City of Stanwood

City Council Packet

Stanwood City Council
Regular Meeting

Thursday, March 9, 2023

AGENDA
CITY COUNCIL REGULAR MEETING
Thursday, March 9, 2023 – 7:00 p.m.

Stanwood-Camano School District, Admin. Building Board Room
26920 Pioneer Highway, Stanwood, WA 98292

Members of the public may attend Stanwood City Council meetings in-person at the address above, or Via Zoom.
Instructions to join the meeting by telephone or online are posted on the City Website **https://www.stanwoodwa.org**

1. **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**
2. **ROLL CALL**
3. **APPROVAL OF THE AGENDA**
4. **PRESENTATIONS**
   Lincoln Hill High School – Jason Orzel
5. **PUBLIC COMMENTS**
   Written comments must be provided to the Clerk by 9:00 a.m. the day of the meeting via this link: https://stanwoodwa.org/FormCenter/City-Clerk-5/City-Council-Meeting-Remote-Public-Comme-61; verbal comments may be provided in-person, or online via Zoom, call 360-454-5213 for assistance.
6. **STAFF / DEPARTMENT REPORTS**
   Police Compstat – February **6.1**
7. **COUNCIL COMMITTEE REPORTS**
   Parks and Trails Advisory Committee Meeting Minutes – January 17, 2023 **7.1**
8. **CONSENT AGENDA**
   a. Approve Vouchers and Payroll Checks **8.1**
   b. Approve City Council Regular Meeting Minutes – February 23, 2023 **8.3**
9. **UNFINISHED BUSINESS**
   a. Second Read and Final Ordinance 1512 SMC Title 1 General Provisions **9.1**
   b. Second Read and Final Ordinance 1513 SMC Title 2 Personnel **9.81**
   c. Second Read and Final Ordinance 1514 SMC Title 4 Administration **9.137**
10. **PUBLIC HEARING**
11. **NEW BUSINESS**
    Appointment of Planning Commission Member Robert Hicks **11.1**
12. **PUBLIC CLOSING COMMENTS**
13. **EXECUTIVE/LEGISLATIVE REPORTS**
    a. Mayor's Report
    b. City Administrator's Report
    c. Councilmember Reports/Questions
14. **RECESS TO EXECUTIVE SESSION**
    To Discuss Pending Litigation per RCW 42.30.110(1)(i)
15. **ADJOURN**

Upcoming Meetings:
March 23, 2023, Regular City Council Meeting 7:00pm
April 13, 2023, Regular City Council Meeting 7:00pm

CITY OF STANWOOD
COUNCIL AGENDA STAFF REPORT

ITEM NUMBER: **6**

DATE: March 09, 2023

SUBJECT: Police Compstat Reports

CONTACT PERSON: Chief Jason Toner

ATTACHMENTS: A – February 2023 Compstat Report
B – 2022 SPIDR Tech Report

SUMMARY STATEMENT

Attached is the February 2023 Compstat and the 2022 SPIDR Tech reports for council review.

Stanwood Police Department

CompStat Report



City of Stanwood Police Chief Jason Toner

Prepared by: Snohomish County Sheriff Office Crime Analysis Unit and Stanwood Police Department

FEBRUARY 2023

Stanwood Police Department

COMPSTAT REPORT

What is CompStat?

CompStat stands for 'Computer Statistics' dealing specifically with crime. It is found to be an effective way to accurately track crime and use the information to deploy officers to address it in timely manner. It is a performance management system that is used to reduce crime and achieve other police department goals. It emphasizes information-sharing, responsibility and accountability and improving effectiveness.

What is the benefit to the community?

CompStat allows us to track crime problems and allocate resources to the areas that are being affected. By being able to focus our efforts on areas being impacted, we are able to make apprehensions and drive down crime in Stanwood.

How is data collected?

Crime Analysts access a variety of systems to collect and analyze law enforcement data. Data collection begins at the 911 call center (SNO911) and carries over into law enforcement records management systems (LERMS). Much of the information presented in this report is also reported to state and federal agencies annually.

What data will you see in this report?

What occurred within the city limits of Stanwood and calls responded to by the Stanwood Police outside the city.

This is a true representation of all police activity occurring in the City of Stanwood, you will see these calls listed as "In the STW Beat". On occasion, Stanwood Police officers will be called outside the city to assist other agencies. We also have deputies who live outside of the city so on occasion they will make a traffic stop or respond to a nearby call while commuting to work. You will see these call listed as "Answered by STW ORI"

Incident data:

This represents what police were called to and includes self-initiated activity. Multiple 911 calls for the same incident are presented as a single incident.

Case data:

An incident becomes a case when the deputy determines reporting protocol is met. A case is often generated based on a specific crime, traffic collisions, arrest or the need to document specific actions or information.

FEBUARY 2023

Stanwood Police Department

POLICE STAFFING

The City of Stanwood contracts for law enforcement services through the Snohomish County Sheriff's Office. The contract is identified as a "stand alone" contract, which allows the City of Stanwood to maintain its own police identity to include policies and procedures that meet unique small city needs. All uniforms and vehicles are identified as Stanwood Police and we provide services to the city population of approximately 8,405.

DIVISIONS:

CHIEF OF POLICE: Has the rank of Lieutenant with the Sheriff's Office. Oversees all aspects of the Police Department daily operations. The Chief works with city staff to ensure community needs are met.

ADMINISTRATIVE SERGEANT: Administers the day-to-day administrative functions of the Police Department and oversees the day shift deputies, School Resource Officer and Detective. Steps in as the Chief of Police when the chief is absent.

NIGHT SERGEANT: Oversees the swing shift and night shift deputies.

PATROL DIVISION: Responds to crimes in progress, traffic collisions, missing persons, and other emergency and non-emergency calls for service.

SCHOOL RESOURCE OFFICER: Utilizes the concept of educator, informal counselor, and law enforcer; working to bridge the gap and build relationships between law enforcement and youth.

DETECTIVE: Works in conjunction with patrol and the resources of the Snohomish County Sheriff's Office to investigate a broad range of felony- and misdemeanor-level crimes that occurred in the City of Stanwood.

	ASSIGNED	VACANCIES	PERCENTAGE
Chief	1	0	100%
Sergeant	2	0	100%
Deputy	6	0	100%
School Resource Officer No longer a PD employee - SCSO contract	1	0	100%
Detective	1	0	100%

FEBRUARY 2023

Stanwood Police Department

RECORDS UNIT

Records Summary: Job duties include, but are not limited to, the following;

- Provide administrative support for all members of the Stanwood Police Department.
- Assist the Chief of Police with police budget tracking and review.
- Verify and code all incoming invoices for the Police Department.
- Ordering of supplies for the department, and special events.
- Subject matter expert for the Law Enforcement Records Management System (LERMS) used by Stanwood Police Department.
- Manage all Stanwood Police Department documents and records.
- Review all electronic case file entries and information for accuracy.
- Scan paper records into electronic case files.
- Forward criminal arrest referrals to the Prosecuting Attorney's Office.
- Enter trespass notices, gun alerts, and other safety alerts into the agency's electronic records management system.
- Route Child Protective Services & Adult Protective Service referrals.
- Maintain department case file and document archives per Washington State records retention/destruction schedules.
- Responsible for federal reporting of crime statistics to the National Incident Based Reporting System (NIBRS).
- Run monthly case audits and records validations.
- Enter court orders, missing persons, vehicle impounds, lost or stolen property, stolen vehicles, etc. into Washington Crime Information Center and National Crime Information Center (WACIC/NCIC).
- Provide second checks for all entries made into Washington Crime Information Center and National Crime Information Center (WACIC/NCIC).
- Conduct background checks for concealed pistol license and pistol transfers applications.
- Provide fingerprint services for concealed pistol license applicants and citizen fingerprints.
- Review and fulfill public records requests within the guidelines of the Public Records Act.
- Create/update/maintain all process, procedure, and training manuals for the position.
- Serve as Stanwood Police Department's Terminal Agency Coordinator for the Washington State Patrol ACCESS program.
- Assists with walk-in and telephone customers, averaging 8,000 yearly contacts.
- Route calls to 911 and non-emergency dispatch.
- Respond to requests for service and answer general questions.
- Manage key & key fob assignments for City of Stanwood employees.

	2023	2022	2021	2020	Year to Date
Public Records Requests	**31**	**35**	**19**	**38**	**78**
Concealed Pistol License Issued	**27**	**32**	**68**	**20**	**81**
Pistol Transfer Checks	**29**	**37**	**27**	**23**	**55**
Fingerprinting & Approximate Time	**21** 5.25 hrs	**4** 1.0hrs	**40** 10.0hrs	**27** 6.75hrs	**62** 15.50 hrs

FEBRUARY 2023

Stanwood Police Department

Message from the Chief

As we close out February, winter seems to be giving us one last snow day and traffic chaos. I personally am looking forward to hopefully nicer weather and warmer temperatures in March, as I would like to work on my golf game. In February we welcomed four new officers to town, and they are doing outstanding work.

SPIDR TECH
— A VERSATERM PUBLIC SAFETY COMPANY —

SPIDRTECH works in conjunction with our 911 dispatch center and is a system used to communicate via text and email with 911 callers. From the time someone calls 911 through the investigation, callers are given updates on their case. These texts include updates on wait time if an officer is going to be delayed, provide updates days and weeks later on the investigation, and conduct a survey on the public's satisfaction with Stanwood PD's response and service to their call. SPIDRTECH is only used for non-violent crimes. All the agencies in Snohomish County currently use SPIDRTECH and Stanwood PD was the test agency in 2021.

I have included a copy of the 2022 SPIDERTECH Customer Communications Digest. As with any online survey, most people ignored it, but the few that did respond scored Stanwood PD and our 911 Dispatchers very high.

How satisfied with the level of respect/courtesy from the 911 Dispatcher 4.81 out of 5

How satisfied the Officer's Response to your call? 4.66 out of 5

Was the situation resolved to your satisfaction 83% Yes.

Another question the survey asks is "What are the top three issues you are most concerned about in your neighborhood? The tops three answers were burglaries/thefts, vehicle prowls, and traffic/speeding issues.

