



City Council Committee Meeting Agenda

Community Development Committee

Stanwood City Hall
Conference Room
10220 270th Street NW, Stanwood

Meeting information is posted online at
<https://stanwoodwa.org/>.

Thursday March 2, 2023, at 5:00 PM

- City Beautification: West End Gateway Project Narrative
- City Beautification: Downtown Park Narrative
- Stanwood Municipal Code Titles 9 and 13
- Hamilton Landing DNR Lease Agreement



**CITY OF STANWOOD
COMMUNITY DEVELOPMENT COMMITTEE
AGENDA STAFF REPORT**

DATE: March 2, 2023

SUBJECT: March CDC Agenda Topics

FROM: Patricia Love, Community Development Director

City Beautification: West End Gateway Project Narrative

The West End Gateway Project is part of the greater City Beautification project list and is intended to signify the entrance into the historic brick road, west end downtown area and denote it as a special place. The Gateway is intended to increase visibility of downtown Stanwood to city residents and tourists from SR 532.

Initially four general locations were identified as potential gateway locations: 102nd Avenue / 270th Street, Camano Street and SR 532, 270th Street and Camano Street and Camano Street near the old furniture store. After several conversations with the Twin City Mile Steering Committee, the Economic Development Board and the Council Community Development Committee it has been recommended that the gateway be located at the 102nd Avenue / 270th Street intersection as 102nd Avenue is the primary entry into the west end historic area and is visible from SR 532.

West End Gateway

Recommended Location	Reason Selected
102 nd Avenue / 270 th Street Intersection	▪ Primary Entrance to West End Historic District ▪ Good Visibility From SR 532

Alternative Considered	Locations	Reason Not Selected
	Camano Street and SR 532	▪ Secondary Entrance to West End Historic District ▪ Smaller Wayfinding Sign Could be Located at this Intersection in the Future
	Camano Street and 270 th Street Triangle	▪ No Direct Visibility from SR 532 ▪ Gateway Would Need to Be Very Tall to be Seen From SR 532
	270 th Street	▪ Gateway Could be Obstructed by Buildings ▪ Insufficient Right of Way to Construct a Gateway Structure

Due to the constraints of the intersection, the committees liked the concept of stringing overhead lights across the intersection from either decorative poles or from roof tops. Attached is the West End Gateway Project Narrative describing the project vision and scope.

The attached project narrative (Exhibit A) is being reviewed by the Economic Development Board and the Council Community Development Committee prior to initiating design of the project.

City Beautification: Downtown Park Narrative

The City purchased the downtown park site as part of the Twin City Mile downtown revitalization project. The site has just undergone a major cleanup action due to the past use of the site as a gas station and auto repair shop. Now that the site cleanup is complete, formal design of the park can begin.

The City envisions an urban, hard surface downtown park, that can be used by shoppers and tourists as a place to stop, rest and enjoy the day. Ideas include a gazebo, seating, band stage, hardscape play areas, accessible walkways to the rear parking lot, and/or any combination of public gathering space. The intent of the project is to create a “place” within the downtown area that promotes a strong business district and useable community space.

The attached project narrative (Exhibit B) is being reviewed by the Economic Development Board, Park and Trails Advisory Committee and the Council Community Development Committee prior to initiating design of the project.

Stanwood Municipal Code Titles 9 and 13

The next batch of Municipal Code Amendments is Title 9 – Public Peace, Morals, and Safety and Title 13 – Code Enforcement. These two Titles have been grouped together for review as they both address enforcement issues and have direct code correlations. Using the approved style guide, the attached draft amendments delete outdated code citations and modernize by applying current best practices. It notes where new sections have been added or where moved. In general, these titles and chapters have been reorganized for better flow and readability with similar topics being grouped together.

Purpose of Titles:

- Title 9: Public Peace, Morals, and Safety: Title 9 contains the laws and regulations enforced by the City’s Police Department.
- Title 13: Code Enforcement: Title 13 contains the code enforcement procedures generally applied to the remaining municipal code titles including zoning and development standards. The Building Official is the City’s Code Enforcement Officer.

Using the scoping memo prepared for these two Titles, full drafts have been prepared for formal review. The drafts are being circulated for review by the City Attorney, Police Chief and Department Heads. The Comprehensive Plan / Municipal Code Advisory Group and Planning Commission will review the drafts at their March meetings.

Title 9 – Public Peace, Morals, and Safety (Exhibit C):

Title 9 is reorganized so that the chapters are more consistent with state law terminology, adopts current state law citations, and brings city code up to date with recent changes in state law and state supreme court case decisions.

Existing Title 9 Organization	Proposed Title 9 Organization
Assault Civil Emergency Crimes Against Property Disorderly Conduct Drug Paraphernalia Restrictions Intoxicating Liquor Emergency Response Code Recovery Houses of Prostitution Vagrancy Interference with or Impersonation of Police Officers Park Regulations Narcotic Drugs Public Indecency and Obscenity Public Nuisance and Disturbance Noises Jail Facilities	Anticipatory Offenses Offenses against Persons Offenses against Property Offenses against Public Morals Offenses against Public Order Offenses against Juveniles Domestic Violence Violations and Orders Substance Abuse Parks

Other notable changes to this Title include:

- Moving *Public Nuisances and Disturbance Noises* to Title 7 to be combined with other nuisances contained in SMC 7.16. This keeps all “nuisance” sections together in one chapter.
- Adds a new chapter on *Trespass from City Facilities* that adopts a code of conduct so that people may be removed from city property if they behave dangerously, illegally or threateningly.

Title 13 – Code Enforcement (Exhibit D):

Title 13 contains the general enforcement provisions for the entire Municipal Code for non-criminal proceedings. For ease of use and readability, this Title is broken into multiple chapters as follows:

General Provisions	Procedures	Administrative Orders	Penalties and Remedies
▪ Policy ▪ Applicability ▪ Definitions ▪ Duty to enforce ▪ Joint and several liability	▪ Investigation—Right of entry ▪ Appeals	▪ General provisions ▪ Stop work / emergency orders ▪ Contents ▪ Service	▪ Voluntary compliance agreement ▪ Certificate of non-compliance ▪ Civil infraction ▪ Civil penalty ▪ Abatement by the City (including liens) ▪ Alternative remedies

Notable Changes to this Title include:

- Rename title to civil enforcement as it applies to the entire municipal code, not just zoning.
- Reorganize into multiple chapters as noted above.
- Adds a civil infraction procedure to allow the City Code Enforcement Officer and Police Department to issue municipal civil infraction citations (tickets) for minor / reoccurring code enforcement cases.
- Maintains notice of violation process for major land use violations.
- Ensure appeal section is consistent with Hearing Examiner authority and process.

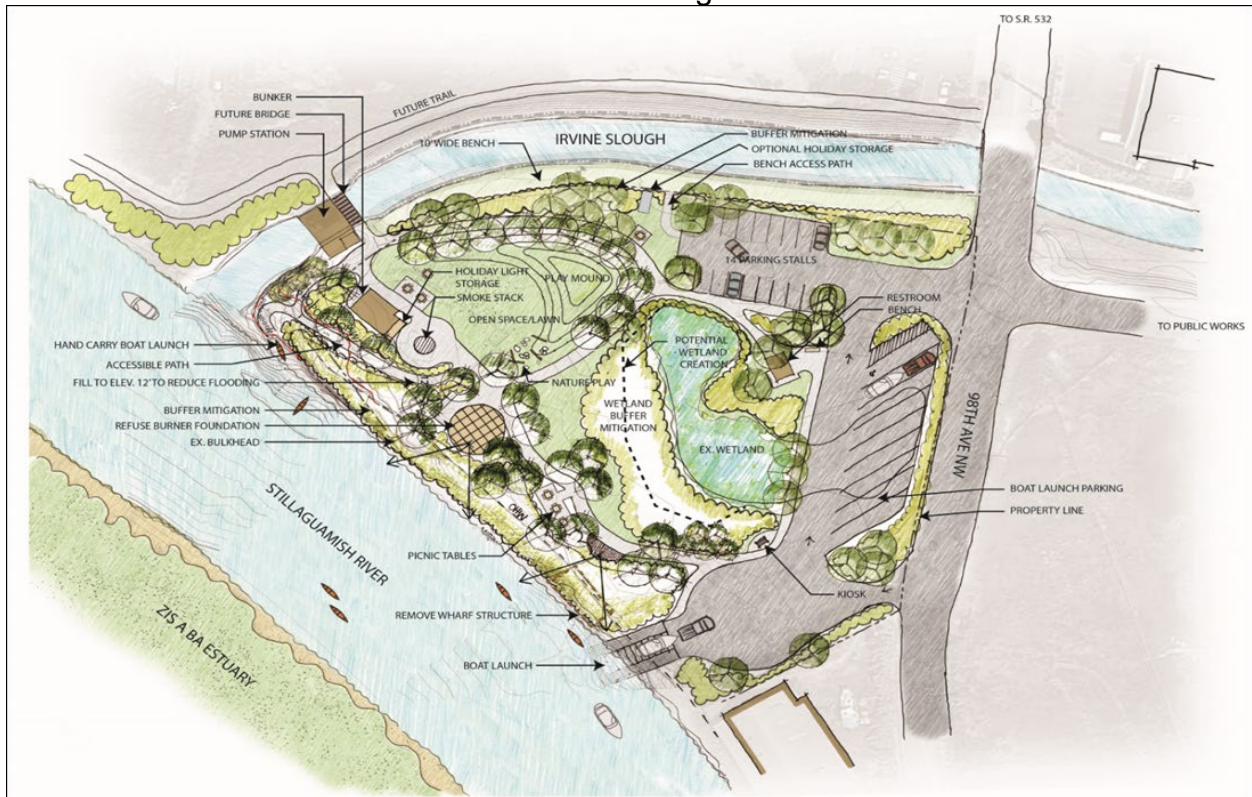
Hamilton Landing DNR Lease Agreement

As part of the Hamilton Landing Park development, WDFW is building a boat launch which the City will own and maintain once it is constructed. The City is building out the remainder of the park which includes parking, a grassy hill area, trails, landscaping, a handheld boat launch and preservation of the remaining Hamilton Lumber structures, including the smokestack.

