

CHAPTER 2.90 PAMC – COMPLIANCE AND ENFORCEMENT

[NOTE: This is a new chapter.]

Chapter 2.90

COMPLIANCE AND ENFORCEMENT

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2.90.010 **Application and scope.**

The purpose of this chapter is to: establish an efficient system to enforce civil violations of the PAMC; to establish penalties; provide for abatement of any affected properties; to collect all costs associated with abatement; and to provide an opportunity for a prompt appeal and decision on alleged violations of these regulations when requested. Unless otherwise specified, the provisions of this chapter apply to the enforcement of all civil provisions of the PAMC. In the event of a conflict between a provision in this chapter and any other enforcement provision of the PAMC, the more specific provision applies.

The PAMC is enforced for the benefit of the health, safety, and welfare of the general public, and not for the benefit of any particular person or class of persons. It is the intent of this chapter to place the obligation for complying with its requirements upon the owner, occupier, tenant,

manager, agent, or other person responsible for the violation or condition of land and buildings situated within the City of Port Angeles and within the scope of the PAMC. No provision or any term used in this chapter is intended to impose any duty upon the city or any of its officers or employees that would subject them to damages in a civil action.

2.90.020 **Definitions.**

As used in this chapter, the following terms have the meanings set forth in this section, unless a different meaning is clearly indicated by the context. Undefined terms are interpreted using their common usage meaning and to give this chapter its most reasonable application.

“Civil violation” means any violation or noncompliance with a civil provision of the PAMC not otherwise designated as an infraction, misdemeanor, or gross misdemeanor.

“Person responsible for the violation” or “person responsible” means any person(s) required by the applicable regulation to comply therewith, or who commits any act or omission that is a violation or causes or permits a violation to occur or remain upon property in the city, and includes but is not limited to any owner(s), lessor(s), manager(s), agent(s), or other person(s) entitled to control, use and/or occupy property where a civil violation occurs.

“Repeat violation” means a violation of the same or similar PAMC provision in any location by the same person for which: (1) voluntary compliance previously has been sought within two years; or (2) a notice of violation has been issued within two years.

2.90.030 **Enforcement, authority, and administration.**

A. The City Manager is authorized to administer and enforce this chapter. The City Manager may delegate authority to the Police, Fire, Community Development, Public Works, or other City departments to assist in enforcement and may also seek assistance from outside agencies or private contractors, if necessary.

B. When the City Manager determines that any civil violation(s) of PAMC have occurred or are occurring, the City Manager may take any one or more of the following actions:

1. Investigate any property, structure, or use reasonably believed to be noncompliant with the PAMC.
2. Issue an oral warning.
3. Issue a warning letter.

4. Enter into voluntary compliance agreements with persons responsible for code violations.
5. Issue notices of violation that require compliance and assess monetary penalties for noncompliance.
6. Issue stop work, no occupancy, or other orders that require immediate action due to an imminent risk of injury or damage to persons or property and assess monetary penalties for noncompliance.
7. Suspend, revoke, or modify any permit or variance issued by the City.
8. Direct the City Attorney to initiate court actions necessary to abate violations or to enforce any order issued by the City Manager or designee.

C. The enforcement procedures in this chapter are not exclusive. The City Manager is authorized to exercise any right, action, or remedy authorized by law or equity, or a combination thereof, to enforce civil violations. Exercise of one procedure does not prevent use of another procedure. Nothing in this chapter prohibits the City Manager from immediately issuing a notice of violation, seeking judicial review, or taking other enforcement action without first taking other remedial actions, when the circumstances warrant more expeditious correction or when the person(s) responsible is a repeat offender.

D. With the consent of the owner or occupier of a building or premises, or pursuant to a lawfully issued court order, the City Manager is authorized to enter at reasonable times any building or premises to perform any duties imposed by this chapter.

E. The City Manager is authorized to adopt all procedures, rules, and policies reasonably necessary to fully implement this chapter.

2.90.040 **Service**

A. A notice of violation, or any other document issued pursuant to this chapter, must be served on the person to whom it is directed by:

1. Personal service;
2. Mailing a copy of the document by first class mail or by certified mail, return receipt requested, to such person at their last known address; or
3. Any means reasonably calculated to effect service.

B. In the case of stop work, no occupancy, or other orders that require immediate action due to an imminent risk of injury or damage to persons or property, service will be effective upon posting a copy of the order on the subject property. A copy of the document will be served pursuant to PAMC 2.90.040(A) as soon as reasonably practicable.

C. If, after due diligence, such person cannot be personally served within Clallam County and if an address for mailed service cannot be ascertained, notice must be served by posting a copy of the document conspicuously on the affected property or structure.

D. Proof of service must be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner the service was made and, if by posting, the facts showing the attempts to serve the person personally or by mail. If service is done by mail, service is deemed complete upon the third business day after depositing the notice into the mail.

E. In the case where the demolition of a structure is proposed as a means of abatement, any lien holder whose lien interest is recorded in the official records of the Clallam County must be given notice of the enforcement action.

F. Each owner of the land on which the violation occurred or is occurring must be served with the notice of violation.

2.90.050 **Obligations of persons responsible for civil violations.**

A. It is the duty of every person responsible for a civil violation to abate the violation and to take all other actions necessary to achieve compliance with the PAMC.

B. Persons responsible for a civil violation pursuant to a notice of violation must pay all monetary penalties and abatement costs. However, payment of monetary penalties, applications for permits, acknowledgment of stop work orders, and compliance with other remedies do not relieve the persons responsible of the duty to correct a violation.

C. In addition to any penalty that may be imposed by the City, any person violating or failing to comply with the PAMC is liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to the violation.