Generally speaking, crime rates are very low in Stanwood and from time to time we will have an uptick vehicle prowls or burglaries, typically committed by a group of criminals from outside our community targeting our neighborhoods or businesses. Some of the things we are currently doing to combat these upticks is proactive policing where our officers are making more contacts throughout the night. Additionally for the month of March we have adjusted the hours of one of our swing officers to a so there are multiple officers on-duty later into the night.

Stanwood Police Department

Message from the Chief

Concerning Trends in Snohomish County 2020-2022:

- Police Vehicle Pursuits are down 33%
- Vehicle Eluding the Police are up 74%
- Drive by Shootings 16 total in 2020/2021 combined, 15 in 2022.
- Homicides 13 total in 2020/2021 combined, 11 in 2022

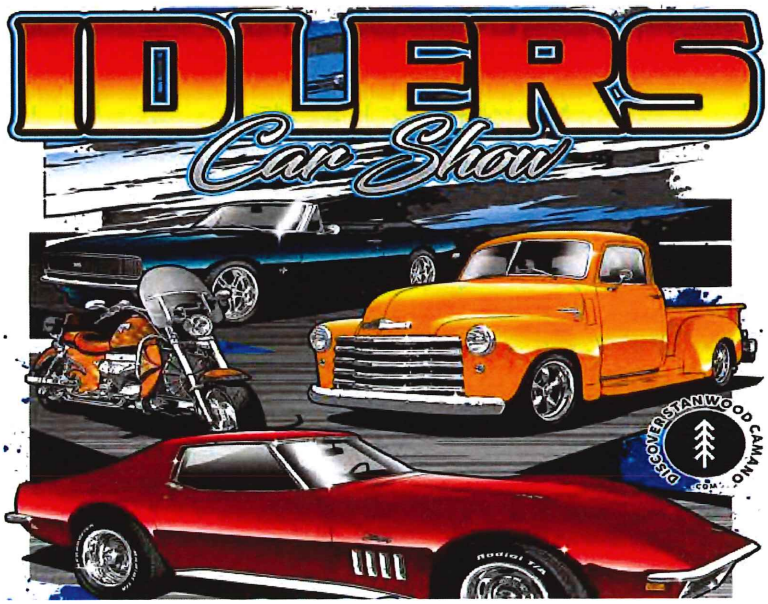
Average Length of stay in Jail for Felony A (Homicide, Rape, Assault w/Deadly Weapon)

- 2019- 163 Days
- 2022- 27 Days

Average Length of stay in Jail for Felony B (Manslaughter, Illegal Possession of a Firearm, Burglary, Stalking, Burglary)

- 2019-63 day
- 2022- 12 Days

Jail time is decided on by our local judges with input from prosecutors and defense attorneys. I have concerns that lack of holding people accountable for crimes is leading to higher crime rates and more violent crime.



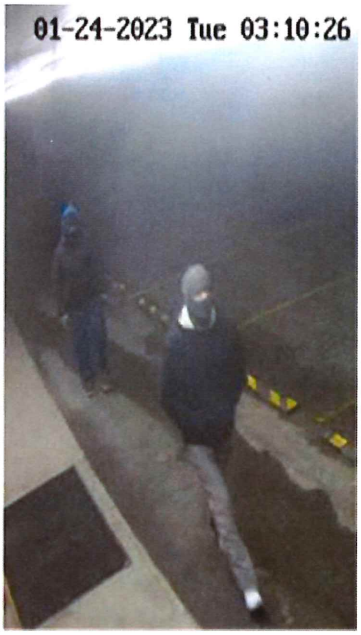
Community Events:

I had the pleasure of meeting Roy Van Winkle and Rob Brydges, the two new guys organizing the Idler Car Show. We discuss ways to make the car show a safe and successful in 2023. Additionally, I stopped in at the Stanwood Camano Resource Center for the Community Needs Assessment and was amazed by the desire and resources of our community to help those in need.

FEBRUARY 2023

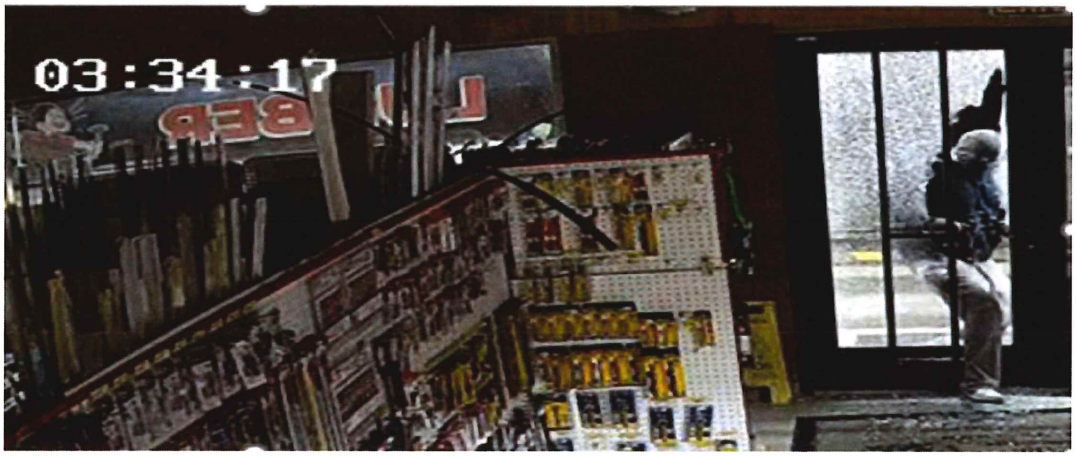
Stanwood Police Department

Detective Report



Stanwood Police Case 2023-542 Hamilton Lumber Burglary

On 01-24-2023 at about 0308 hours two males approached the front door of Hamilton Lumber. One is thin and the other is heavy-set. Both are wearing hoods over their heads and masks over their faces.



Stanwood Police Case 2023-544 Bowling Alley Burglary

On 01-24-2023 A dark-colored Chrysler Aspen (approx. 2007) pulls into Twin City Lanes (bowling alley) parking lot at about 0355 hours.

Two males exit the vehicle, break into the bowling alley, and steal items.







FEBRUARY 2023

Stanwood Police Department
Detective Report

Stanwood Police Department Case 2023-1147 Ace Hardware Burglary

On 02-16-2024 two subjects break into Ace Hardware and steal tools.





Stanwood Police Case 2023-1218 Ace Hardware Burglary

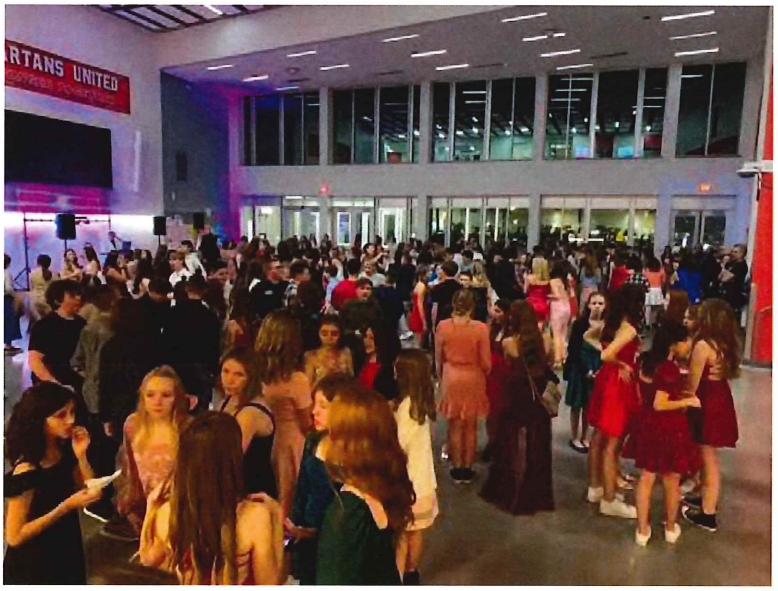
On 02-18-2023 a male broke into the Stanwood Ace Hardware and stole tools.

Detective Martin sent images of the subjects and associated vehicles to area law enforcement agencies for identification assistance. The investigation is ongoing.

Stanwood Camano School District

SCHOOL RESOURCE OFFICER

FEBRUARY IS DANCE SEASON



February 17th was a big night for our District middle schools. Both Port Susan and Stanwood Middle Schools shared the dance floor, AT Stanwood High School. PSMS PTO organized the event for students from both schools. About 450 tickets were sold, and approximately 40 parent volunteers were on hand to supervise the event. It was a great night. Stanwood High School also held their own "Sweetheart Dance" on February 25th. Mrs. Coombs and her helpers put on a very fun night with few incidents.



STANWOOD GIRLS VARSITY BASKETBALL TO STATE

Our Stanwood Girls Basketball team went 19-5 overall on the season, with a 13-2 conference record. The Spartans clinched a State playoff berth and will play Lynnwood High School on Wednesday, March 1st at the Tacoma Dome.

NICOTINE / THC VAPE USE IN RESTROOMS



We continue to see steady use of vapes in our restrooms. The vapes are emitting less vapor than they used to, and kids are finding ways to hide what little vapor is put off. The consequence of a 6 hour "vape educate" online course seems to do little to deter use. THC is now available in vapes which emit very little "weed smell" making it easier for students to hide the offending odor.

FEBRUARY 2023

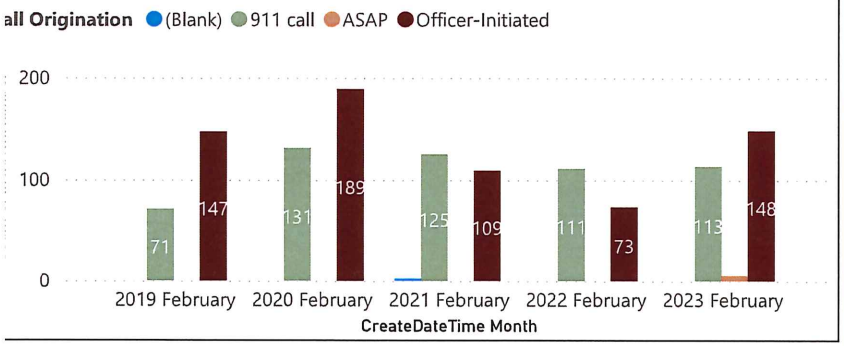


The following pages cover incidents data. This is also known as calls for service. If 30 people call because there's a wreck in front of Haggen's, it counts here once.