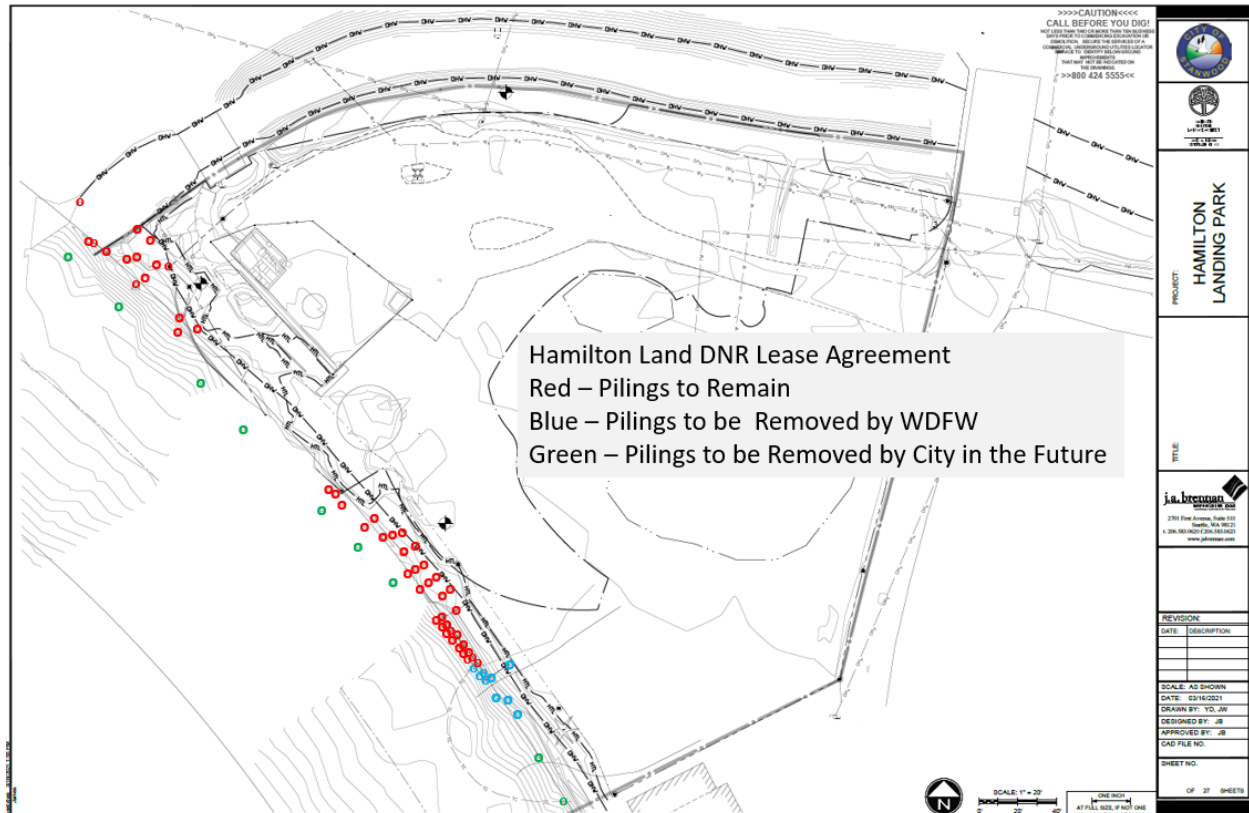
The Department of Natural Resources (DNR) controls access to the Stillaguamish River. To construct the boat launches, a lease agreement is required. City staff and the City Attorney have been working with DNR on the lease terms, which are highlighted below. Staff anticipates bringing the full lease agreement to Council in late March or early April.

One key provision of the lease is DNR's requirement that the City remove as many creosote pilings as possible without undermining the stability of the park. This is a relatively new and unexpected requirement. However, DNR will not approve the lease without removal of 9 in-water pilings. Staff has negotiated the removal of 9 pilings within 15 years of execution of the lease. However, we hope to add this work as an alternative bid item to the project and complete the work with the park's construction.

Hamilton Park Design Sketch



Hamilton Park Piling Removal Plan



Lease Terms:

- The Cooperative Agreement between the City and WDFW, dated July 26, 2017, states that WDFW's obligations end with construction of the boat launch and that the facilities then become the sole property of the city.
- The lease applies to entire property frontage.
- 30-year lease to commence upon execution of the lease agreement; extensions are allowed and anticipated.
- No rent is required due to public use and access discount.
- Security Deposit is waived with City insurance coverage.
- DNR Habitat Stewardship Policies require the removal of 9 in-water pilings within 15 years of lease execution. WDFW will remove additional pilings and a portion of the wharf within their project limits.
- An as-built survey of the construction will be required within one year of the improvements being completed.

Exhibit A
West End Gateway Project Narrative



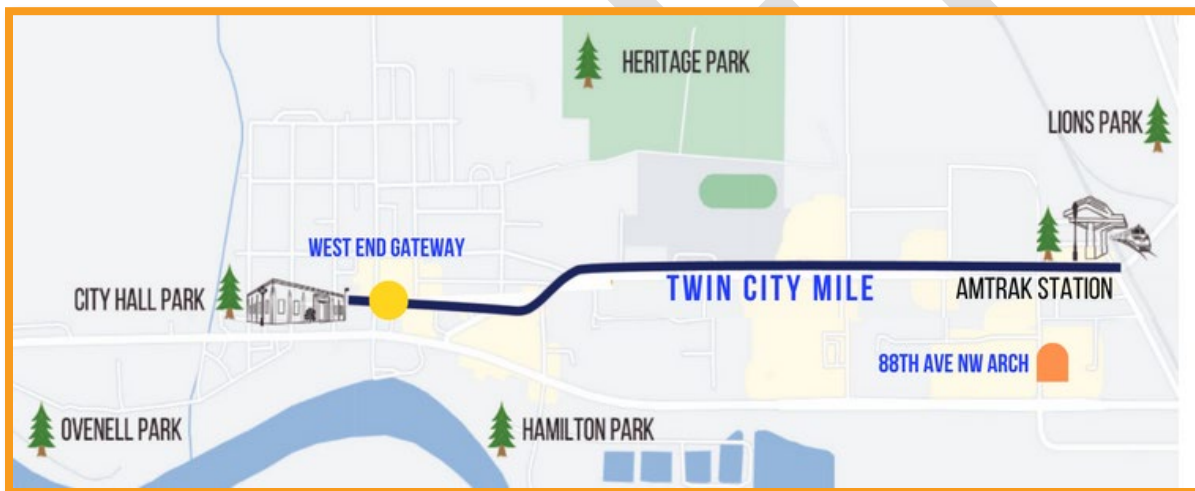
City Beautification Action Plan West End Gateway Project Narrative

INTRODUCTION:

The City of Stanwood desires to construct a West End Gateway Structure as part of the City's Beautification Action Plan to emphasize the 102nd Avenue downtown entrance point from SR 532. The Gateway is intended to signify the entrance into the historic brick road, west end downtown area and denote it as a special place. The Gateway is intended to promote the visibility of downtown Stanwood to city residents and tourists.

PROJECT LOCATION:

The 102nd Avenue Gateway will be located at the off-set intersection of 102nd Avenue and 270th Street.



PROJECT BACKGROUND:

In 2020 the City Beautification Action Plan took the previous planning work and integrated these efforts into an implementation plan called the City Beautification Action Plan. The City Beautification Plan was unanimously supported by the Economic Development Board, Community Development Committee, Public Works Committee, Planning Commission, and City Council. The Plan consists of 6 key program elements:

- 72nd Avenue Gateway Signage and Landscaping
- Main Street Revitalization
- **Downtown Gateway Features**
- SR 532 Beautification
- Wayfinding Signage
- Public Art



The City Council adopted an implementation strategy and 6-year budget that includes funding both near term and long-term projects. The City chose to build the gateway features first to create visibility, interest and spur tourism in the historic downtown areas.

The City Beautification Action Plan envisions East and West End Gateway features that complement each other while allowing design creatively to celebrate their unique historical differences. Gateway concepts included arches, art sculptures, lights or other entry concepts that were large in scale to denote the importance of the individual district.

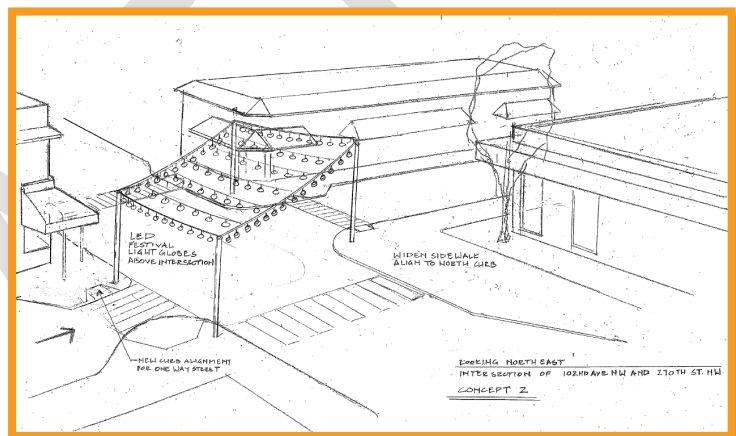
DESIGN INSPIRATION:

The West End Gateway feature is intended to promote the historic west end and create visual interest for those traveling on SR 532 to stop and see what is special about the brick road historic area. Using the 88th Avenue Arch mesh design, wayfinding signage, streetlights as inspiration, the west end gateway concept is to construct a set of narrow, decorative poles with LED lights spanning the intersection.