D. Responsibility for civil violations and the penalties imposed are joint and several, and the City is not prohibited from taking action against a party where other persons may also be potentially responsible for a violation, nor is the City required to take action against all persons potentially responsible for a violation.

2.90.060 **Oral warning**

The City Manager may issue an oral warning upon determining a civil violation has occurred or is occurring. Oral warnings are logged and may be followed up with a re-inspection.

2.90.070 **Warning letter**

The City Manager may issue a warning letter upon determining a civil violation has occurred or is occurring. The warning letter must inform the person responsible of the nature of the violation and specify a reasonable time to correct it or allow the person to enter into a voluntary compliance agreement pursuant to PAMC 2.90.080.

2.90.080 **Voluntary compliance agreement.**

- A. The City Manager may enter into a voluntary compliance agreement upon determining a civil violation has occurred or is occurring.
- B. The voluntary compliance agreement must include the following:
 - 1. The name and address of the person(s) responsible for the violation;
 - 2. The street address or other description sufficient to identify the building, structure, premises, or land upon or within which the violation has occurred or is occurring;
 - 3. A description of the violation(s) and a reference to the PAMC provision(s) which has been violated;
 - 4. An agreement by the person(s) entering into the voluntary compliance agreement that he, she or they waive the right to a hearing and stipulate that the violation exists; and
 - 5. The required corrective action(s) and a deadline(s) or schedule for compliance;
 - 6. An agreement permitting the City to inspect the premises as necessary to determine compliance with the voluntary compliance agreement;
 - 7. A statement that if the terms of the voluntary compliance agreement are not satisfied, the City is authorized to assess monetary penalties, obtain a superior court order requiring the parties to abate the violation, or to abate the violation and recover its costs and expenses (including, but not limited to, abatement materials and costs, attorney fees, expert witness fees, and court costs) from the person responsible;

8. A statement that the City is not limited in the enforcement actions or enforcement options available in the event the voluntary compliance agreement is not fully performed.

C. If the terms of the voluntary compliance agreement are not satisfied, and an extension of time has not been granted, the person responsible for the violation may, without being issued a notice of violation or stop work order, be assessed a monetary penalty plus all costs incurred by the City to pursue compliance. Penalties imposed when a voluntary compliance agreement is not satisfied accrue from the date the voluntary compliance agreement was executed.

2.90.090 Notice of violation - Contents and effect.

A. The City Manager may issue a notice of violation to any person responsible for a civil violation upon determining a civil violation has occurred or is occurring.

B. A notice of violation represents a determination that a violation has occurred or is occurring, that said violation must be corrected, and that penalties may be assessed.

C. A notice of violation must include the following:

1. The name and address of the person(s) responsible for the violation;
2. The street address or description sufficient to identify the building, structure, premises, or land upon or within which the violation has occurred or is occurring;
3. A description of the violation(s) and a reference to the PAMC provision(s) which has been violated;
4. The required corrective action and a deadline for compliance;
5. A statement that the notice of violation may be appealed by filing a written request for a hearing with the Hearing Examiner within 15 days of service of the notice of violation, pursuant to PAMC 2.90.190, and that failure to timely appeal constitutes a waiver of the right to appeal;
6. A statement indicating that the appeal hearing will be canceled, and/or no monetary penalty will be assessed, other than City costs and expenses, if the corrective action is completed by the specified date or prior to the appeal hearing, if applicable;
7. A statement that a monetary penalty may be assessed per violation for each day of noncompliance, including the dollar amount of the monetary penalties, and that any assessed penalties must be paid within 14 days of service of the notice of violation;

8. A statement that payment of the monetary penalties does not relieve a person responsible of the duty to correct the violation and/or to pay monetary penalties or other cost assessments issued;
 9. A statement advising that a failure to timely appeal renders the notice of violation a final determination that the conditions existed and constituted a violation, and that the named party is liable for the violation; and
 10. A statement advising that failure to comply with the notice of violation may be referred to the City Attorney for legal action.
- D. A copy of the notice may be filed and recorded with the Clallam County Auditor.

2.90.100 Notice of violation – Supplementation, revocation, modification.

The City Manager may revoke or otherwise modify, in whole or in part, a notice of violation by issuing a written supplemental notice of violation, on the following grounds:

- A. The original notice of violation was issued in error;
- B. There is new information or changed circumstances; or
- C. A person was incorrectly named as a responsible party.

2.90.110 Stop work, no occupancy, or other emergency orders.

- A. The City Manager may issue a stop work order, no occupancy order, or other orders that require immediate action due to an imminent risk of injury or damage to persons or property upon determining a civil violation is occurring or has occurred. Such orders must be posted and served as set forth PAMC 2.90.040(B). Such orders require the immediate cessation of the specified work or activity on the subject property. Work or activity may not resume unless authorized in writing by the City Manager.
- B. A stop work order, no occupancy order, or other orders that require immediate action due to an imminent risk of injury or damage to persons or property may be appealed in accordance with PAMC 2.90.190. Failure to appeal the order within 15 days renders the order a final determination that the civil violation occurred.
- C. Violation of an order issued under this section is a separate violation from any other code violation.

