to pay a civil penalty assessed under such order, a director may:

1. Cause such person to be prosecuted under the provisions of this title; and/or

2. Institute any appropriate action to collect a civil penalty assessed under this title; and/or

3. Abate the land use violation using the procedures of this title; and/or

4. File in the Snohomish County Auditor's Office a certificate describing the property and the violation and stating that the owner has been so notified; and/or

5. Pursue any other appropriate remedy at law or equity under this title.

B. Enforcement of any notice and order of a director issued pursuant to this title shall be stayed during the pendency of any appeal under this title, except when a director determines that the violation will cause immediate and irreparable harm and issues an Order to Cease violation pursuant to Snohomish County Code, Section 28.12.010(B).

Chapter 28.16  
SUSPENSION AND REVOCATION OF PERMITS

Sections:

- 28.16.010 Suspension - Cause.
- 28.16.020 Revocation - Cause.

28.16.010 Suspension - Cause. A. A director may temporarily suspend any permit issued under a land use ordinance for:

1. Failure of the holder to comply with the requirements of any land use ordinance, or rules or regulations adopted thereunder; or
2. Failure to comply with any notice and order issued pursuant to this title.

B. Such permit suspension shall be carried out through the notice and order provisions of this title and the suspension shall be effective upon service of the notice and order upon the holder or operator. The holder or operator may appeal such suspension as provided by this title.

C. Notwithstanding any other provision of this title, whenever a director finds that a violation of any land use ordinance, or rules and regulations adopted thereunder, has created or is creating a dangerous or other condition which, in his judgment, constitutes an immediate and irreparable hazard, he may, without service of a written notice and order, suspend and terminate operations under the permit immediately.

28.16.020 Revocation - Cause. A. A director may permanently revoke any permit issued by such director for:

1. Failure of the holder to comply with the requirements of any land use ordinance, or rules or regulations promulgated thereunder; or
2. Failure of the holder to comply with any notice and order issued pursuant to this title; or
3. Interference with a director in the performance of his duties; or
4. Discovery by a director that a permit was issued in error or on the basis of incorrect information supplied to the county.

B. Such permit revocation shall be carried out through the notice and order provisions of this title and the revocation shall be effective upon service of the notice and order upon the holder or operator. The holder or operator may appeal such revocation as provided by this title.

C. A permit may be suspended pending its revocation or a hearing relative thereto.

Chapter 28.20  
RECOVERY OF CIVIL PENALTY AND  
COST OF ABATEMENT

Sections:

- 28.20.010 Lien - Authorized.
- 28.20.020 Personal obligation - Authorized.
- 28.20.030 Lien - Notice and Service
- 28.20.040 Lien - Priority.
- 28.20.050 Lien - Claims - Generally.
- 28.20.060 Lien - Claims - Recording.
- 28.20.070 Lien - Duration - Limitation of action.
- 28.20.080 Lien - Foreclosure.

28.20.010 Lien - Authorized. Snohomish County shall have a lien for any civil penalty imposed or for the cost of any abatement work done pursuant to this title, or both, against the real property on which the civil penalty was imposed or any of the abatement work was performed.

28.20.020 Personal obligation - Authorized. The civil penalty and the cost of abatement are also joint and separate personal obligations of any person in violation. The prosecuting attorney on behalf of Snohomish County may collect the civil penalty and the abatement work costs by use of all appropriate legal remedies.

28.20.030 Lien - Notice and Service. The notice and order of a director pursuant to this title shall give notice to the owner that a lien for the civil penalty or the cost of abatement, or both, may be claimed by Snohomish County. Service of the notice and order shall be made upon all persons identified in the notice and order either personally or by mailing a copy of such notice and order by certified mail, postage prepaid, return receipt requested. If the address of any such person cannot reasonably be ascertained, a copy of the notice and order shall be mailed to such person at the address of the location of the violation. The failure of any such person to receive such notice shall not affect the validity of any proceedings taken under this chapter. Service by certified mail in the manner provided in this section shall be effective on the date of postmark. The notice and order may be, but is not required to be, posted on the subject property.

28.20.040 Lien - Priority. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens, except for state and county taxes, with which it shall be on a parity.

28.20.050 Lien - Claims - Generally. A. Filing--A director shall cause a claim for lien to be filed for record in the Snohomish County Auditor's Office within ninety days from the date the civil penalty is due or within ninety days from the date of completion of the abatement work performed pursuant to this title.

B. Contents--The claim of lien shall contain the following:

1. The authority for imposing a civil penalty or proceeding to abate the violation, or both;

2. A brief description of the civil penalty imposed or the abatement work done, or both, including the violations charged and the duration thereof, including the time the work is commenced and completed and the name of the persons or organizations performing the work;

3. A legal description of the property to be charged with the lien;

4. The name of the known or reputed owner, and, if not known, the fact shall be alleged; and

5. The amount, including lawful and reasonable costs, for which the lien is claimed.

C. Verification--A director or his authorized representative shall sign and verify the claim by oath to the effect that the affiant believes the claim is just.

D. Amendment--The claim of lien may be amended in case of action brought to foreclose same, by order of the court, insofar as the interests of third parties shall not be detrimentally affected by amendment.

28.20.060 Lien - Claims - Recording. The Snohomish County Auditor shall record and index the claims and notices described in this chapter.

28.20.070 Lien - Duration - Limitation of action. No lien created by this title binds the property subject to the lien for a period longer than three years after the claim has been filed unless an action is commenced in the proper court within that time to enforce the lien.

28.20.080 Lien - Foreclosure. A. Foreclosure--The lien provided by this title may be foreclosed and enforced by a civil action in a court having jurisdiction.

B. Joinder--All persons who have legally filed claims of liens against the same property prior to commencement of the action shall be joined as parties, either plaintiff or defendant.

C. Actions Saved--Dismissal of an action to foreclose a lien at the instance of a plaintiff shall not prejudice another party to the suit who claims a lien.

Chapter 28.24  
SEVERABILITY

Sections:

28.24.010 Declared.

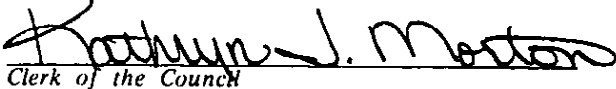
28.24.010 Declared. Should any section, subsection, paragraph, sentence clause or phrase of this title be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this title.

Dated MAY 01 1985



Chairman

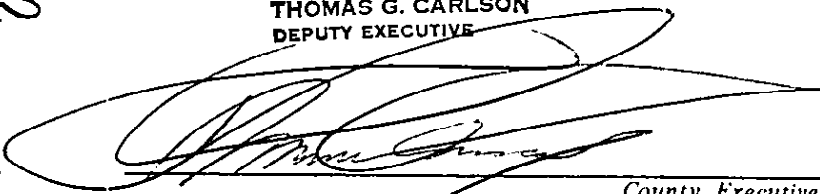
ATTEST:

  
Clerk of the Council

THOMAS G. CARLSON  
DEPUTY EXECUTIVE

ATTEST:





County Executive

APPROVED      ( ) VETOED

( ) EMERGENCY

Date May 6, 1985

PUBLISHED \_\_\_\_\_ and \_\_\_\_\_

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