Other inspirational ideas for the 102nd Avenue Gateway include the 271st Street Way Finding sign pole and the Viking Way decorate light poles.

BUDGET

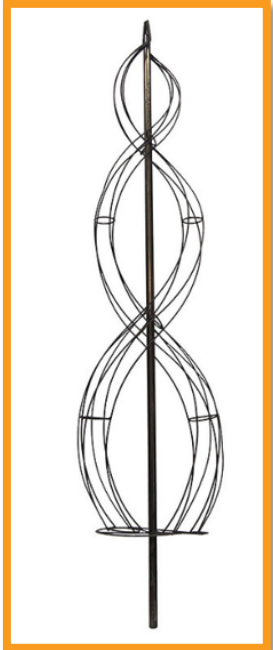
A budget of \$50,000 has been approved to design and build the “LED Light” feature with decorative poles.



Initial West End Gateway Inspiration Board



88th Avenue Arch – Mesh Design Inspiration

271 st Street Wayfinding Sign	Decorative Over Street Light Design	Decorative Street Light Pole Design
		
Other Concepts	Other Concepts	Other Concepts
		



COMMUNITY OUTREACH

Design work will require four specific phases:

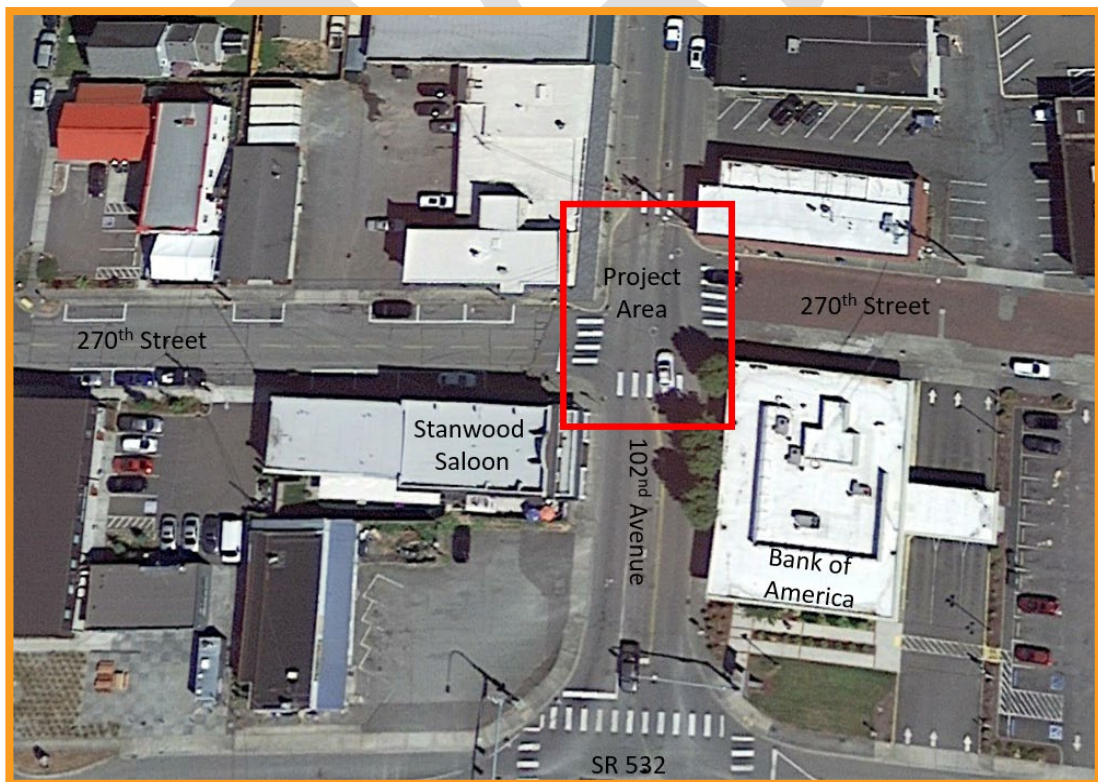
1. Public outreach to the downtown businesses, Stanwood Commerce Alliance, Camano Chamber of Commerce, and the Economic Development Board, to get their ideas and thoughts on how best to use the space in a complementary manner with the business district.
2. Concept design based on public outreach efforts.
3. Final approval of the concept design by the Stanwood City Council.
4. Fabrication and Installation.

SITE CONSTRAINTS

102nd Avenue / 270th Street is an off-set intersection with buildings built up to the sidewalk edge. Within the sidewalk area there are awnings, streetlights, power poles, banner poles, and other traffic control devices such as stop signs. Design of the gateway should consider:

- Narrow Intersection
- Maintain Pedestrian Accessibility
- Multipurpose Use of Street Infrastructure
- Potential Partnerships with Property Owners to String Lights from Existing Buildings
- Identify Power Source for Lights

Aerial View of Intersection





Street View Looking North



Street View Looking East



Exhibit B
Downtown Project Design Narrative



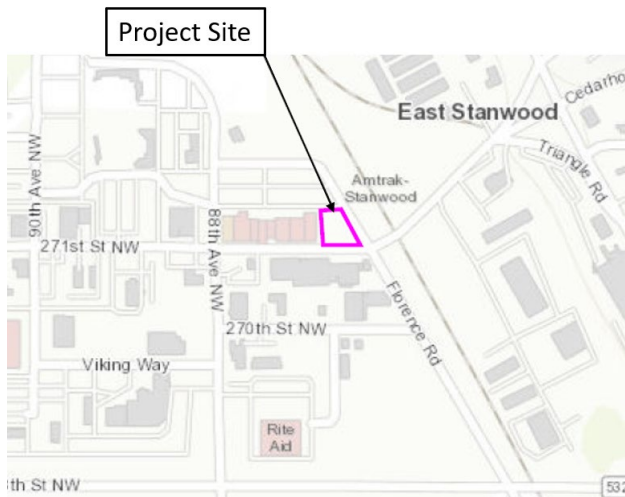
City Beautification Action Plan Downtown Park Project Narrative

INTRODUCTION:

The City of Stanwood purchased a 0.11-acre parcel on the eastern edge of Stanwood's main street business district and near the Amtrak train station for an urban business district park and entry point for visitors arriving by train. The City has planted trees and placed a "Stanwood Home of Scandinavian Hospitality" sign at the edge of the lot as gateway feature into the historic downtown area. The City plans to redevelop the site as a small public park that will enhance the experience of visitors on main street, supplement special event space and provide a small outdoor space that complements the architectural building design of downtown.

PROJECTION LOCATION:

The downtown park is located on 84th Avenue (Florence Road) next to the Amtrak Station.



SITE BACKGROUND:

The site is bordered by historic commercial buildings on the west side of the property and the railroad line used by Amtrak and general freight to the east. During the 1950s, an auto repair and parts buildings, a filling station, and an area for auto grease and oil storage were located on the site. During the 1980s and early 1990s, an antique business and later a hair salon operated on the Site. During the early 1990s, buildings on the site were destroyed by a fire and the site has since remained a vacant, undeveloped lot.

In 2022 the City began the downtown revitalization project referred to as the Twin City Mile. The City spent nearly 20 years planning for a vibrant and economically robust downtown. Applying "complete streets" concepts the City is reimagining how main street could look and function by connecting City Hall to the Train Station: The Twin City Mile.



The City purchased the downtown park site as part of the Twin City Mile downtown revitalization project. 271st Street project elements include improving pedestrian safety and comfort, reconfiguring travel lanes and parking, building wider sidewalks and plaza areas, improved street lighting, adding wayfinding signage, building park areas and gateway features, and installing street trees, art, and other curb appeal amenities.



Due to the past use of the site, petroleum products, solvents, and related contaminants associated with the gas station and auto repair activities were released to soil and/or groundwater on the site. With grant support from the Department of Ecology and the Washington State Department of Commerce, the site was cleaned up in 2022. Ongoing monitoring of the site is required.

DESIGN INSPIRATION:

The City envisions an urban, hard surface downtown park, that can be used by shoppers and tourists as a place to stop, rest and enjoy the day. It should also be designed to accommodate / supplement the many special events held along 271st Street including art festivals, Twin City Idlers Car Show, Stanwood Camano Fair parade, Touch- A-Truck, National Night Out, Concerts, Ghoul's Night Out (Halloween), Holiday Tree Lighting and Festivities, and potentially the Farmers Market.

Ideas include a gazebo, seating, band stage, hardscape play areas, accessible walkways to the rear parking lot, and/or any combination of public gathering space. The intent of the project is to create a "place" within the downtown area that promotes a strong business district and useable community space.