2.90.120 **Monetary penalties.**

- A. In addition to utilizing any other remedy, the City Manager may assess monetary penalties upon determining a civil violation has occurred or is occurring.
- B. Monetary penalties for a civil violation begin to accrue on the first day following the date for compliance set forth in the notice of violation served on the responsible party and continue to accrue each day until the violation is abated.
- C. The cumulative monetary penalty for each violation per day, or portion thereof, is \$250.00, with adjustments as allowed pursuant to this section.
- D. Penalties may be doubled based on the following factors:
1. The violation was a repeat violation;
 2. The violation resulted in physical harm to persons or to another's property;
 3. The violation was knowing or deliberate; or
 4. The violation resulted from gross negligence or reckless conduct.
- E. Penalties may be reduced upon a written request to the City's code enforcement division by the person(s) named in the notice of violation that includes the code enforcement case number, an explanation of the circumstances surrounding the violation, and acts taken to correct the violation. Any person seeking a penalty reduction must prove that the violation has been corrected and the date of correction, as verified by code enforcement. The City Manager will make a determination on the request based on an evaluation of individual circumstances, including, but not limited to: the severity of the violation; the public interest being protected; the cooperation of the person responsible for the violation; whether the person(s) responsible have demonstrated compliance or progress toward compliance to the City's satisfaction; and the ability of the person responsible for the violation to pay the assessed penalties. The decision to reduce penalties is not appealable.

2.90.130 **Monetary penalties – Waivers.**

- A. Monetary penalties may be waived or revoked by the City Manager under the following circumstances:
1. The notice of violation or stop work order was issued in error;
 2. The monetary penalties were assessed in error; or

3. New material information warranting waiver or revocation has been presented to the City; or
4. As appropriate to resolve litigation.

B. The City will state in writing the basis for a decision to waive or revoke penalties. The decision to waive or revoke penalties is not appealable.

2.90.140 **Monetary penalties – Environmentally Sensitive Areas.**

A. To protect environmentally sensitive areas and the public from long-term harm, persons responsible for a civil violation relating to environmentally sensitive areas will not only be required to restore damaged environmentally sensitive areas, if possible and beneficial, but also will be required to pay a monetary penalty to compensate for the ecological, recreational, and economic values lost or damaged due to their unlawful action.

B. Violations of environmentally sensitive area provisions of the PAMC include, but are not limited to:

1. The violation of Chapter 15.20 PAMC, Environmentally Sensitive Areas, or related administrative rules;
2. The failure to obtain a permit required for work in an environmentally sensitive area; or
3. The failure to comply with the conditions of any permit, approval, terms and conditions of any sensitive area tract or setback area, easement, covenant, plat restriction or binding assurance, or any notice of violation, stop work order, mitigation plan, contract, or agreement issued or concluded pursuant to the above-mentioned provisions.

C. In addition to assessing monetary penalties pursuant to PAMC 2.90.120, the City may levy additional \$250.00 in monetary penalties for each violation of environmentally sensitive area provisions of the PAMC.

2.90.150 **Costs.**

A. Upon issuance of a notice of violation or stop work order, the City Manager may charge the costs incurred by the City to enforce a civil violation to the person(s) responsible. These charges include, but are not limited to:

1. Reasonable legal fees and costs, including, but not limited to, legal personnel costs, court costs, filing fees, collection fees, and all other costs and expenses incurred, as may be allowed by law;
 2. Administrative personnel costs, including, but not limited to, administrative employee costs incurred;
 3. Abatement costs, including, but not limited to, all equipment, material, and labor costs incurred by the City in the abatement of a violation;
 4. Actual expenses and costs of the City in preparing notices, specifications, and contracts; in accomplishing or contracting and inspecting the work; and the costs of any required printing, or mailing; and
 5. Interest in an amount as allowed by law.
- B. Such costs are due and payable 30 days from mailing of the invoice.

2.90.160 **Collection of monetary penalties, fees, and costs.**

- A. The City Manager is authorized to collect any monetary penalties, fees, costs, and/or interest owing under this chapter by any appropriate legal means, including but not limited to, judicial action or the use of a collection agency.
- B. In addition to, or in lieu of, any other state or local provision for the recovery of costs, the City Manager is authorized to levy a special assessment on the land or premises where the violation exists or existed and file with the Clallam County auditor a lien against the real property for the monetary penalties, fees, and costs assessed, in accordance with any lien provisions authorized by state law. Before levying a special assessment, the City must provide notice to the property owner and any identifiable mortgage holder by regular mail that a special assessment will be levied on the property along with the estimated amount.
- C. Any lien filed is subject to priority pursuant to state law, including but not limited to RCW 35A.21.405 to the extent applicable. Any such claim of lien may be amended to reflect changed conditions.

2.90.170 **Abatement.**

- A. Emergency abatement. Whenever a condition constitutes an immediate threat to the public health, safety, or welfare or to the environment, the City Manager is authorized to summarily abate the condition. Notice of such abatement, including the reason for it, must be

given to the person responsible for the violation as soon as reasonably possible, whether before or after the abatement action is initiated.

B. Judicial abatement. The City Manager is authorized to seek a judicial abatement order, mandate, injunction, or other relief from Clallam County superior court to abate a civil violation.

C. Chronic nuisance judicial abatement order. The City Manager is authorized to seek a judicial abatement order, injunction, or other relief from Clallam County superior court to abate a condition deemed a chronic nuisance pursuant to Chapter 8.30 PAMC. Such relief, in addition to the remedies outlined in this chapter and Chapter 8.30 PAMC, may seek abatement of the chronic nuisance as follows:

1. Direct the removal of all personal property subject to seizure and forfeiture pursuant to RCW 69.50.505 from the property, building, or unit within a building, and direct their disposition pursuant to the forfeiture provisions of RCW 69.50.505;
2. Provide for the immediate closure of the property, building, or unit within a building against its use for any purpose, and for keeping it closed for a period of up to one year unless released sooner; and
3. State that while the order of abatement remains in effect, the property, building, or unit(s) within a building will remain in the custody of the court.