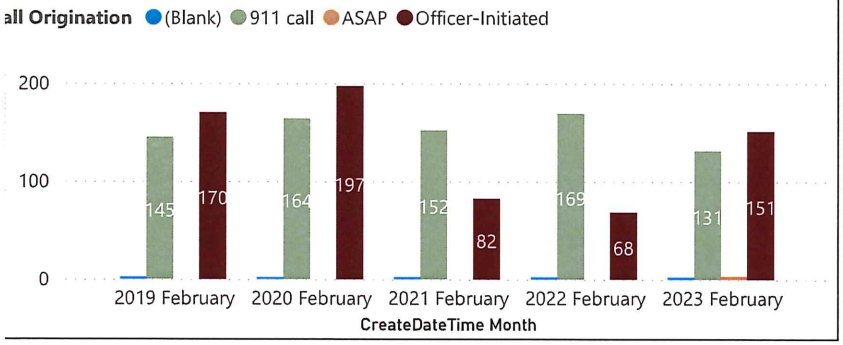
TOTAL INCIDENTS

Previous Month Over Time

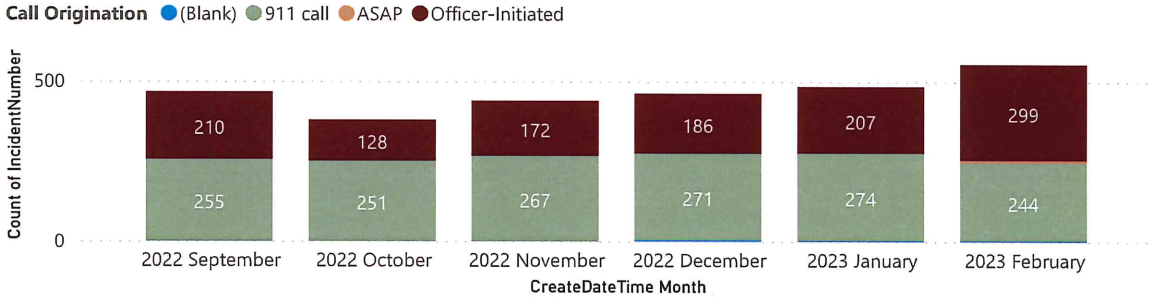
tanwood West, Incidents by Origination



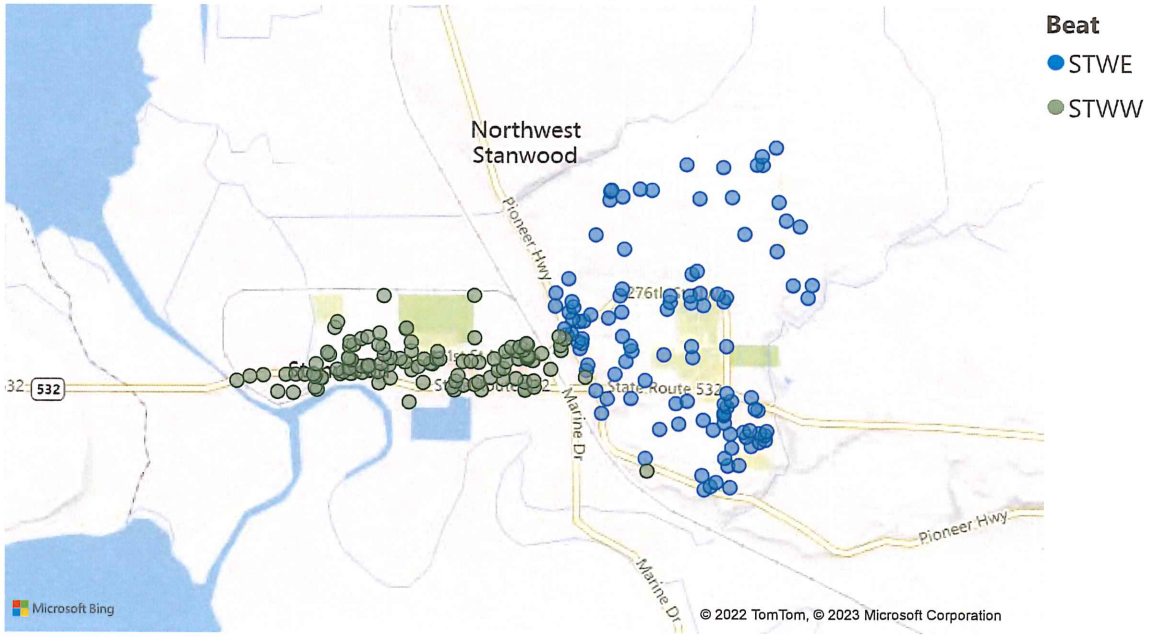
tanwood East, Incidents by Origination



Total Incident Counts, Past 6 Full Months by Origination Type



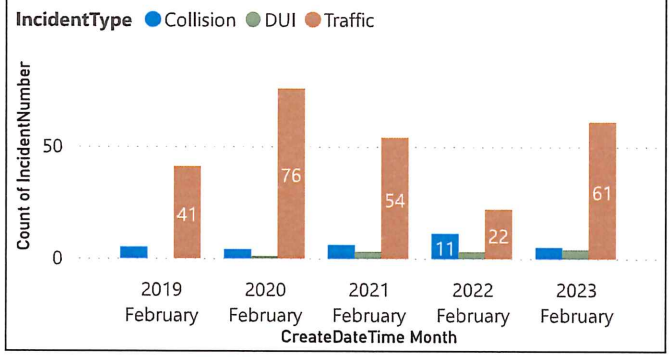
All incidents Past 1 Month - excludes victim privacy concerning incidents



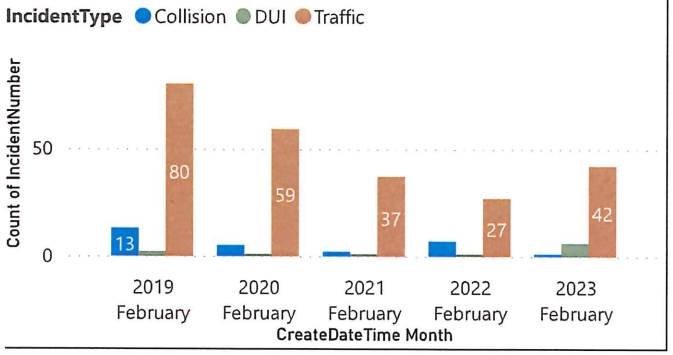
Collision, DUI, and Traffic INCIDENTS

Previous Month Over Time

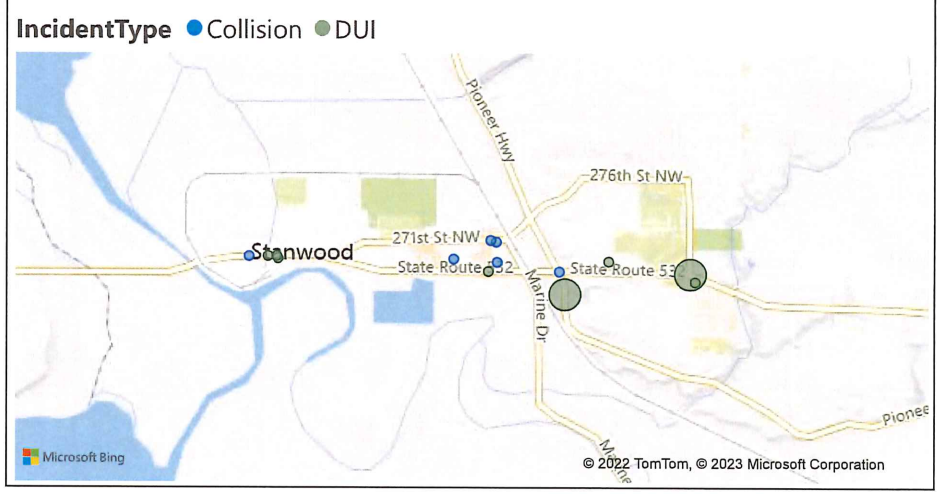
Stanwood West



Stanwood East



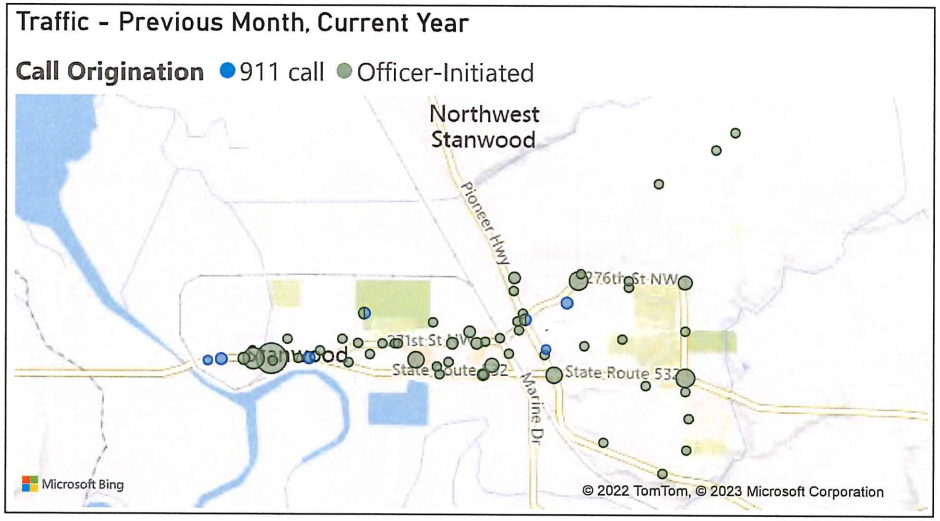
Previous Month, Current Year



STWW & STWE

Year	Collision	DUI
⊟ **2022**		
September	12	1
October	23	2
November	16	1
December	11	7
⊟ **2023**		
January	8	5
February	6	10

Traffic - Previous Month, Current Year



STWW & STWE

Year	Traffic
⊟ **2022**	
September	97
October	38
November	78
December	62
⊟ **2023**	
January	53
February	103

Tickets - To End of Previous Month, Current Year

Data begins in 2021, due to lack of tickets issued in 2020 (due to covid lockdowns).