Google images for inspirational ideas:

Active “Play” Areas:



Outdoor Seating:



Gazabo / Band Space (Bellingham Barkley Village):



COMMUNITY OUTREACH:

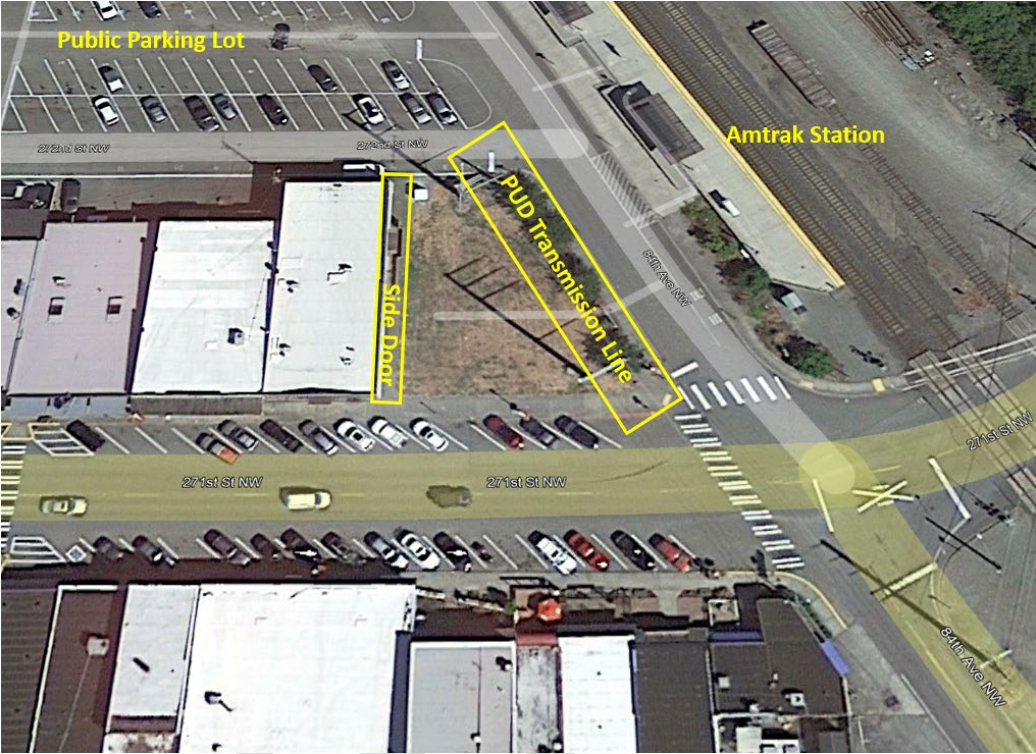
Design work will require four specific phases:

1. Public outreach to the downtown businesses, Stanwood Commerce Alliance, the Park and Trails Advisory Committee (PTAC), and Snohomish County PUD to get their ideas and thoughts on how best to use the space in a complementary manner with the business district.
2. Concept design based on public outreach efforts with review by the PTAC.
3. Final approval of the concept design by the Stanwood City Council.
4. 30% / 75% / Final Design and permitting.



SITE CONSTRAINTS:

Design considerations include:

- Digging is limited to 2 feet in depth due to the site contamination cleanup actives.
 - There is a major PUD transmission line along the eastern boundary of the property.
 - The building along the western property line includes a side door and stairwell that needs to be accommodated.
- 
- There are three (3) monitoring wells that requires physical access.
 - A park sign will be required acknowledging environmental cleanup grant support from Department of Ecology and Washington State Department of Commerce.
 - A formal survey of the property will be needed to determine the exact property boundaries.

Note: A new park name is currently under review and the actual project name will be changed in the near future.

Exhibit C
Stanwood Municipal Code
Title 9

SMC Title 9 Draft

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- ⚠ Because RCW 35A.12.130 requires an ordinance to contain no more than one subject, each of Titles 9 and 13 should be adopted as three separate ordinances.
- ⚠ Because of the interactivity between Title 13 and other provisions for the code, the other sections identified for amendment in Title 13 should be adopted simultaneously.

i The following adopting language is proposed to handle codification instructions for adoption of these ordinances.

SMC Title 9 is amended to read as shown in the attachment.

SMC 5.04.050 and SMC 5.04.060 is repealed.

SMC Title 13 is amended to read as shown in the attachment.

Title 9 Public Peace, Safety, and Welfare

- i** This title is based on the existing SMC Title 9, Public Peace, Morals, and Safety.
- i** We have slightly renamed this title to be more consistent with contemporary language and other jurisdictions' codes. Other jurisdictions frequently name this title their "Criminal Code" or "Penal Code" however we disfavor that because other code chapters will likely also include criminal provisions.
- i** This title is intended for general criminal provisions. Other provisions through the SMC may also include criminal penalties (e.g., traffic regulations in Title 10, health/sanitation in Title 7, animals in Title 8).
- i** Many existing chapters of SMC Title 9 have been reorganized into the new chapter structure. See the December 2022 scoping memo for details.
- i** Generally, this title seeks to incorporate by reference criminal state law provisions and avoid re-inventing the wheel in description of offenses.
- i** Why is it important to locally adopt these laws? Because RCW 3.50.100 provides that fees imposed by municipal court for the violation of any municipal ordinances are deposited in the city's general fund.

! The City attorney has recommended that existing chapter 9.50 Public Nuisance and Disturbance Noises be moved to Title 7, Health and Sanitation. Noise is frequently characterized as a health issue, so it may make sense to place it in Title 7, but noise also certainly disturbs the peace, and could be left in Title 9, which is also a common practice. We need a decision on organization of this chapter soon because the readoption of Title 9 as constructed below will replace chapter 9.50.

Chapter 9.02 General Provisions

- i** This is a new chapter for some important universal provisions.

9.02.010 Applicability

This chapter applies to the entirety of SMC Title 9.

9.02.020 Definitions

The provisions of RCW 9A.04.110 Definitions as presently constituted or hereinafter amended are adopted by reference.

9.02.030 General Provisions

- (1) The provision of a criminal penalty for any unlawful act does not preclude the City's use of civil remedies.
- (2) Where not otherwise specified, a violation of the Stanwood Municipal Code that is categorized as a crime is to be considered a misdemeanor.

- i** The following subsection replaces existing SMC Chapter 9.25 Emergency Response Cost Recovery and increases the recovery amount from \$1000 to \$2500.

- (3) It is the policy of the City of Stanwood to exercise the provisions of RCW 38.52.430 to recover the expenses of emergency response where that response is related to a person's intoxication.

9.02.040 Adoption by reference

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW 9.01.110 Omission, when not punishable.

RCW 9A.04.060 Common law to supplement statutes

RCW 9A.04.070 Who amenable to criminal statutes

RCW 9A.04.090 Application of general provisions of code.

9.02.050 Restitution

The municipal court may require any defendant convicted under this code, or any person subject to a civil infraction per RCW 7.80.120, to make restitution.

9.02.060 Severability

If any section, sentence, clause, or phrase of this title is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality may not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this title.

Chapter 9.08 Anticipatory Offenses

i The following adopted sections make any attempt, solicitation, and conspiracy for all Class C felonies prosecutable by the City as gross misdemeanors.

9.08.010 Adoption by reference

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW 9A.28.020 Criminal attempt.

RCW 9A.28.030 Criminal solicitation.

RCW 9A.28.040 Criminal conspiracy.

Chapter 9.10 Offenses against Persons

i This chapter replaces existing SMC 9.04 Assault and most of existing SMC 9.20 Disorderly Conduct.

9.10.010 Adoption by reference

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW 9.61.230 Telephone harassment

RCW 9A.36.041 Assault in the fourth degree

RCW 9A.36.050 Reckless endangerment

RCW 9A.36.070 Coercion

RCW 9A.36.160 Failing to summon assistance.

RCW 9A.36.161 Failing to summon assistance—Penalty.

RCW 9A.46.020 Harassment

RCW 9A.46.040 Court ordered requirements upon person charged with crime – Violation

RCW 9A.46.080 Order restricting contact – Violation

RCW 9A.46.110 Stalking

RCW 9A.49.030 Unlawful discharge of a laser in the second degree

RCW 9A.86.010 Disclosing intimate images

RCW 9A.90.120 Cyber harassment

Chapter 9.12 Offenses against Property

i This chapter replaces existing SMC 9.12 Crimes Against Property.

9.12.010 Adoption by reference

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW 9.45.062 Failure to deliver leased personal property.

RCW 9A.48.010 Definitions.

RCW 9A.48.050 Reckless burning in the second degree.

RCW 9A.48.060 Reckless burning – Defense.

RCW 9A.48.090 Malicious mischief in the third degree.

RCW 9A.52.060 Making or having burglar tools.

RCW 9A.52.010 Definitions.

RCW 9A.52.070 Criminal trespass in the first degree.

RCW 9A.52.080 Criminal trespass in the second degree.

RCW 9A.52.090 Criminal trespass – Defenses.

RCW 9A.52.100 Vehicle prowling in the second degree.

RCW 9A.56.010 Definitions

RCW 9A.56.050 Theft in the third degree

RCW 9A.56.063 Making or possessing motor vehicle theft tools

RCW 9A.56.060 Unlawful issuance of checks or drafts

RCW 9A.56.170 Possessing stolen property in the third degree

RCW 9A.56.180 Obscuring the identity of a machine

RCW 9A.56.270 Shopping cart theft

RCW 9A.61.010 Definitions

RCW 9A.61.020 Defrauding a public utility

RCW 9A.61.050 Defrauding a public utility in the third degree

RCW 9A.90.030 Definitions

RCW 9A.90.50 Computer trespass in the second degree

i The following section addresses catalytic converter theft.

RCW 19.290.100 Scrap metal license—Penalties

Chapter 9.14 Offenses against Public Morals

i This chapter replaces existing AMC 9.28 Houses of Prostitution.

9.14.010 Adoption by reference

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW 9A.42.010 Definitions.

RCW 9A.42.035 Criminal mistreatment third degree

RCW 9A.42.037 Criminal mistreatment fourth degree

RCW 9A.42.080 Abandonment of a dependent person

RCW 9A.42.090 Defense to abandonment of a dependent person

RCW 9A.44.130 Registration of sex offender

RCW 9A.44.132 Failure to register as a sex offender or kidnapping offender – Refusal to provide DNA

RCW 9A.88.010 Indecent exposure

RCW 9A.88.030 Prostitution

RCW 9A.88.090 Permitting prostitution

RCW 9A.88.110 Patronizing a prostitute

RCW 66.44.100 Opening or consuming liquor in public place—Penalty
RCW 66.44.150 Buying liquor illegally
RCW 66.44.180 General penalties—Jurisdiction for violations
RCW 66.44.270 Furnishing liquor to minors

Chapter 9.16 Offenses against Public Order

9.16.010 Adoption by reference

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW 9.40.100 Tampering with fire alarm or firefighting equipment.
RCW 9A.50.020 Interfering with access to health care.
RCW 9A.60.045 Criminal impersonation in the second degree.
RCW 9A.72.150 Tampering with physical evidence.