2.90.180 Code compliance abatement fund – Authorized.

All monies collected from the assessment of monetary penalties and for abatement costs and work will be allocated to support expenditures for abatement and be accounted for through either creation of an account in the City's Code Compliance fund for such abatement costs, or other appropriate accounting mechanism.

2.90.190 Appeals.

A. All contested matters arising under this chapter will be heard by the Hearing Examiner, by the filing of an appeal.

B. Every person to whom a notice of violation or stop work order is issued may contest the notice or order. Failure to appeal the notice or order waives the right to appeal and constitutes an admission that the facts, conclusions, and orders stated in the notice or order are valid, true, and correct.

C. The fee for an appeal is \$500.00. The appeal fee may be refunded, either wholly or partially, only if the Hearing Examiner finds that the notice or order was issued without reasonable cause.

D. Any appeal of a notice of violation or stop work order must be submitted to the City Clerk, in writing, within 15 days of the date the notice of violation or stop work order is served. Receipt of a complete appeal submittal will stay enforcement of a notice of violation until a final decision on the appeal has been reached. Filing of an appeal does not stay enforcement of a stop work order.

E. The appeal submittal must include:

1. The case number designated by the City;
2. The name and signature of each petitioner or their authorized representative, if any. If multiple parties file a single appeal, the appeal must designate one party as the contact representative; and
3. The specific decision being appealed, and the specific reasons why each aspect is in error as a matter of fact or law.

F. The Hearing Examiner will conduct a hearing consistent with Chapter 2.18 PAMC and will:

1. Prepare findings regarding whether a preponderance of evidence shows that the violation occurred and the required corrective action is reasonable;
2. Affirm, vacate, or modify the notice of violation; and
3. Affirm, vacate, or modify the assessment of monetary penalties, if applicable. The Hearing Examiner may reduce monetary penalties based on the following considerations:
 - a. Whether the violation was a first violation;
 - b. Whether the violator showed due diligence in correcting the violation;
 - c. Whether the penalty is more than necessary to:
 - i. Neutralize any profit enjoyed by the violator as a result of the violation;
 - ii. Make the public whole for environmental or other damages suffered as a result of the violation;

iii. Reimburse the City for the costs of enforcement; and

d. Other relevant factors.

G. Any appeal of the Hearing Examiner's determination must be filed with superior court and served within 21 days of issuance of the decision pursuant to Chapter 36.70C RCW.

2.90.200 **Determination of compliance.**

Persons responsible for a civil violation must notify the City Manager in writing of any actions taken to achieve compliance with a warning, notice of violation, voluntary compliance agreement, or stop work order. For purposes of assessing monetary penalties, a violation is considered ongoing until the person responsible for a civil violation has come into compliance with the notice of violation, voluntary compliance agreement, or stop work order, and has provided sufficient evidence of such compliance to the City Manager.

Upon confirmation that compliance has been achieved, the person responsible may request the City Manager to issue a written determination of compliance stating that the violations noted in the warning, voluntary compliance agreement, notice and order, stop work order, or other applicable order have been sufficiently abated. The City will mail copies of the determination of compliance to each person responsible for the violation.

2.90.210 **Suspension, revocation, or limitation of permit.**

A. The City Manager is authorized to suspend, revoke, or modify any permit issued by the City whenever:

1. The permit holder has committed a violation in the course of performing activities subject to that permit;
2. The permit holder has interfered with the authorized representatives of the City in the performance of the authorized person's duties related to that permit;
3. The permit was issued in error or on the basis of materially incorrect information supplied to the City;
4. Permit fees or costs were paid to the City by check and returned from a financial institution marked nonsufficient funds (NSF) or canceled; or
5. The permit or approval is subject to sensitive area review, and the applicant has failed to disclose a change of circumstances on the development proposal site which materially affects an applicant's ability to meet the permit or approval conditions, or

which makes inaccurate the sensitive area study that was the basis for establishing permit or approval conditions.

B. Such suspension, revocation, or modification will be carried out through a notice of violation and is effective upon the compliance date established by the notice of violation. Such suspension, revocation, or modification may be appealed to the hearing examiner pursuant to PAMC 2.90.190.

2.90.220 **Denial of permit.**

The City Manager is authorized to deny a permit when the property for which the permit is submitted is subject to any pending enforcement action or is in violation of any ordinance, resolution, regulation, or public rule of the City that regulates or protects the public health, safety, and welfare, or the use and development of land and water. Such denial may continue until the violation is corrected, as deemed complete by the City, and by payment of any monetary penalty imposed for the violation, except that permits or approvals will be granted to the extent necessary to accomplish any required corrective action.

AMENDMENTS TO TITLE 8 – HEALTH AND SANITATION

CHAPTER 8.05 - ABATEMENT OF JUNK VEHICLES

8.05.010 - Purpose.

The purpose of this chapter is to preserve the character and safety of the City's neighborhoods by eliminating as nuisances, junk vehicles from private property, and to provide procedures for the removal of junk vehicles as authorized by RCW 46.55.240.

8.05.020 - Definitions.

The following definitions apply to the terms in this chapter:

- A. "*Junk vehicle*" means any vehicle meeting the definition in RCW 46.55.010(5).
- B. "*Enforcement Officer*" means the City Manager.
- C. "*Landowner*" means an owner of private property or a person in possession or control of private property.

8.05.030 - Exemptions.

This chapter does not apply to:

- A. A vehicle or part thereof that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or

- B. A vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler or licensed vehicle dealer and is fenced according to RCW 46.80.130.

8.05.040 - Abatement and removal of junk vehicles on private property.