# of Tickets

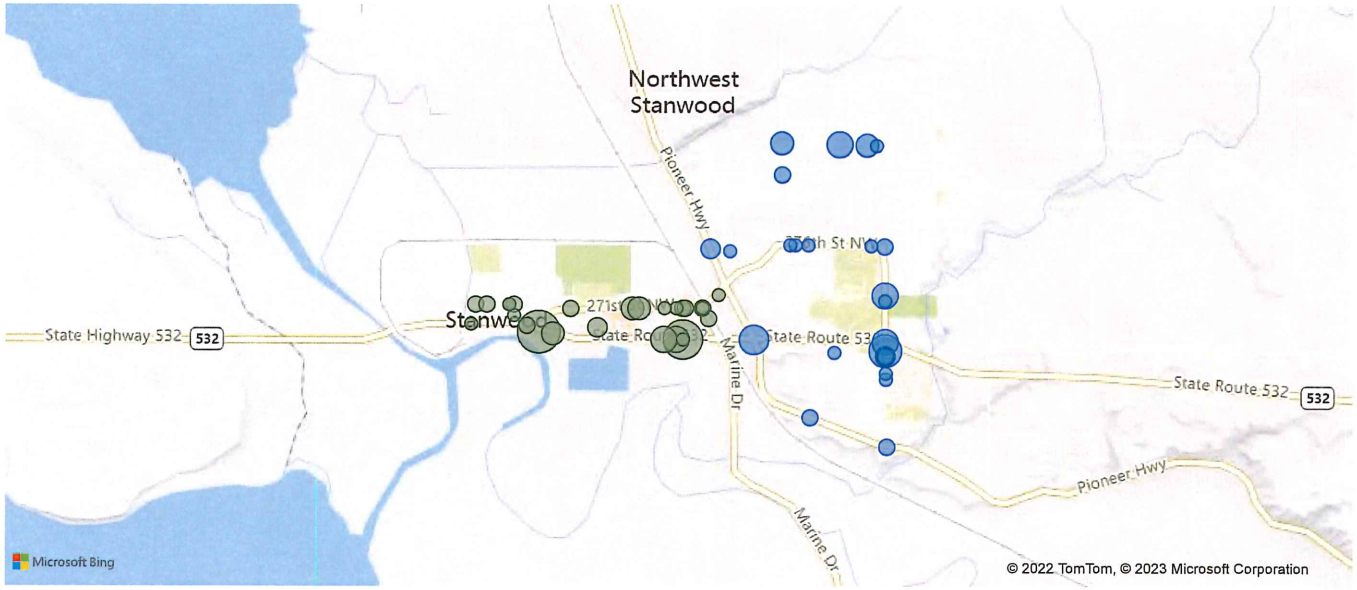
91

# of Citations

133

# of Citations

Beat ● STWE ● STWW



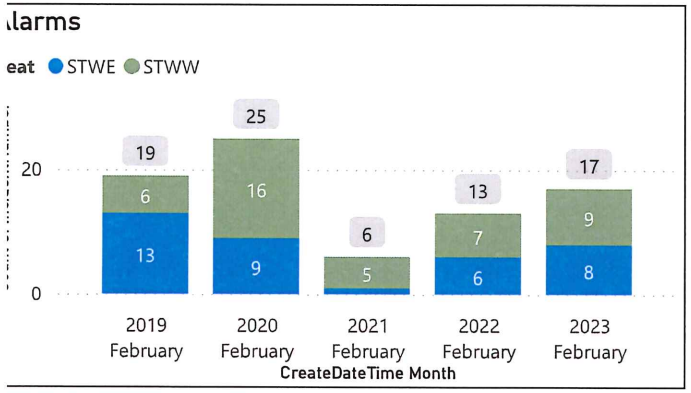
Total Tickets

Month	2022
January	2
February	7
March	7
April	2
May	8
June	17
July	20
August	18
September	15
October	6
November	13
December	18

How Many Tickets Had More than One Citation?

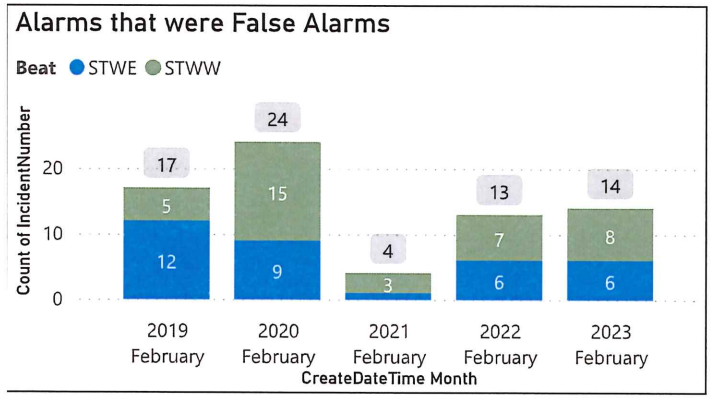
30

Alarms

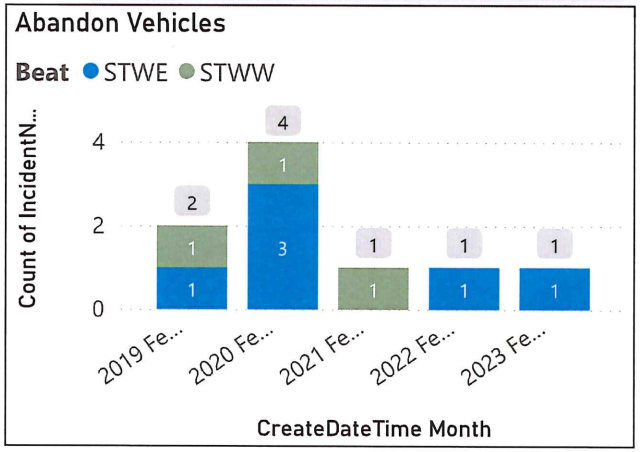


STWW & STWE

Year	Alarm
⊟ 2022	
September	11
October	13
November	14
December	16
⊞ 2023	30

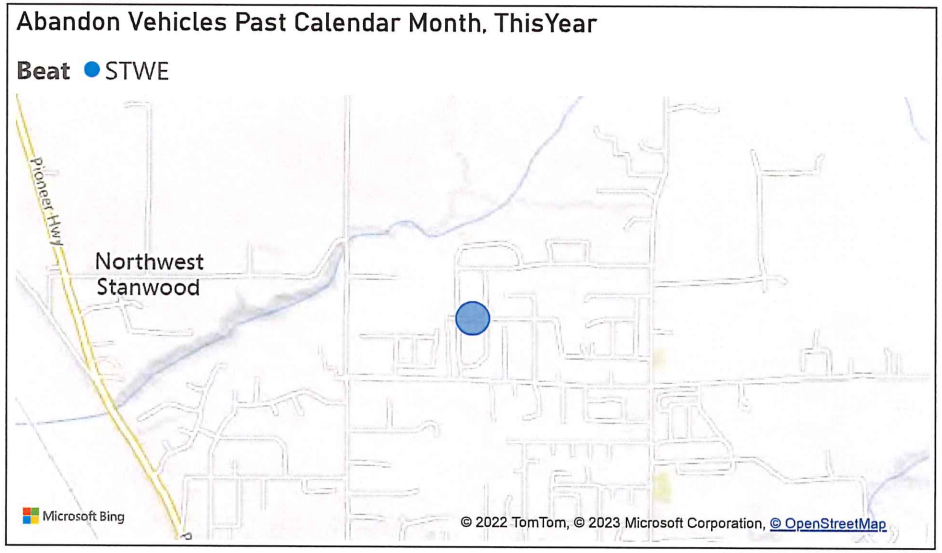


Abandon Vehicles

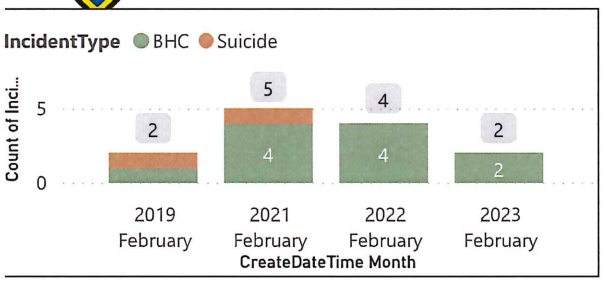


STWW & STWE

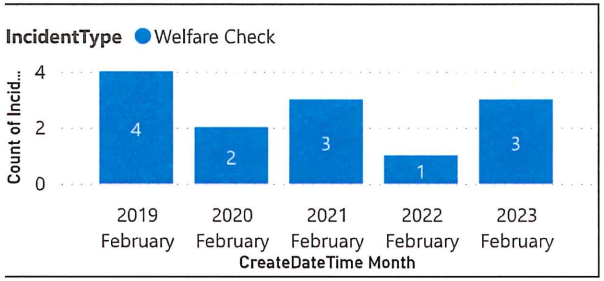
Year	Abandoned Vehicle
⊟ 2022	
September	2
October	6
November	3
December	1
⊞ 2023	5



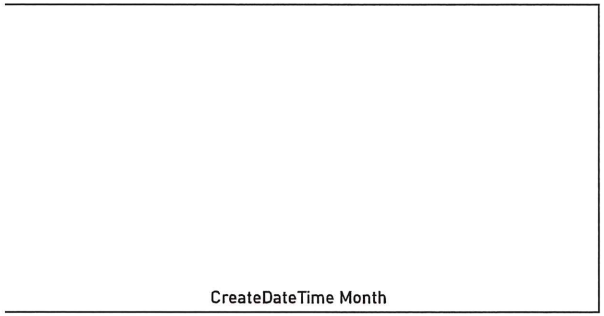
Stanwood West



Year	BHC
⊟ **2022**	
September	4
October	1
November	6
December	6
⊞ **2023**	**2**