RCW 9A.76.020 Obstructing a law enforcement officer.
RCW 9A.76.030 Refusing to summon aid for a peace officer.
RCW 9A.76.040 Resisting arrest.
RCW 9A.76.130 Escape.

RCW 9A.84.010 Riot.
RCW 9A.84.030 Disorderly conduct
RCW 9A.84.020 Failure to disperse.
RCW 9A.84.040 False reporting.

9.16.020 Aiming or discharging weapons.

i This section replaces SMC 9.20.110, Discharge of Firearms, and is expanded to include additional weapons and aiming such weapons.

- (1) It is unlawful for any person to:
 - (a) aim any firearm, whether loaded or not, at or toward any human being;
 - (b) willfully discharge any firearm;
 - (c) willfully discharge an air gun, bow and arrow, sling shot, or like weapon in any place where persons or property might be unreasonably endangered thereby, whether or not injury or damage results.
- (2) This section does not apply to:

- (a) police officers while in the discharge of their lawful duties;
 - (b) persons exercising the right specified in RCW 9A.16.020;
 - (c) persons continuing with best farm management practices currently in existence, including, but not limited to, the slaughtering or humane destruction of livestock or wildlife, or the hazing of wildlife or wildfowl in conformance with the requirements of the Washington State Fish and Wildlife Department, the U.S. Department of Agriculture, and the United States Fish and Wildlife Service;
 - (d) persons discharging firearms loaded with blank cartridges for signal or ceremonial purposes in any athletic or sports event, recognized public event, any public ceremonial functions such as military funeral salutes, or by any memorial or military organizations or service groups for ceremonial purposes.
- (3) A violation of this section is a misdemeanor.

Chapter 9.18 Offenses against Juveniles

9.18.010 Adoption by reference

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW 9.68A.090 Communicating with a minor for immoral purpose

RCW 9.68A.150 Allowing minor on the premises of a live erotic performance

RCW 9.69.100 Duty of witness of offense against minor or any violent offense

RCW 9A.44.096 Sexual misconduct with a minor in the second degree

RCW 13.32A.080 Harboring a minor

i RCW 26.28.080 regarding sales of tobacco to a minor includes vapor products.

RCW 26.28.080 Selling or giving tobacco to a minor

RCW 70.345.010 Definitions

RCW 70.345.030 License required [for sale of vapor products]

RCW 70.345.100 Product tastings—Requirements—Penalty.

RCW 70.345.140 Purchase or possession [of vapor products] by persons under eighteen

9.18.020 Leaving children unattended in parked automobile

i RCW 9.91.060 governs leaving children unattended in parked automobile, but only while the adult enters a tavern. This section mirrors that provision without the restrictive clause. Note that RCW 46.61.685, in the traffic code that is adopted by Title 10, governs leaving children unattended in standing vehicle with motor running.

- (1) It is unlawful for a person having the care and custody, whether temporary or permanent, of minor children under the age of twelve years, to leave such children in a parked automobile unattended by an adult.
- (2) A violation of this section is a misdemeanor.

Chapter 9.20 Domestic Violence Violations and Orders

9.20.010 Adoption by reference

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW 7.105.010 Definitions.

RCW 7.105.450 Enforcement and penalties – Other than antiharassment protection orders and extreme risk protection orders.

RCW 7.105.455 Enforcement and penalties – Antiharassment protection orders.

RCW 7.105.460 Enforcement and penalties – Extreme risk protection orders – False petitions.

RCW 7.105.465 Enforcement and penalties – Knowledge of order.

RCW 9.41.040 Unlawful possession of firearms – Ownership, possession by certain persons.

RCW 9.41.800 Surrender of weapons or licenses – Prohibition on future possession or licensing.

RCW 9.41.810 Violation – Penalty.

RCW 9A.36.150 Interfering with the reporting of domestic violence.

RCW 9A.40.010 Definitions.

RCW 9A.40.070 Custodial interference in the second degree.

RCW 9A.40.080 Custodial interference – Assessment of costs – Defense – Consent defense, restricted.

RCW 10.99.020 Definitions.

RCW 10.99.040 Restrictions upon and duties of court.

RCW 10.99.045 Appearances by defendant – No-contact order.

RCW 10.99.050 Victim contact – Restriction, prohibition – Violation, penalties – Written order – Procedures.

RCW 10.99.055 Enforcement of orders.

RCW 10.99.070 Liability of peace officers.

RCW 26.09.300 Restraining orders – Notice – Refusal to comply – Arrest – Penalty – Defense.

Chapter 9.22 Substance Abuse

9.22.010 Adoption by reference

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW 69.38.010 "Poison" defined.

RCW 69.38.050 False representation—Penalty.

RCW 69.38.060 Manufacturers and sellers of poisons—License required—Penalty.

RCW 69.41.010 Definitions.

RCW 69.41.030 Legend drug without prescription or order prohibited—Exceptions—Penalty

RCW 69.41.350 Steroid—Penalties.

RCW 69.50.101 Definitions.

RCW 69.50.412 Prohibited acts: E—Penalties.

RCW 69.50.445 Cannabis in view of general public or public place—Penalty

RCW 69.50.4011 Counterfeit substances—Penalties

RCW 69.50.4013 Possession of controlled substance—Penalty

RCW 69.50.4014 Possession of forty grams or less of cannabis—Penalty

9.22.020 Possession of Drug Paraphernalia

i This section replaces existing SMC Chapter 9.22 Drug Paraphernalia Restrictions.

i Note that the *use* of drug paraphernalia is prohibited by RCW 69.50.412, incorporated by reference above.

- (1) It is unlawful to possess “drug paraphernalia,” as defined in RCW 69.50.102, for any purpose related to any controlled substance other than cannabis.
- (2) A violation of this section is a misdemeanor.

Chapter 9.40 Parks

i Based on existing SMC 9.40 regarding park regulations.

9.40.010 Applicability

This chapter applies to all parks owned and operated by the City of Stanwood.

9.40.020 Definitions

! Confirm that the Public Works Director is the official in charge of parks.

"Director" means the director of Public Works or the director's designee.

"Park" means any park owned or operated by the City of Stanwood.

9.40.030 Use of Parks

Consistent with SMC Chapter 9.50, use of city parks is conditioned upon compliance with the rules in this chapter and SMC 9.50.040.

9.40.040 General Rules

 This chapter organizes types of rules by subject and class of civil infraction. Each section has a single class of infraction for violations. If you want to prescribe a different class of infraction for a violation, let's move that rule to its own section.

 For reference, each class of infraction is set by statute and also includes substantial statutory assessments:
class 1: \$250
class 2: \$125
class 3: \$50
class 4: \$25

 The rules that follow are based on existing SMC 9.40.010.

(1) Within the boundaries of any park owned or operated by the City of Stanwood, it is unlawful to:

 Fixed hours would be easier to enforce than "dusk till dawn". Deleted "camp or remain overnight," as it is included in the hourly prohibition.

- (a) be present in any park, or park any vehicle in any park, between dusk and dawn except with written permission of the Director;
- (b) possess or consume any alcoholic beverage except within a permitted beer garden;
- (c) permit any dog to be off-leash except in designated off-leash areas;
- (d) knowingly causes a horse to be upon park premises;
- (e) operate, stop, park, or leave a motor vehicle, including any motorcycle or motor-driven cycle, any place in the park, except on a driveway or parking area;
- (f) engages in the sale of any merchandise or services, or operate any concession, without authorization from a special event permit issued under Chapter 5.06 SMC or a temporary use permit issued under SMC Title 17;

 Deleted "engage in any disorderly conduct proscribed by a city ordinance" because that is now covered by SMC 9.50.

- (g) use park facilities without paying any applicable user fee adopted by city council resolution.

 Existing SMC 9.40.040 Violations uses the Class B infraction system defined in existing SMC Title 13 that we propose to eliminate. Converting the Class B infraction to a Class 3 civil infraction would carry the same \$50 penalty, plus statutory assessments.

(2) A violation of this section is a class 3 civil infraction.

9.40.050 Speed Limits

- (1) The Director may set speed limits for roads, paths, and parking lots in City parks applicable to all vehicles.
- (2) It is unlawful to operate any vehicle, including any bicycle, in excess of the posted speed limits.
- (3) A violation of this section is a class 4 civil infraction.

9.40.060 Closed Areas

- (1) The Director may close any section of a park at any time by posting notice in the closed section.
- (2) It is unlawful for a person to enter or remain in a closed section of a park without written permission from the Director.
- (3) A violation of this section is a class 3 civil infraction.

9.40.070 Smoking and Vaping.

- (1) It is unlawful to smoke within any city park.
- (2) It is unlawful to vape or carry any active vaping device within any city park.
- (3) A violation of this section is a class 4 civil infraction.

9.40.080 Damage to Parks and Park Facilities

- (1) It is unlawful to:
 - (a) build any fire within the park except in a designated area;
 - (b) cut, remove, or damage any flower, tree, shrub, or other landscaping;
 - (c) mutilate, deface, injure, damage, or molest any building installation, personal property, or equipment;
or
 - (d) scatters any litter, including broken glass, waste or discarded paper or waste of any kind, in the park, except in receptacles provided for that purpose.
- (2) A violation of this section is a class 1 civil infraction.

Chapter 9.42 Fireworks

i This chapter will supplant some portions of SMC Chapter 5.04 which governs permits for display fireworks so that police enforcement of fireworks violations are contained in Title 9, while the regulations and procedures regarding fireworks permits are contained in Title 5.

9.42.010 Adoption by reference

The following provisions of the Revised Code of Washington as presently constituted or hereinafter amended are adopted by reference:

RCW 70.77.485 Unlawful possession of fireworks—Penalties.

RCW 70.77.488 Unlawful [reckless] discharge or use of fireworks—Penalty.

RCW 70.77.510 Unlawful sales or transfers of display fireworks—Penalty.

RCW 70.77.515 Unlawful sales or transfers of consumer fireworks—Penalty.