- A. The storage or retention of junk vehicles, or parts thereof, on private property is declared to constitute a public nuisance subject to abatement by removal and disposal. Upon inspection and confirmation that a junk vehicle exists, the enforcement officer will give notice in writing to the last registered owner of record of the junk vehicle and also to the property owner of record that a hearing may be requested before the hearing examiner, and that if no hearing is requested within 10 days, the City may remove the junk vehicle. Costs of removal may be assessed against the last registered owner of the junk vehicle if the identity of such owner can be determined, or the costs may be assessed the landowner of the property on which the junk vehicle is stored.
- B. If a request for a hearing is received, a notice giving the time, location and date of the hearing will be mailed certified with a five-day return receipt requested, to the owner of the land as shown on the last equalized assessment roll of the County Assessor and to the last registered and legal owner of record of the vehicle unless the vehicle is in such condition that the identification numbers are not available to determine ownership.
- C. The owner of the land on which the junk vehicle is located may appear at the hearing or present a written statement prior to the hearing and deny responsibility for the presence of the junk vehicle on the land, with the reasons for such denial. If it is determined at the hearing that the vehicle was placed on the land without the landowner's consent or subsequent acquiescence, then the City will not assess administration or removal costs against the property upon which the vehicle is located or otherwise move to collect such costs from the landowner.
- D. After notice has been given of the City's intent to dispose of the junk vehicle, and after a hearing, if requested, has been held, the junk vehicle, or part thereof, will be removed, at the request of a police officer, and disposed of by a registered tow truck operator with notice to the Washington State Patrol and the Department of Licensing that the vehicle has been wrecked.
- E. The City may, after removal of the junk vehicle from private property, file or record with the County Auditor a claim for lien for the costs of removal and disposal, which shall be in accordance with the provisions covering mechanics' liens in Chapter 60.04 RCW, and said lien may be foreclosed in the same manner as such liens. The City may alternatively choose in its sole discretion to collect any unpaid charges utilizing whatever legal options are available to the City, including but not limited to turning the matter over to a collection agency, filing a small claims court action, or filing a civil lawsuit in district or superior court.

8.05.050 - Violation—Penalty.

In addition to the costs of abatement and to any penalties assessed for failure to comply with a notice of violation issued pursuant to PAMC 2.90.090, any person violating this chapter is

deemed to have committed a civil infraction commencing upon the date that the enforcement officer or the Hearing Examiner had specified for completion of abatement, whichever date is later, and will be fined not less than \$250.00 per violation.

CHAPTER 8.30 – NUISANCES

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8.30.010 - **Scope.**

This chapter is supplemental to all other laws adopted by the City. In the event this chapter conflicts with another law or ordinance, the regulations that are more restrictive (or that impose higher standards or requirements) apply.

8.30.020 - **Purpose.**

The purpose of this chapter is to create and maintain a safe and healthy environment for the residents of the City of Port Angeles by prohibiting those nuisances that contribute to injury, illness, devaluation of property, and the incidence of crime, or that affect the rights of the greater community. This chapter is enforced for the benefit of the health, safety, and welfare of the general public, and not for the benefit of any particular person or class of persons. No provision or any term used in this chapter is intended to impose any duty upon the city or any of its officers or employees that would subject them to damages in a civil action.

8.30.030 - **Definitions.**

As used in this chapter, the following terms have the meanings set forth in this section, unless a different meaning is clearly indicated by the context.

Undefined terms, phrases, and words should be interpreted first using the definitions taken from the Building Codes, then, if not defined therein, from Chapter 17.08 PAMC, and then, if not defined

therein, using their ordinary accepted meaning to give this chapter its most reasonable application.

"*Attractive nuisance*" means any object or condition that constitutes a hazard or danger, is accessible to unauthorized persons, and tends to draw attention or entices.

"*Building Codes*" shall mean the current edition of the International Building Code, International Residential Code, National Electrical Code, International Property Maintenance Code, International Fire Code, and/or Urban Services Standards and Guidelines, as adopted by the City.

"*Director*" includes, but is not limited to, the Chiefs of the Police Department or Fire Department, Directors of the Public Works and Utilities Department, the Department of Community and Economic Development, and their designee(s).

"*Driveway*" means an improved surface or open area for use by a motor vehicle, for the purpose of accessing a parking area or for the parking of vehicles.

"*Front yard*" means that area between the front property line and the face of the residential structure farthest from said property line.

"*Graffiti*" means an unauthorized marking, symbol, inscription, word, figure, design, or other inscribed material that has been placed upon any property through the use of paint, ink, dye, or any other substance capable of marking property.

"*Impound*" means to take and hold a vehicle in legal custody pursuant to law.

"*Improved surface*" means any area that has been altered from a natural surface.

"*Inoperable vehicle*" means a vehicle that cannot be legally operated on roads, highways, rights-of-way, waterways, or public lands due to the condition of the vehicle or the status of the ownership, registration, or license of the vehicle.

"*Light trespass*" means any light emitted by a fixture between the hours of 10:00 p.m. and 5:00 a.m. for longer than 30 minutes continuously that shines beyond the property on which the fixture is installed at a brightness (illuminance) that exceeds 0.1 foot-candles at the property line.

"*Maintained surface*" means a natural planted surface, such as grass or ground cover that is mowed and/or maintained to keep it in good condition and to prevent soil erosion.