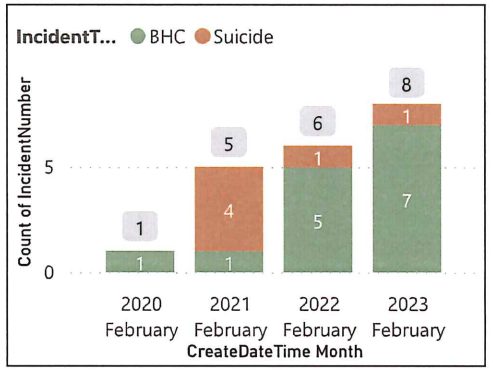


Year	Welfare Check
⊟ **2022**	
September	3
October	3
November	1
December	6
⊞ **2023**	**8**

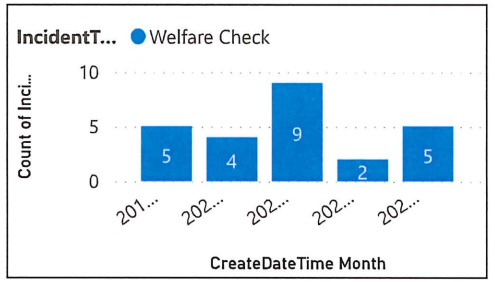


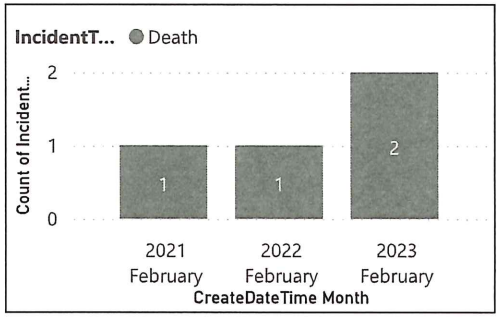
Stanwood East

Year	BHC	Suicide
⊟ **2022**		
September	4	2
October	1	1
November	3	
December	3	
⊞ **2023**	**12**	**1**



Year	Welfare Check
⊟ **2022**	
September	6
October	4
November	7
December	5
⊞ **2023**	**13**





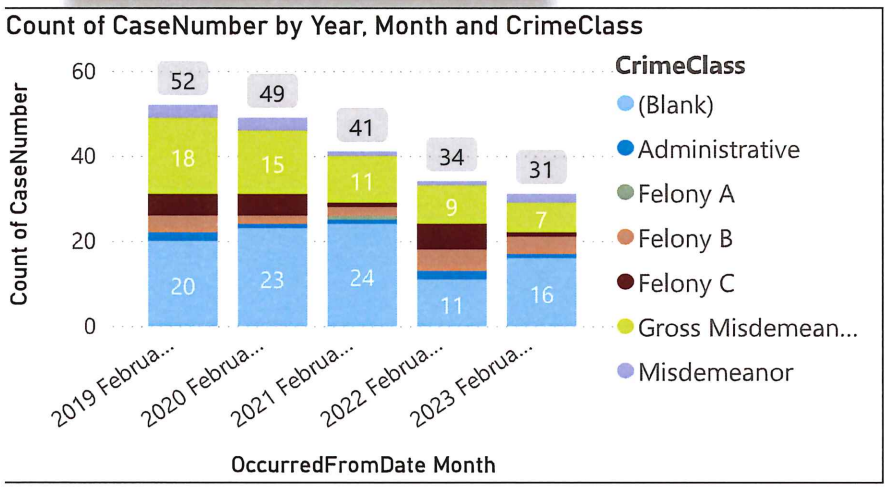


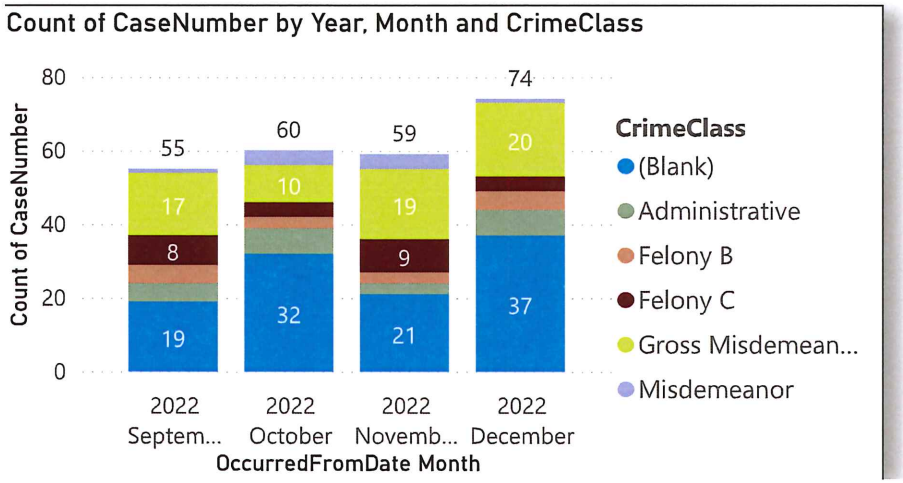
The following pages cover case data. The key difference between cases and incidents data is a Deputy has determined something did transpire that justifies writing a case report.