RCW 70.77.520 Unlawful to permit fire nuisance where fireworks kept—Penalty.

RCW 70.77.540 Penalty.

9.42.020 Purchase and Sales.

- (1) It is unlawful to sell or purchase consumer fireworks within the City of Stanwood except during the following times:

- (a) from 12:00 noon to 11:00 p.m. on June 28;
 - (b) from 9:00 a.m. to 11:00 p.m. on each day from June 29 through July 4;
 - (c) from 9:00 a.m. to 9:00 p.m. on July 5; and
 - (d) from 12:00 noon to 11:00 p.m. on each day from December 27 through December 31.
- (2) It is unlawful to sell fireworks without a valid license issued per SMC Chapter 5.04.
- (3) A violation of this section is a class 1 civil infraction.

9.42.030 Use and Discharge.

- (1) It is unlawful to use or discharge consumer fireworks within the City of Stanwood except during the following times:
- (a) from 12:00 noon to 11:00 p.m. on June 28
 - (b) from 9:00 a.m. to 11:00 p.m. on each day from June 29 to July 3
 - (c) from 9:00 a.m. to 12:00 midnight on July 4;
 - (d) from 9:00 a.m. to 11:00 p.m. on July 5;
 - (e) from 6:00 p.m. on December 31 until 1:00 a.m. on January 1 of the subsequent year.
- (2) This section does not apply to a public display of fireworks licensed per SMC Chapter 5.04.
- (3) A violation of this section is a class 2 civil infraction.

Chapter 9.50 Conduct and Trespass from City Property

i People that behave dangerously, illegally, or threateningly may need to be trespassed from city property. To protect the due process rights of those people, it's important to adopt a code of conduct, procedures, graduated exclusion periods, and appeal provisions. This chapter is based on similar code chapters from Port Townsend and Anacortes.

9.50.010 Purpose and policy.

- (1) The purpose of this chapter is to:
- (a) Adopt a legally sound process for being able to exclude from city property persons whose behavior is dangerous, unsafe, illegal, or unreasonably disruptive to other users;
 - (b) Define the process for issuance of trespass warnings and their content; and
 - (c) Provide procedures for a recipient of a trespass warning to promptly appeal the warning to protect their right to engage in legitimate activities protected by the state and federal constitutions.
- (2) This chapter is enacted as an exercise of the city's authority to protect and preserve the public health, safety, and welfare under Article XI, Section 11 of the Washington State Constitution.
- (3) This chapter is intended to be enforced to emphasize voluntary compliance with laws and city rules and so that inadvertent minor violations of this section can be corrected without resorting to a trespass warning.

9.50.020 Applicability.

- (1) This chapter applies to behavior on all real property in the City of Stanwood owned or leased by the City of Stanwood, including real property that the city owns or operates in common with another jurisdiction, including but not limited to:

 Staff should add any other city-owned facilities that might be otherwise questioned into the list below.

- (a) Municipal buildings, including City Hall;
 - (b) Parks, trails, and other open spaces.
- (2) This chapter does not apply to public streets and sidewalks.

9.50.030 Definitions.

 See note about the person designated to hear appeals below.

“Police Chief” means the Chief of the City of Stanwood Police Department or other person designated by the Chief to perform the duties described in this chapter.

“Trespass warning” means a document informing the recipient that they are prohibited from entering a specified place for a specified period of time, consistent with the requirements of this chapter.

9.50.040 Prohibited conduct.

- (1) The following behavior is prohibited by this chapter in the places to which this chapter applies:
- (a) Dangerous Behavior. Any behavior that creates an imminent and unreasonable risk of injury or harm to either persons or property of another or the actor.
 - (b) Illegal Behavior. Any behavior that is prohibited by the laws of the United States, Washington State, Snohomish County, or the city including, but not limited to, any of the following types of behavior:
 - (i) Threatening another person by communicating either directly or indirectly to another person the intent to cause bodily injury in the future to the person threatened or to any other person;
 - (ii) Selling or using alcohol or drugs;
 - (iii) Threatening or harassing behavior (e.g., fighting or threatening to fight, brandishing a weapon, stalking, verbally threatening to harm others or their property);
 - (iv) Assaulting staff or other patrons;
 - (v) Urination or defecation other than in facilities intended for that function;
 - (vi) Sexual misconduct or harassment (e.g., indecent exposure, offensive touching, sexual acts);
 - (vii) Vandalism or placing graffiti;
 - (viii) Starting a fire in an undesignated area.
 - (c) Unreasonably Disruptive Behavior. Any behavior that, in consideration of the nature, scope, use and purpose of the city property in question, unreasonably interferes with others’ use and enjoyment of city property, including but not limited to:
 - (i) Use of unreasonably hostile or aggressive language or gestures; or
 - (ii) Unreasonably loud vocal expression or unreasonably boisterous physical behavior; or

- (iii) Using electronic or other communication devices in a manner that is unreasonably disruptive to others; or
 - (iv) Unreasonably interfering with the free passage of staff or patrons in or on public property; or
 - (v) Behavior that is unreasonably inconsistent with the normal use for which the publicly owned property was designed and intended to be used (e.g., engaging in loud conversation in a library setting);
 - (vi) Violation of the posted rules of the city property in question.
- (2) Exception. Any constitutionally protected action or speech is excluded from the prohibited conduct described in this section.

9.50.050 Authority to issue trespass warnings – Service.

- (1) Officers of the city Police Department are authorized to issue a trespass warning to any person who the officer has probable cause to believe has violated SMC 9.50.040.
- (2) The warning may be based upon observation by a police officer or a city employee or may be based upon a civilian report that would ordinarily be relied upon by police officers in the determination of probable cause.
- (3) The person need not be charged, tried, or convicted of any crime or infraction for the trespass warning to be issued or be effective.
- (4) Trespass warnings may be served upon the person subject to the warning using one of the following methods:
 - (a) First-class mail to the person at the person's last known address;
 - (b) Personally; or
 - (c) If the person cannot be located by one of the first two methods after a diligent search, by publication in a newspaper of general circulation.
- (5) Service is effective:
 - (a) On the date the notice is personally received;
 - (b) In the case of service by mail, three days after the notice is mailed; or
 - (c) In the case of service by publication, 15 days after publication.
- (6) The trespass warning becomes effective, and the duration starts to run, upon the effective date of service.

9.50.060 Content of trespass warning.

- (1) The trespass warning must be in writing and contain:
 - (a) The date of issuance;
 - (b) A description the behavior that is the basis for the trespass warning;
 - (c) The place(s) of exclusion consistent with subsection (2) of this section;
 - (d) The length of exclusion consistent with SMC 9.50.070;
 - (e) The signature of the issuing police officer;
 - (f) A description of the consequences for failure to comply consistent with SMC 9.50.100.
- (2) A trespass warning for a place or places may not prohibit access to another place or places that are unrelated to or not a part of the place where the conduct that is the subject of the trespass warning occurred.

9.50.070 Duration of exclusion.

- (1) An officer who issues a trespass warning under this Chapter must determine a duration of exclusion consistent with this section.
- (2) If the person subject to the trespass warning:
 - (a) Has not been excluded from City property by a trespass warning issued within one year prior to the violation, then the warning may exclude the person for a period not exceeding 7 days.
 - (b) Has been the subject of only one prior trespass warning issued within one year prior to the current violation, then the warning may exclude the person up to 90 days.
 - (c) Has been the subject of two or more prior trespass warnings issued within one year prior to the current violation, then the warning may exclude the person up to one year.

9.50.080 Review procedure.

 Note this review could alternatively be performed by the City Administrator, as it is in Port Townsend's code.

- (1) For good cause, the Police Chief may rescind, shorten, or modify a trespass warning consistent with this section.
 - (a) A written request for review of a trespass warning must be delivered to the Police Chief no later than seven business days after it is issued.
 - (b) The Police Chief must hold a review hearing on the decision within one week of receipt of a request for review of a trespass warning.
 - (c) The Police Chief must notify the person subject to the warning of the date, time, and place, telephone number or electronic means at or by which the review will be conducted.
 - (d) The review decision must be communicated no later than five business days following the review.
 - (e) The review decision must inform the person subject to the warning of the right to seek judicial review of the decision and that the time frame for seeking judicial review runs from the date of service of the written decision.
- (2) For purposes of this section, "good cause" to rescind, shorten, or modify a trespass warning must be found where any of the following are true:
 - (a) The person subject to the warning demonstrates by a preponderance of the evidence that his or her conduct was intended to be expressive conduct protected by the First Amendment;
 - (b) The person subject to the warning was not given warning that the conduct in question was subject to a trespass warning;
 - (c) The trespass warning was based solely upon the statement of a third party, was not observed personally by the issuing officer or a city employee, would not ordinarily be relied upon by police officers in the determination of probable cause, and the person subject to the warning claims that he or she did not commit the action for which he or she was warned; or
 - (d) Reasonable minds could differ on the question of whether the conduct in question was unreasonably disruptive to others on the same property at the same time.
- (3) At the review hearing, the violation must be proved by a preponderance of the evidence to uphold the trespass warning. The Police Chief may consider a sworn report or declaration from the officer who issued the trespass warning or upon whose observation the trespass warning was based, without further evidentiary foundation, as prima facie evidence that the person committed the violation as described. The

Police Chief may consider information that would not be admissible under the evidence rules in a court of law but that the Police Chief considers relevant and trustworthy. If the warning was issued because of the alleged violation of any criminal law, the person need not be charged, tried, or convicted for the warning to be upheld.

- (4) The decision of the Police Chief constitutes the city's final decision. A person seeking judicial review of the city's final decision must file an application for a writ of review in Superior Court within 15 days of receipt of the city's final decision.
- (5) The trespass warning remains in effect during the pendency of any administrative or judicial proceeding.
- (6) No determination of facts made by the Police Chief may have any collateral estoppel effect on a subsequent criminal prosecution or civil proceeding and may not preclude litigation of those same facts in a subsequent criminal prosecution or civil proceeding.