"*Ongoing criminal activity related to the premises*" means that (1) criminal activity is or has been occurring at the premises; or (2) criminal activity is or has been occurring near the premises and such activity has a reasonable and proximate connection to the premises, whether by owners, occupants, or their visitors. Examples of conduct or actions that constitute criminal activity occurring at or near the premises include, but are not limited to, the following:

1. Arrest of one or more individuals by law enforcement during any 24-hour period;
2. Commission of a misdemeanor, gross misdemeanor, or felony at or near the premises and where there is a reasonable and proximate connection between the crime or criminal and the premises; or
3. Visits by law enforcement based upon a reasonable belief that a crime is occurring or has occurred, but which do not result in any of the actions identified in subsections (1) or (2) of this definition; provided, that visits alone may not form the sole basis for determining a premises to be a chronic nuisance premises.

For purposes of this definition, arrests for or commission of misdemeanor or felony domestic violence shall not be considered criminal activity.

[NOTE: Further investigation is on-going to determine whether the definition of "recreational vehicles" should be expanded to include tiny houses on wheels.]

"*Recreational vehicles*" means any trailer, camper, or motor home, or any boat that is more than 14 feet in length.

"*Screening*" means solid wood fencing, chain link fencing with slats, or solid landscaping capable of concealing parked vehicles from sight at or near the property lines; however, such screen need not exceed six feet in height.

"*Stored vehicle*" means vehicles kept on a single-family residential lot for over two months without substantial movement of said vehicle.

"*Vehicle*" includes every device capable of being moved upon a public highway and in, upon, or by which any persons or property is or may be transported or drawn upon a public highway, including, but not be limited to, automobiles, bicycles, motorcycles, trucks, motorized recreational vehicles, campers, travel trailers, boats on or off trailers, utility trailers, or other vehicles defined as such in Title 46 RCW. Campers, if removed from the towing vehicle and stored separately, are counted as a separate vehicle.

8.30.040 - **Authority.**

Any Police Officer of the City and the City Manager may enforce this chapter and utilize any of the compliance provisions set forth in Chapter 2.90 PAMC.

8.30.050 **Nuisances prohibited.**

It is unlawful for any person, or the person's agents, employees, or invitees, to erect, contrive, cause, continue, maintain, or permit to exist any nuisance within the City including on the property of any person or upon any public rights-of-way.

8.30.060 - Nuisances defined.

The following acts, omissions, places, conditions, and things are declared to be nuisances:

A. Vegetation.

1. Overgrown, uncultivated, or untended vegetation of any type that substantially obscures structures on the property or blocks or impedes access to structure on the property.
2. Grasses and other vegetation over 12 inches in height, excluding cultivated and tended shrubbery, trees, ornamental plants, and flowers within a planting bed or container.
3. Dead, decaying, or diseased vegetation of any type, except when in an enclosed container or in a managed composting operation.
4. Noxious weeds as defined in Chapter 16-750 WAC or any toxic vegetation.
5. Accumulation for more than two weeks of vegetation waste, including, but not limited to, grass clippings, cut brush, cut trees, and/or cut weeds, except when in an enclosed container or in a managed composting operation.
6. Compost not kept in a manner to prevent it from attracting infestations of rodents or insects, or emitting foul odors.
7. Any vegetation, or parts thereof, which hang lower than eight feet above any public walkway or sidewalk; or hang lower than 14 feet above any public street; or which are growing in such a manner as to obstruct or impair the free and full use of any public walkway, sidewalk, or street; or violate City clear view triangle regulations in Title 17 PAMC.

B. Buildings, structures, and improvements.

1. Any building or structure, or portion thereof, that is decayed, dilapidated, unsafe, damaged, or in disrepair, to the extent that it poses a threat of collapse, structural failure, or falling.
2. Any building or structure, or portion thereof, constructed with inappropriate materials, or improperly fastened together or anchored, to the extent that it poses a threat of collapse, structural failure, or falling.

3. Any partially constructed building or structure, or portion thereof that has been left unattended and unfinished for more than 90 continuous days.
 4. Any building or structure, portion thereof, or improvement, that does not comply with the Building Codes.
 5. Any building, structure, or portion thereof, used for habitation that does not have functioning electricity, water, or sanitation services.
 6. All vacant, unused, or unoccupied buildings and structures, that are allowed to become or to remain open to entrance by unauthorized persons or the general public.
- C. Accumulations of garbage and materials.
1. Any accumulation, stack, or pile of building or construction materials associated with a current, in-progress project and not in a lawful storage structure or container.
 2. Any accumulation of broken, discarded, inoperable, or neglected items or parts thereof, including, but not limited to, household furniture, furnishings, equipment, appliances, machinery, litter, salvage materials, or junk not in an approved enclosed structure, container, or waste receptacle.
 3. Any garbage, waste, refuse, litter, debris, recyclables, rubble, or other materials, or combination thereof, not in an approved enclosed structure, container, or waste receptacle.
- D. Maintaining, using, placing, depositing, leaving, or permitting to be or remain in or upon, any private or public property any of the following:
1. Any unsound, putrid, or unwholesome bone, meat, hides, skin, or the whole or parts of any dead animal or fish or the offal, garbage, or other offensive parts of any animals.
 2. Any materials, garbage, waste, refuse, litter, or debris in which insects may breed or multiply; which provides harborage for rats or other vermin
 3. Any open drain, sewer, or septic tank that emits any noxious, foul, offensive, injurious, unpleasant, or disagreeable odor or substance.
 4. Any noxious, foul, or putrid substance.
 5. Harmful insects, such as, tent caterpillars.
- E. Hazardous Conditions.

1. Any refrigerator, freezer, or food-storage locker having a capacity of one and one-half cubic feet or more, or any other container manufactured, custom-made or homemade designed for storage that is discarded, abandoned or left in any place accessible to children and that has not had the door, lid, or latching mechanism removed to prevent the latching or locking of the door or lid.
2. Any enclosure which may entrap a human or an animal, including accessible refrigeration appliances, that have not had the doors secured or removed.