TOTAL CASES

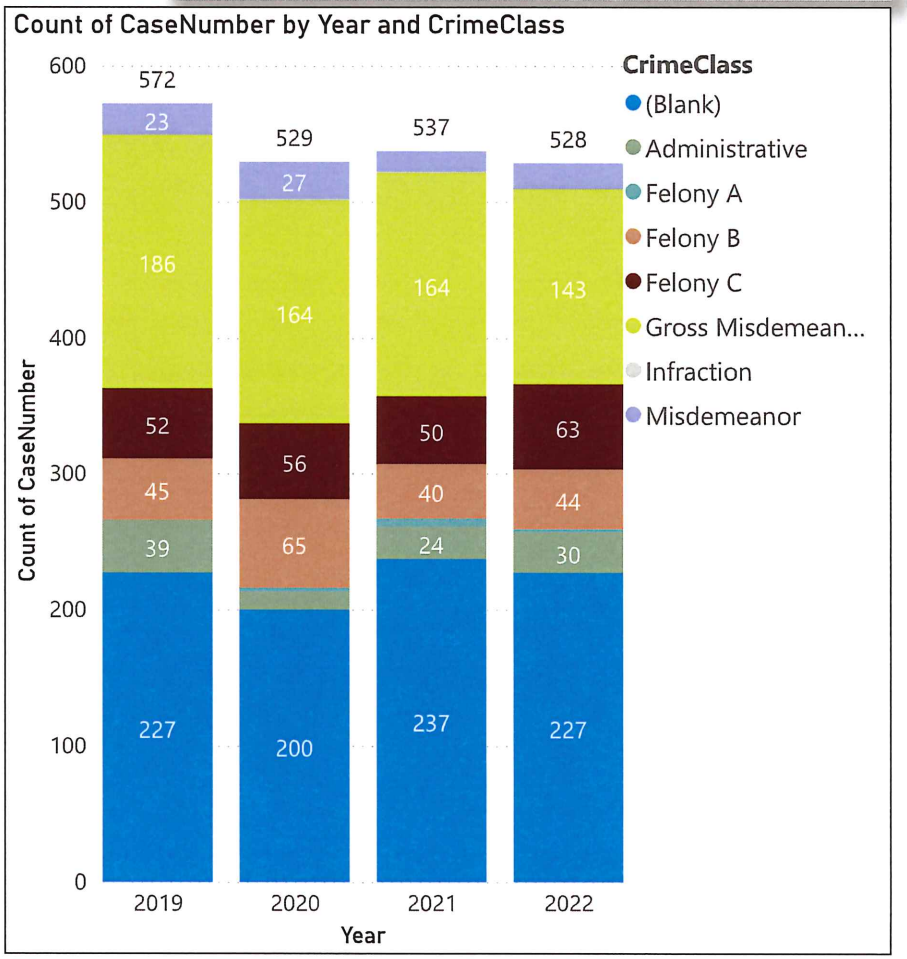
IN THE STW BEAT

Previous Month Over Time





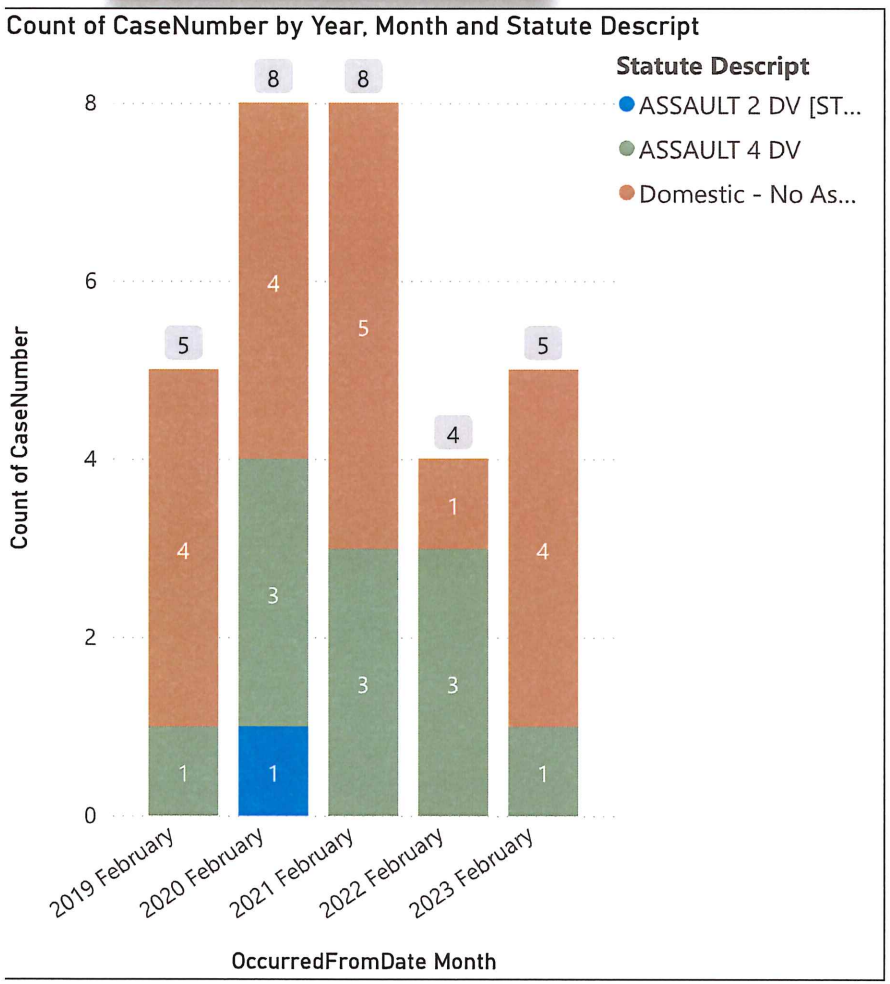
To Date by Year



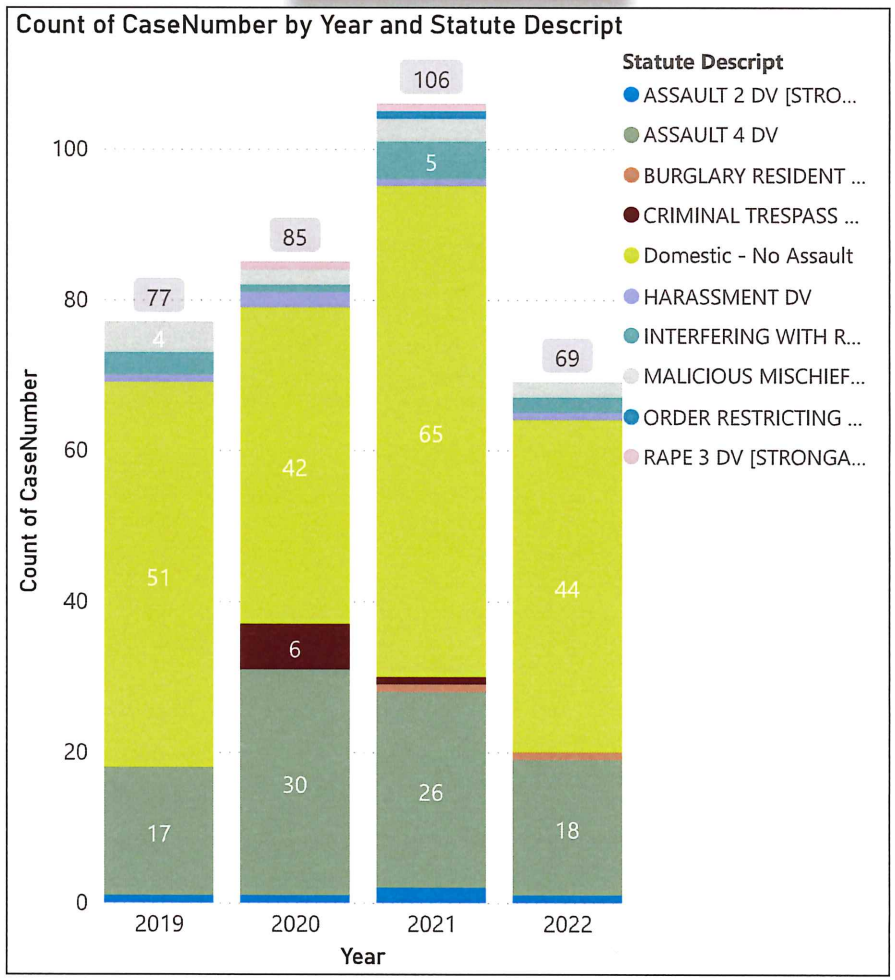
Domestic Related CASES

IN THE STW BEAT

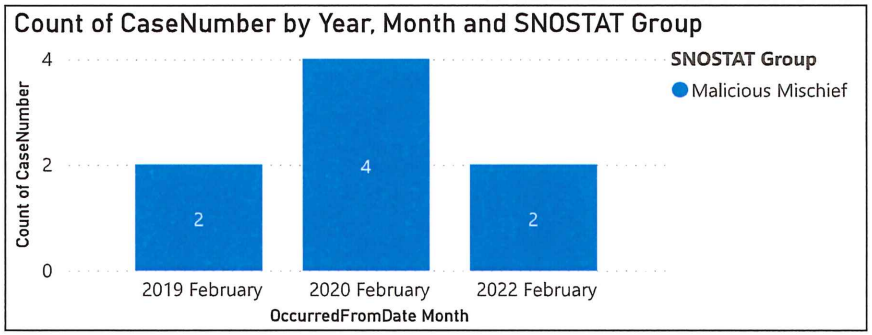
Previous Month Over Time

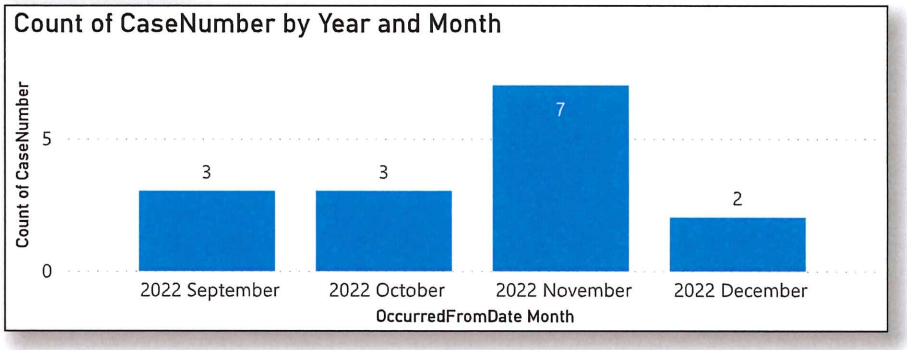


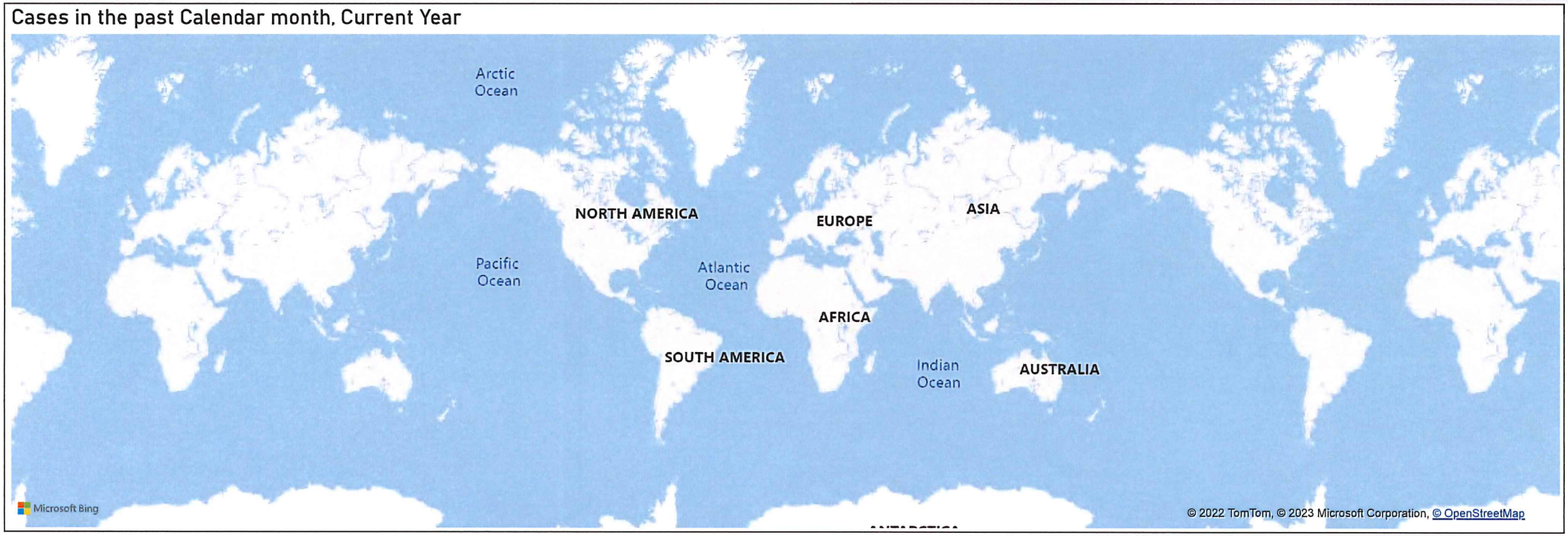
To Date By Year



Malicious Mischief CASES

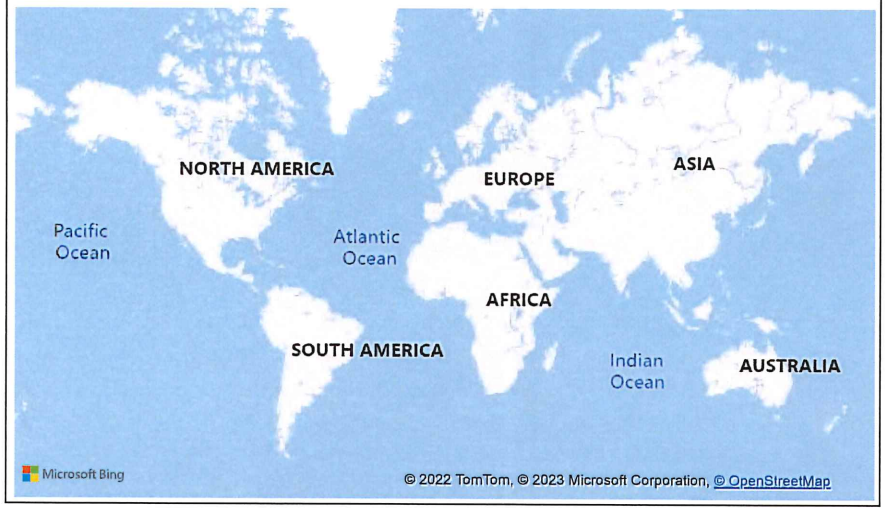




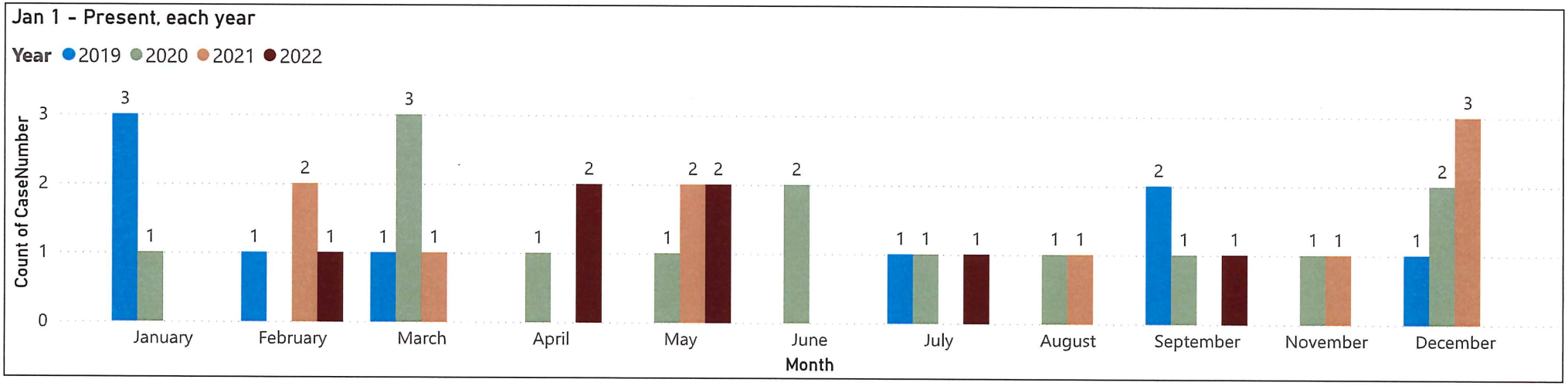


Auto Theft CASES

Past Six Calendar Months

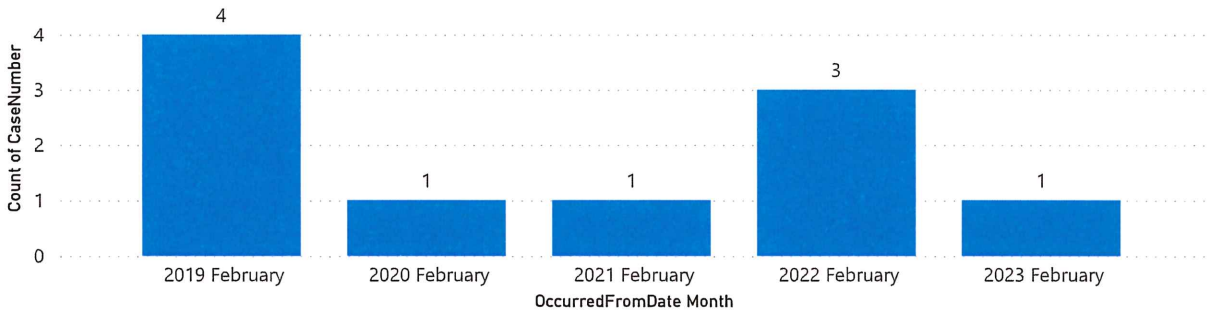


Jan 1 - Present, each year



Vehicle Prowl CASES