9.50.090 Permitted entry notwithstanding warning.

- (1) The Police Chief may, upon request, authorize a person who has received a trespass warning in accordance with this chapter to enter city property to exercise his or her First Amendment rights or to conduct government business if there is no other reasonable alternative location to exercise such rights or conduct such business. Authorization must be in writing and specify the duration of the authorization and any conditions thereof, which may include a requirement that the person be escorted by a police officer.
- (2) The Police Chief must issue a decision on a request for entry onto public property by the recipient of a trespass warning during a period of exclusion no later than 48 hours after receipt of the request.

9.50.100 Violation – Penalty.

- (1) Any person who is found on city or other publicly owned property in violation of a trespass warning issued in accordance with this chapter may be arrested for criminal trespass as defined in Chapter 9A.52 RCW, except as otherwise provided in this section.
- (2) This chapter does not supplant the city's ability to enforce any other section of the Stanwood Municipal Code regulating behavior on public property or the city's ability to pursue other civil or criminal remedies and penalties.
- (3) A city employee who becomes aware of a violation of a trespass warning issued in accordance with this chapter is expected to notify the Police Department.

Exhibit D
Stanwood Municipal Code
Title 13

SMC Title 13 DRAFT

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- ! Because RCW 35A.12.130 requires an ordinance to contain no more than one subject, each of Titles 9 and 13 should be adopted as three separate ordinances.
- ! Because of the interactivity between Title 13 and other provisions for the code, the other sections identified for amendment in Title 13 should be adopted simultaneously.

i The following adopting language is proposed to handle codification instructions for adoption of these ordinances.

SMC Title 9 is amended to read as shown in the attachment.

SMC 5.04.050 and SMC 5.04.060 is repealed.

SMC Title 13 is amended to read as shown in the attachment.

Title 13 Civil Enforcement

- i This title is a complete rewrite of existing SMC Title 13, currently titled "Code Enforcement." We propose renaming the title "Civil Enforcement" to clarify that it concerns only the civil aspects of enforcement and lays out the process for enforcement of the code through non-criminal processes.
- i Existing SMC 13.01.100, Criminal Penalties, has been deleted. The City has already made the policy choice to make the default penalty for a code violation a civil matter, not a criminal one.
- i Existing Title 13 consists of only a single chapter with 12 sections. This proposed revisions divides the title into logical chapters.

Chapter 13.10 General Provisions

13.10.010 Policy

- (1) The policy of the City of Stanwood is to:
 - (a) Fairly, actively, and uniformly enforce the municipal code to preserve the health, safety, and welfare of the public and the environment and not for the benefit of any particular class of persons;
 - (b) Conduct all investigations into alleged violations consistent with statutory and constitutional protections of the right of privacy;
 - (c) Use education as a first step toward achieving compliance with those codes and offer property owners the opportunity to correct violations before imposing fines;
 - (d) Consider the economic circumstances of violators and their ability to comply with code requirements;
 - (e) Use administrative orders and other measures when necessary to ensure violations are corrected.
- (2) To achieve this policy, this Chapter provides authority and procedures for:
 - (a) Efficient and effective notice and opportunities to correct violations;

- (b) Progressive monetary penalties proportionate to the violations;
- (c) Appeal of administrative orders regarding violations;
- (d) Collection of civil penalties; and
- (e) Abatement and remediation of violations.

13.10.020 Applicability

This title applies to civil enforcement of all violations of the Stanwood Municipal Code.

13.10.030 Definitions

The following definitions apply to the entirety of this title:

"Civil violation" means a failure to comply with any mandatory provision of the Stanwood Municipal Code, including failure to comply with a permit condition or an administrative order issued pursuant to this title.

"Director" means the director of the Department of Community Development or the director's designee.

"Violator" means a person who violates any mandatory provision of the Stanwood Municipal Code, including failure to comply with a permit or an administrative order issued pursuant to this title.

13.10.040 Duty to Enforce

i Based on existing SMC 13.01.020 Duty to Enforce.

- (1) The Director has the duty to enforce this chapter.
- (2) In lieu of the enforcement procedures set forth in this chapter, the Director may implement the enforcement procedures set forth in any of the uniform codes adopted by reference in SMC Title 14.
- (3) Although generally the City will not pursue civil enforcement when a criminal penalty for a violation is prescribed, civil enforcement is not precluded under those circumstances.
- (4) This title is to be enforced for the benefit of health, safety and welfare of the general public, and not for the benefit of any particular person or class of persons.
- (5) Nothing 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.

13.10.050 Violations are Public Nuisances

Any uncorrected violation is detrimental to the public health, safety, and welfare and is a public nuisance. A public nuisance is a continuing offense against the order and economy of the City of Stanwood and is subject to enforcement under RCW Chapter 7.48 and RCW Chapter 9.66.

13.10.060 Joint and Several Liability

In addition to any other person who may be liable for a civil violation, the property owner is jointly and severally liable for the civil violation, payment of any civil penalties, and restoration of the site.

13.10.070 Required Report to City Council

i This is a new section intended to ensure policymakers receive feedback on how well this code title is operating.

In addition to any other person who may be liable for a civil violation, the property owner is jointly and severally liable for the civil violation, payment of any civil penalties, and restoration of the site.

13.10.080 Severability

i This section is based on existing SMC 13.01.120 Severability.

If any section, sentence, clause, or phrase of this title is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality may not affect the validity or constitutionality of any other section, sentence, clause, or phrase of this title.

Chapter 13.20 Procedures

13.20.010 Initiation of Civil Enforcement

- (1) Any person who believes a violation has occurred may notify the Director.
- (2) If the Director becomes aware of a violation, the Director may initiate the civil enforcement process without a third-party complaint.

13.20.020 Investigation—Right of entry

i This section is based on existing 13.01.030(1).

- (1) The Director must investigate an alleged violation and confirm it has occurred before proceeding with civil enforcement.
- (2) Whenever necessary to make an inspection of an alleged or suspected civil violation, the Director may, upon presentation of proper credentials and consent of the property owner or other person having charge or control of the building, structure or property, enter such building, structure, property or portion thereof at all reasonable times to inspect the same.
- (3) If the building, structure, property, or portion thereof is unoccupied, the Director must make a reasonable effort to locate the owner or other persons having charge or control of the building, structure, property, or portion thereof and request entry.
- (4) If entry is refused or a responsible party cannot be located, the Director may ask the City Attorney to assist in obtaining a warrant.

13.20.030 Issuance of Administrative Orders or Exercise of Other Remedies

- (1) After confirmation of a violation, the Director may choose from any combination of the remedies available in SMC Chapter 13.40 to resolve the violation.
- (2) Discretion.
 - (a) Generally, the Director should use a graduated enforcement process that uses notification and education as a first step and should offer violators the opportunity to correct violations before imposing fines.

- (b) The Director may determine that a violation is so egregious that graduated enforcement is inappropriate or would require more time than is appropriate compared to the gravity of the violation.
- (c) The Director may decide not to take action to correct a violation, especially for de minimis violations or violations that require interpretations or discretionary judgments of the applicability of the land use code.

Chapter 13.30 Administrative Orders

i Existing SMC 13.01.030(2) describes a “notice of violation” that is also characterized as an order. Since it’s more than a “notice,” we should characterize it accurately. Here, we drop the term notice and only refer to administrative orders as the global term for each of these types of orders.

13.30.010 Administrative Orders including Emergency/Stop Work Orders

- (1) Generally. The Director may issue an administrative order to compel correction of a violation, abatement of a nuisance, or payment of civil penalties.
- (2) Emergency/Stop Work orders. Whenever any use or activity in violation of the Stanwood Municipal Code threatens the health and safety of the occupants of the premises or any member of the public, the Director may issue an administrative order to immediately cease any work or activity that is causing a violation or a public nuisance.
- (3) Supplemental orders. The Director may at any time add to, rescind in part, or otherwise modify an administrative order by issuing a supplemental order.
- (4) Final orders. An administrative order becomes final if it is not timely appealed, or if it is timely appealed and not stayed or reversed.

13.30.020 Contents of Orders

i Existing 13.01.040 Time to comply.

An administrative order must contain the following:

- (1) The name and address of the property owner, the person in possession of the property, and any other person responsible for the violation or condition.
- (2) The street address or description of the property sufficient for identification of the location where the violation occurred or condition is located.
- (3) A statement that the Director has identified a public nuisance or found a violation of specific code sections, permit condition, stop work order, or other administrative order.
- (4) For stop work orders:
 - (a) A directive to immediately cease the work or activity until the Director rescinds the order.
 - (b) A statement of the penalties for failure to comply.
- (5) For orders other than stop work orders:
 - (a) A statement of the corrective action required to be taken. If the Director has determined that corrective work is required, the order must require that all necessary permits be secured and the corrective work physically commence within a reasonable time, as determined by the Director, and a reasonable date by which the work must be completed.

- (b) An order to pay civil penalties per SMC 13.40.050.
- (c) A statement that if the corrective action is not commenced or completed within the time specified, the Director may proceed to abate the violation, cause the corrective 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.
- (d) A statement of the procedural steps the City may take to ensure compliance if the violation is not corrected consistent with the order.
- (e) A statement that the order is effective upon service or, for stop work orders, when the Director posts it on the subject property or serves it on the persons engaged in the work.
- (f) A statement of the right to appeal an order and the method and deadline for doing so, and that failure to file a timely and complete appeal may constitute a waiver of all rights to appeal the order.