F. Streets and Sidewalks.

1. Any protrusion, awning, or overhang that inhibits or obstructs use of a public walkway or sidewalk.
2. Any object, construction, damage, condition, or act that interferes with, inhibits, obstructs, or renders dangerous the use of a public walkway, sidewalk, street, or highway and other rights-of-way in the City, or .
3. Accumulations of dirt or debris that inhibits or obstructs the use of a public walkway or sidewalk.
4. All obstructions to streets, rights-of-way, or other public ways that are made without lawful permission, or that, having been made with lawful permission, are kept and maintained after the purpose thereof has been accomplished.

G. Fire Hazards. Any stack or accumulation of flammable material left in a manner that poses a substantial risk of combustion or the spread of fire, as determined by the fire marshal.

H. Any dangerous wastes, hazardous household substances, hazardous waste, moderate-risk wastes, or any hazardous materials, as defined in RCWs 70.136.020 and 70A.300.010, that are not securely contained within an appropriate storage container.

I. Smoke, Soot, Dust, or Odors.

1. Allowing the escape or emission of any smoke, soot, fumes, gases, or odors that are offensive or harmful to a reasonable person.
2. Burning or disposal of refuse, sawdust, or other materials in such a manner as to cause or permit ashes, sawdust, soot, or cinders to be cast upon the streets or alleys of the City, or to cause or permit the smoke, ashes, soot, or gases arising from such burning to become annoying or to injure or endanger the health, breathing, or comfort of persons.
3. Any disturbance of any land area, or permitting the same, without taking affirmative measures to suppress and minimize the blowing and scattering of dust that unreasonably interferes with the breathing or comfort of a reasonable person.

- J. Bodies of Water.
1. All stagnant, pooled water, excluding any City-approved structures related to storm drainage systems.
 2. The polluting of or unapproved discharge into any waterway, well, or body of water.
 3. Interference with, damage to, or polluting of designated habitat areas, restoration sites, streams, creeks, lakes, wetlands, or tributaries and similar areas thereto.
- K. Graffiti. Any graffiti on public or private property.
- L. Development Code Violations. Any violation of PAMC Titles 14, 15, 16, 17, or 18.
- M. Allowing, creating or maintaining the existence of an Attractive Nuisance.
- N. Illicit discharges into the municipal storm drainage system as defined in Chapter 13.63 PAMC.
- O. Any excavated or naturally occurring hole, vault, sump, pit, well, or any other similar condition, that is not fenced or otherwise secured to prevent access.
- P. Noise.
1. Any noise or sound, regardless of origin, that intrudes into the property of another person within a residential zone and that exceeds the maximum permissible noise levels pursuant to Chapter 173-60 WAC, as currently adopted and hereafter amended.
 2. The following are exempt from this chapter:
 - a. Sounds created during the normal use of public rights-of-way;
 - b. Sounds created by motor vehicles when regulated by Chapter 173-62 WAC;
 - c. Sounds originating from aircraft in flight and sounds that originate at airports which are directly related to flight operations;
 - d. Sounds created by surface carriers engaged in commerce;
 - e. Sounds created by warning devices not operating continuously for more than five minutes, or bells, chimes, or carillons;
 - f. Sounds created by safety and protective devices where noise suppression would defeat the intent of the device or is not economically feasible;
 - g. Sounds created by emergency equipment and work necessary in the interest of law enforcement or for health, safety or welfare of the community;
 - h. Sounds originating from officially sanctioned parades and other public events;

- i. Sounds created in conjunction with public work projects or public work maintenance operations executed at the cost of the federal government, state or municipality;
 - j. Sounds created in conjunction with the collection of solid waste;
 - k. Sounds created in conjunction with military operations or training; and
 - l. Sounds originating from organized activities occurring in public parks, playgrounds, gymnasiums, swimming pools, schools, and other public facilities and public recreational facilities during hours of operation.
3. The following are exempt from this chapter between 7:00 a.m. and 8:00 p.m.:
- a. Sounds originating from residential property relating to temporary projects for the repair or maintenance of homes, grounds, and appurtenances;
 - b. Sounds created by the discharge of firearms on authorized shooting ranges;
 - c. Sounds created by blasting;
 - d. Sounds created by aircraft engine testing and maintenance not related to flight operations; provided, that aircraft testing and maintenance is conducted at remote sites whenever possible; and
 - e. Sounds created by the installation or repair of essential utility services.
4. The following are exempt from this chapter between 7:00 a.m. and 8:00 p.m., or at any hour when conducted beyond 1,000 feet of any residence:
- a. Sounds originating from temporary construction sites as a result of construction activity;
 - b. Sounds originating from the quarrying, blasting and mining of minerals or materials, including, but not limited to, sand, gravel, rock and clay, as well as the primary reduction and processing of minerals or materials for concrete batching, asphalt mixing and rock crushers; and
 - c. Sounds originating from uses on properties that have been granted permits to operate within certain noise standards.

Q. Motor vehicles.

1. Use of any motor vehicle, RV, utility trailer, or travel trailer for living or habitation purposes, except in an area designated for such purposes and with proper permits, if required.

2. Use of any motor vehicle, RV, utility trailer, or travel trailer for storage of property or trash.

R. Any other violation of the PAMC or state law deemed a "nuisance" or "public nuisance."

8.30.070 - Chronic nuisances.

A. It is unlawful for any person to erect, contrive, cause, continue, maintain, or permit to exist any chronic nuisance within the City. A chronic nuisance exists when any of the following conditions occur:

1. During any continuous 12-month period:
 - a. A final determination has been made by the City that two or more conditions on the property constitute a nuisance pursuant to this chapter; and
 - b. the property has four or more occurrences of ongoing criminal; or
2. During any 12-month period, the property in question has five or more occurrences of ongoing criminal activity.