Count of CaseNumber by Year and Month



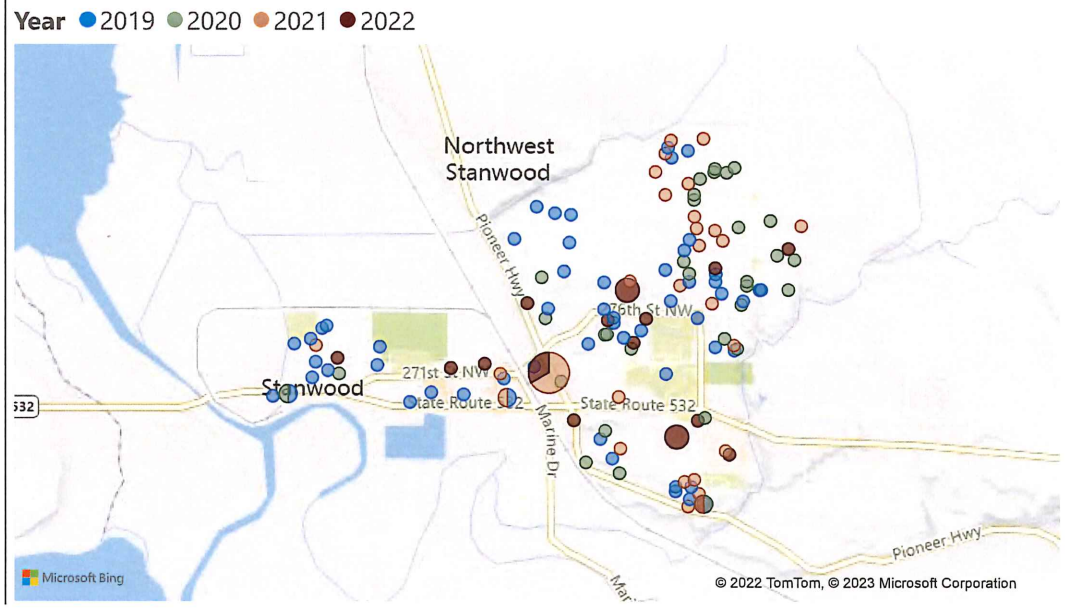
Jan 1 - Current Date, Current Year

Year	Veh Prowl 1	Veh Prowl 2	**Total**
2019	4	52	**56**
2020	1	34	**35**
2021	1	32	**33**
2022	4	18	**21**

ount of CaseNumber by Year and Month



Count of CaseNumber by Year, Lat and Lon



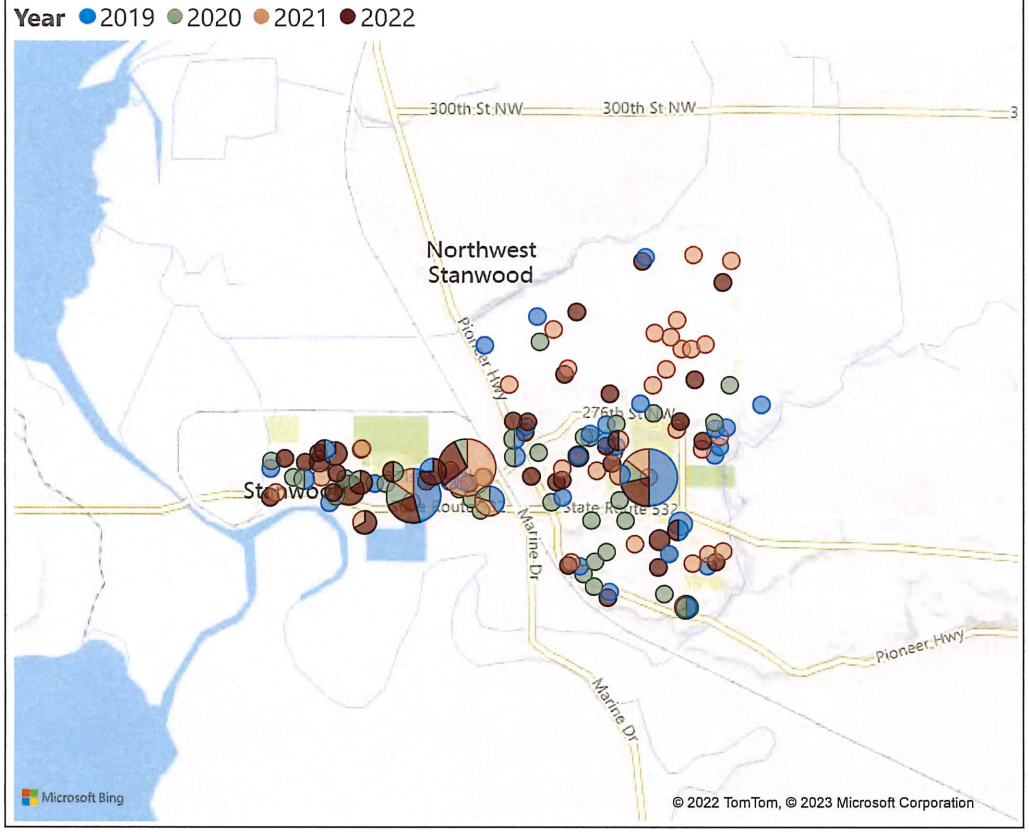
Theft CASES

Jan 1 - Current Date

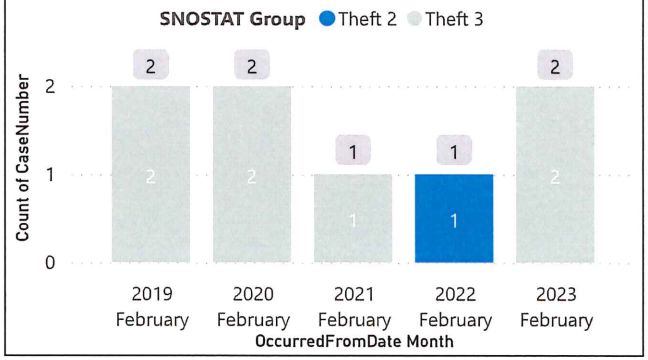
Beat	2019	2020	2021	2022
STWE	33	23	30	31
STWW	19	19	22	35
Total	**52**	**42**	**52**	**66**

Year	STWE
2022	
December	1
November	3
October	2
September	4

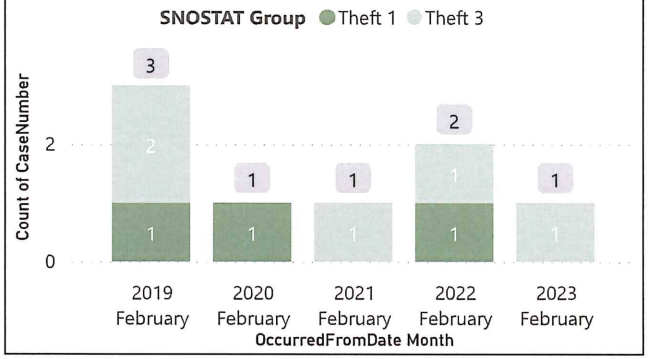
Count of CaseNumber by Year, Lat and Lon