13.40.030 Civil Penalties

- (1) An administrative order may include an order to pay civil penalties assessed as a result of the violation and, if applicable, the conditions on which assessment of such civil penalty are contingent.
- (2) Amount of Civil Penalty.
 - (a) The amount of civil penalty is \$100 per day per violation unless otherwise provided.
 - (b) For a civil violation related to critical areas, as defined in the Stanwood Municipal Code, the Director may impose an additional civil penalty up to:
 - (i) An amount, not to exceed \$25,000, that is reasonable based upon the nature and extent of the violation and the costs to the City of enforcing this Chapter against the violator; or
 - (ii) An amount equal to twice the economic benefit that the violator derived from the violation as measured by the greater of:
 - (A) The resulting increase in the market value of the property or the value received by the violator; or
 - (B) The savings of construction costs realized by the violator derived from the act that constituted the violation.
 - (c) A person found in violation of a new and separate violation within one year of the resolution of a prior related violation may be subject to double the civil penalties normally imposed for such a violation.
 - (d) The Director may reduce the civil penalty based on one or more of the following mitigating factors:
 - (i) The violator showed good faith or substantial progress, or both, in correcting the violation; or
 - (ii) The violator was not the primary cause of the violation.
- (3) Collection of Civil Penalties.
 - (a) An order to pay civil penalties is valid for the penalties accrued as of the date of the order, and for future penalties that accrue until a specified event.
 - (b) The Director may issue a supplemental order for additional civil penalties. That order is appealable only for the additional civil penalties imposed by the supplemental order.
 - (c) Per RCW 19.16.500, the Director may refer orders to pay civil penalties to collection agencies thirty days after service, and may add a reasonable fee to cover the costs of collection.
- (4) Payment of a civil penalty pursuant to this Chapter does not relieve the violator of the duty to correct the violation.

13.30.040 Service of Orders—Posting

- (1) All persons identified in the order must be served either personally or by mail.
- (2) If the address of a person cannot reasonably be ascertained, then a copy of the order must be mailed by certified mail, return receipt requested, to such person at the address of the location of the violation and a copy must be posted in a conspicuous location on the premises. The failure of any such person to receive such notice does not affect the validity of any proceedings taken under this Chapter. Service by certified mail is effective on the date of mailing.
- (3) Posting. A copy of the order must also be posted at a conspicuous place on the relevant property that is the subject of a violation, unless posting the notice is not physically possible or poses a risk of harm to the city official.

13.30.050 Appeals

i This section replaces existing SMC 13.01.070, Review by Hearing Examiner.

- (1) An administrative order issued per this Chapter may be appealed consistent with this section.
- (2) Filing.
 - (a) Who May File. Any person subject to an administrative order issued pursuant to this Chapter may appeal it in writing to the Hearing Examiner.
 - (b) When to File. An appeal must be filed within 14 calendar days of service of the administrative order being appealed.
 - (c) How to File. An appeal must be filed by submitting a Notice of Appeal to the Director on forms provided by the City, with the appeal fee set by City Council resolution.
 - (d) Fees.
 - (i) The City Council will establish a fee schedule for appeals of administrative orders.
 - (ii) If an appellant prevails on their appeal, the City will reimburse the appeal fee paid by appellant.
- (3) Contents. The Notice of Appeal must contain the following:
 - (a) Identification of the order being appealed;
 - (b) The name and address of the appellant and the appellant's interest(s) in the matter;
 - (c) The specific reasons why the appellant believes the order is in error;
 - (d) The requested relief;
 - (e) Identification of any applicable Stanwood Municipal Code sections.
- (4) Automatic Stay. An administrative order other than a stop work order is stayed during an appeal to the Hearing Examiner except when the Director determines that the violation will cause immediate and irreparable harm and so states in the order.
- (5) Standard of Review.
 - (a) The appellant bears the burden of proving that the administrative order was clearly erroneous.
 - (b) The Hearing Examiner may not overturn or modify the Director's order unless he or she finds it was clearly erroneous.
- (6) Hearing.

- (a) The Hearing Examiner must hold a hearing, during regular business hours, to provide opportunities for the parties to be heard on the appeal.
 - (b) Before testifying, any witness, including city staff, must be required to declare that he or she will testify truthfully, by oath or affirmation.
- (7) Decision.
- (a) The Hearing Examiner may affirm, reverse, or modify the appealed order.
 - (b) The Hearing Examiner's written decision must include findings of fact, conclusions of law, and a decision on the appeal.
 - (c) The Hearing Examiner must hold the hearing and provide the written decision on the appeal within 90 days of filing of the Notice of Appeal.
- (8) Reconsideration.
- (a) A party to an appeal may seek reconsideration of the Hearing Examiner's decision by filing a written request for reconsideration, describing the specific errors alleged, within ten days of the date of decision.
 - (b) The Hearing Examiner must consider the request, without public comment or argument by the party filing the request. Reconsideration may be granted only when a material legal error has occurred or a material factual issue has been overlooked that would change the previous decision.
 - (c) A request for reconsideration is not required to exhaust the appellant's administrative remedies.
- (9) Exhaustion of Administrative Remedies.
- (a) The Hearing Examiner's decision is the final decision of the City on the order.
 - (b) The date of final decision is the date the Hearing Examiner issued its decision, unless any party timely requests reconsideration, in which case the date of final decision is the date the Hearing Examiner makes its decision on reconsideration.

13.30.060 Violations of administrative orders.

- (1) If a person to whom an order is directed does not obey the order or does not pay the civil penalty assessed by the order, the Director may pursue any combination of the remedies in SMC Chapter 13.40.
- (2) Any person who removes a posted emergency or stop work order without authorization is guilty of a misdemeanor.
- (3) If a person to whom an order is directed fails to comply with an emergency or stop work order, that person is guilty of a gross misdemeanor. Each day or part thereof of noncompliance with a stop work order is a separate offense.

Chapter 13.40 Additional Remedies

13.40.010 Discretion

The Director may pursue one or more of the remedies described in this chapter to resolve a violation of the Stanwood Municipal Code.

13.40.020 Civil infraction

- (1) In accordance with RCW Chapter 7.80, the Director may issue a class 1 civil infraction to a violator.

- (2) The Director may issue a civil infraction for each day the violation continues.
- (3) The Director may issue a civil infraction in addition to, or as an alternative to, any other judicial or administrative remedy.

13.40.030 Voluntary compliance agreement

i This is a new provision with which we have had success in other jurisdictions.

- (1) The City and the violator may enter into a voluntary compliance agreement at any time.
- (2) The Director is authorized on behalf of the City to enter into a voluntary compliance agreement, as provided for in this Section, at any time before the City becomes involved in any lawsuit related to the enforcement action.
- (3) Contents. A voluntary compliance agreement must contain the following:
 - (a) The name and address of the property owner, the person in possession of the property, and any other person responsible for the violation or condition.
 - (b) The street address or description of the property sufficient for identification of the location where the violation occurred or is located.
 - (c) A description of the civil violation and a reference to the specific code provisions that were allegedly violated.
 - (d) A detailed description of the agreed corrective action and the date by which it must be completed.
 - (e) The amount of the civil penalty that will be imposed, if any, pursuant to SMC 13.40.050 if the terms of the voluntary compliance agreement are not met and that the City has a consensual lien against the property for the amount of the civil penalty plus any recording fees and costs.
 - (f) A statement that the City retains the right to enforce the agreement as a matter of contract and retains all other rights and remedies available at law.
 - (g) A statement that if the Director determines that the terms of the voluntary compliance agreement are not met, the Director may proceed with enforcement consistent with this Title.
 - (h) A statement that by entering into the voluntary compliance agreement the violator admits that the conditions described in the voluntary compliance agreement exist and constitute a civil violation.
 - (i) A statement that the violator knowingly, voluntarily, and intelligently waives the right to appeal any current or future administrative order arising from the same conditions or violations, including current or future civil penalties associated with the same conditions or violations.
- (4) The Director may grant an extension of the time limit for compliance or a modification of the required corrective action if the violator has shown due diligence or substantial progress in correcting the violation and the circumstances support such an extension.

13.40.040 Certificate of non-compliance

i This is a new provision with which we have had success in other jurisdictions.

- (1) After an administrative order becomes final, the Director may record with the County Auditor a certificate of non-compliance against any real property subject to the order.
- (2) The certificate of non-compliance must describe:
 - (a) the date of the order;

- (b) the property subject to the order;
 - (c) the violation;
 - (d) the amount of unpaid civil penalties;
 - (e) the method of releasing the certificate of non-compliance.
- (3) Upon request of the property owner or violator, the Director must record a release of the certificate of non-compliance if:
- (a) The administrative order is satisfied;
 - (b) All civil penalties are paid; and
 - (c) All costs associated with recording the certificate of non-compliance and the release of the certificate of non-compliance are paid.

13.40.050 Abatement

- (1) After an administrative order becomes final, if the required corrective work is not commenced or completed within the time specified in the order, the City may abate a violation itself.
- (2) If a violation poses an imminent threat to health or safety or to the environment, the City may abate the violation itself without prior notice to the property owner.
- (3) When the city abates the violation itself it may charge the costs of abating the violation as a public nuisance lien against the property.
- (4) When the City abates unfit dwellings, buildings, structures, or property following the procedures in this Title and RCW 35.80.030, the Director may ask the County Treasurer to charge the costs of abatement as an assessment upon the tax rolls against the real property.
 - (a) The Director is the municipal officer designated and authorized to exercise the powers necessary to carry out the purposes authorized by RCW 35.80.030.
 - (b) The Hearing Examiner is the appeals commission designated to hear and decide appeals within sixty days of date of filing, as required by RCW 35.80.030(1)(g).

13.40.060 Settlement

The Director may, with the advice and consent of the City Attorney, enter into negotiations with parties in an enforcement action or named in a lawsuit under this Title or their legal representatives, for the purposes of negotiating a settlement to such action or lawsuit. The settlement may include a compromise regarding the collection of civil penalties but must consider the interests of the public and be in the best interests of the City.

13.40.070 Alternative Remedies

i This section replaces existing SMC 13.01.110.

In addition to any other penalty or method of enforcement, the City Attorney may bring actions for legal, equitable, injunctive, or other relief to enforce the Stanwood Municipal Code.