B. Defenses. It shall be a defense against a declaration of chronic nuisance if the person alleged to be responsible for the nuisance:

1. affirmatively engages in reasonable and ongoing efforts to remedy the nuisance and/or ongoing criminal activity; and
2. is not the perpetrator nor allows the perpetration of the nuisance or ongoing criminal activities.

[NOTE: Additional revisions are under consideration for this section, such as overall intent and whether to move this subsection .090 into the development code]

8.30.080 - Parking of vehicles on residential property.

The parking or storage of vehicles on single-family residential lots in violation of the following standards is be considered a nuisance.

A. *Side yard and rear yard.* Parking of vehicles in the combined side and rear yard areas is allowed only if the following conditions are met:

1. The lot must have legal access from the adjacent street or alley;

2. There must be a minimum of three feet of unobstructed space between a vehicle parked in a side yard and any structure, and a minimum of five feet space from the side property lines.
3. Parking must be on an improved or maintained surface and is limited to a total area of no more than 40 percent of the combined side and rear yard areas.

B. *Front yard.* Where alley access is available, parking in the front yard is prohibited. Parking of vehicles on residential lots in the front yard shall be permitted only to those lots which have legal access from the adjacent street or alley. Parking must be on a properly prepared all-weather surface, including, but not limited to, concrete, asphalt, gravel, approved permeable paving materials, or other material approved by the Building Official, and is limited to no more than 40 percent of the front yard area.

C. *Number of vehicles parked in the open.* The total number of vehicles parked or stored outside an approved structure in the front, side, and rear yard areas combined is limited to no more than four, subject to the limitations above.

D. *Exceptions.* The Building Official may, under the following circumstances, grant an exception to the maximum number of vehicles parked on a single-family residential lot or allowed in the front, rear, or side yards:

1. Additional vehicles may be allowed in a particular yard if vehicle access to other yards is unavailable.
2. If the number of individuals with valid driver's licenses within the household exceeds four.

Applications for an exception must be made in writing to the Building Official. The Building Official, when determining the outcome of the exception, may take additional mitigating factors under consideration. Exceptions are subject to review upon receipt of additional complaints. The Building Official's decision on an exception is final and not subject to appeal.

E. *Storage standards.* Inoperable stored vehicles on residential lots shall be limited to the rear yard area. Screening shall be provided between the inoperable vehicles and adjacent properties or rights-of-way. All stored vehicles must be maintained in a clear and safe manner.

F. *Parking within an enclosed structure.* All vehicles which are fully enclosed within a legally constructed garage or other structure are not considered as part of the allotted number of vehicles.

G. *Recreational vehicles.* No more than two recreational vehicles may be parked anywhere on a property. Storing boats, campers or other recreational or accessory vehicles in an unstable manner is prohibited.

- H. Repairing of vehicles on a property is prohibited unless:
1. The maintenance or repair does not to exceed 30 calendar days per vehicle;
 2. The vehicle being repaired is registered to a resident of the property;
 3. The repair is not in association with any business of buying, selling, repairing or restoring of vehicles or parts, unless the property is authorized and licensed by the City for such business;
 4. The repair is conducted in a manner that does not violate noise regulations; and
 5. The repair is conducted in a manner so as not to allow any vehicle fluids to saturate the ground or enter any drainage system or body of water.
- I. Leaving vehicles unattended on blocks, jacks, ramps or otherwise elevated above the ground in an unstable manner is prohibited.
- J. All vehicle parts and accessories, including but not limited to, containers of oils and fluids must be appropriately stored in an approved structure.

8.30.090 - **Enforcement.**

This chapter is enforced in accordance with Chapter 2.90 PAMC.

AMENDMENTS TO OTHER PAMC SECTIONS OUTSIDE TITLE 8

7.01.045 - Disposal of animal carcasses.

- A. The carcasses of dead animals must be removed and disposed of by burial, licensed incineration, or other proper method within 24 hours after death. If the carcass is buried, it must be placed so that every part thereof is covered by at least two feet of earth and at a location not less than 100 feet from any well, spring, or stream and in a place not subject to overflow by surface water. In all cases of death from communicable disease, the carcass, if disposed of by burial, must first be enveloped in unslackened lime.
- B. It is unlawful to dispose of or dump dead animals, animal carcasses, or animal parts on public property. It is unlawful for a commercial establishment to charge for the disposal of animals by dumping or burying without proper permits.

C. Violation of this section is deemed a misdemeanor.

7.07.060 - Violation as constituting a public nuisance.

In addition to the foregoing remedies, the violation of this title constitutes a public nuisance and may be abated in any manner authorized by Chapter 2.90 PAMC, or Chapters 7.48 and 9.66 RCW.

11.12.160 - Prohibited obstructions—Declared nuisance.

All obstructions violating this chapter are hereby declared to be nuisances and may be abated in accordance with Chapter 8.30 PAMC, except that signs or other objects located within City right-of-way in violation of this chapter may be removed by the City without notice and destroyed.

11.13.050 - Street trees—General requirements.

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E. *Abuse or mutilation of trees prohibited.*

1. It is unlawful for any person to intentionally damage, carve or otherwise injure any street tree and may be considered abuse or mutilation of a tree subject to remedial action under Chapter 2.90 PAMC.
2. Pruning of street trees that does not meet the best management practice standards as established in the Urban Services Standards and Guidelines Manual may be considered abuse or mutilation of a tree subject to remedial action under Chapter 2.90 PAMC.