Stanwood West



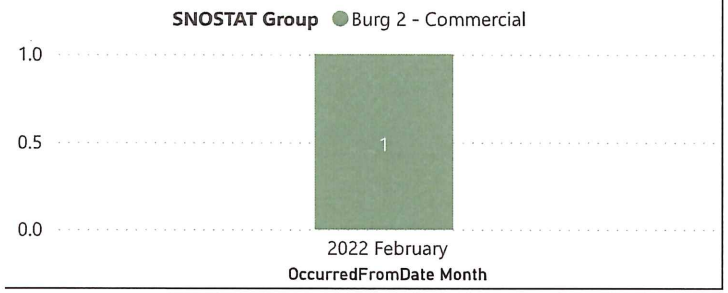
Stanwood East



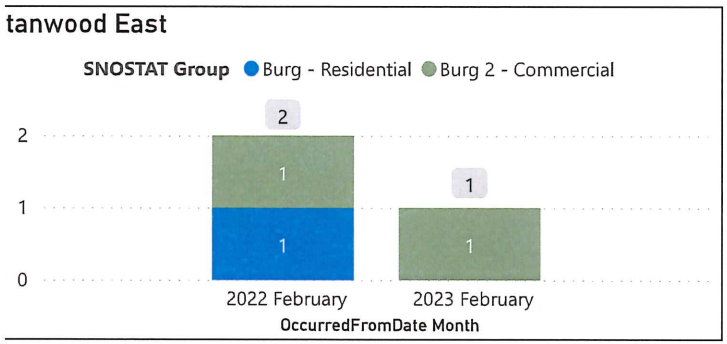
Burglary CASES

Jan 1 - Current Date		
Year	STWE	STWW
2019	13	3
2020	8	10
2021	10	6
2022	9	6

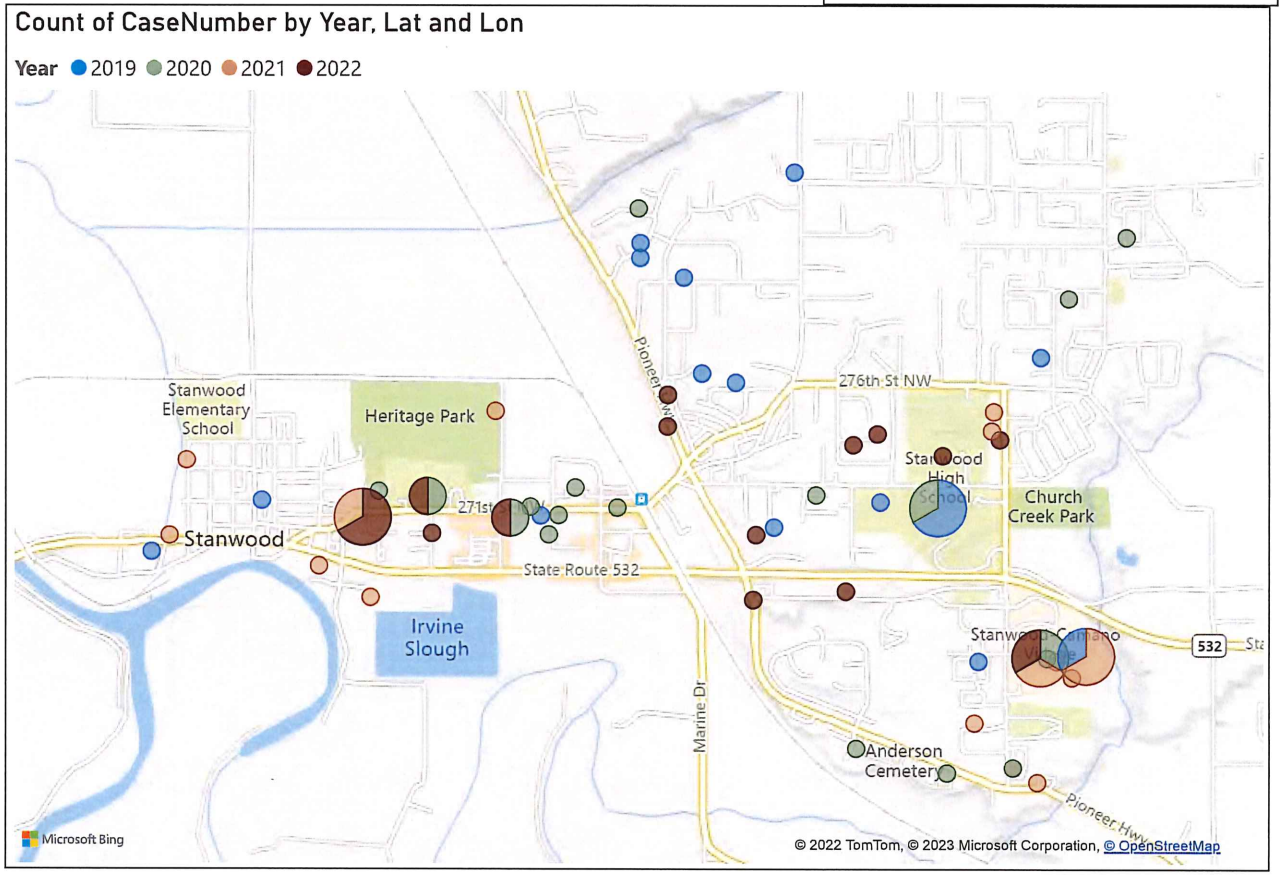
tanwood West



tanwood East



Count of CaseNumber by Year, Lat and Lon



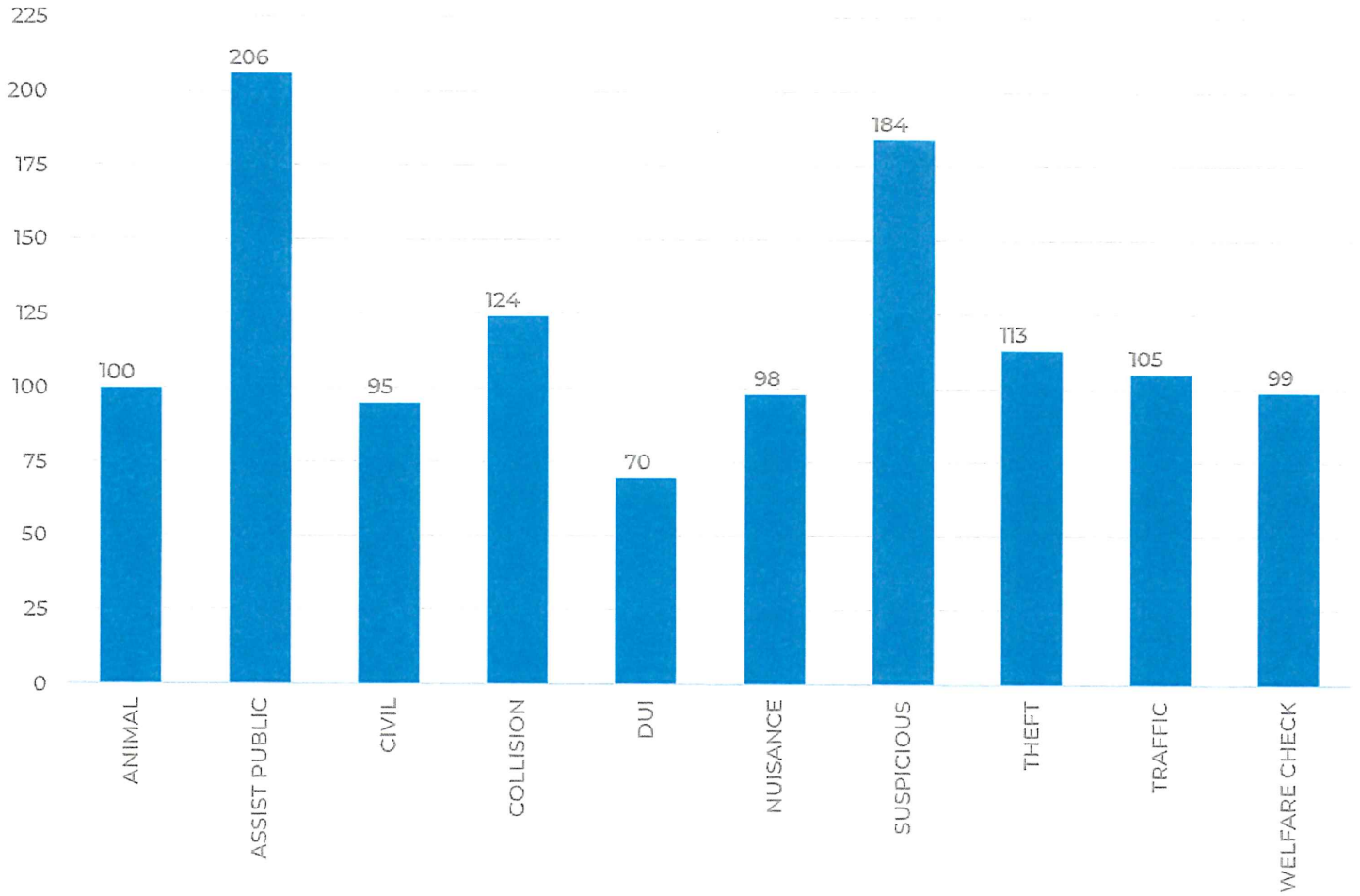
SPIDR TECH

Stanwood Police Department

Customer Communications Digest

January 1, 2022 - December 31, 2022

Top Categories - Sent Messages (CAD)



Total responses for this question: 1194

SPIDR TECH

January 1, 2022 - December 31, 2022

Insights - CAD Survey

Survey Respondents - Insights - CAD Survey

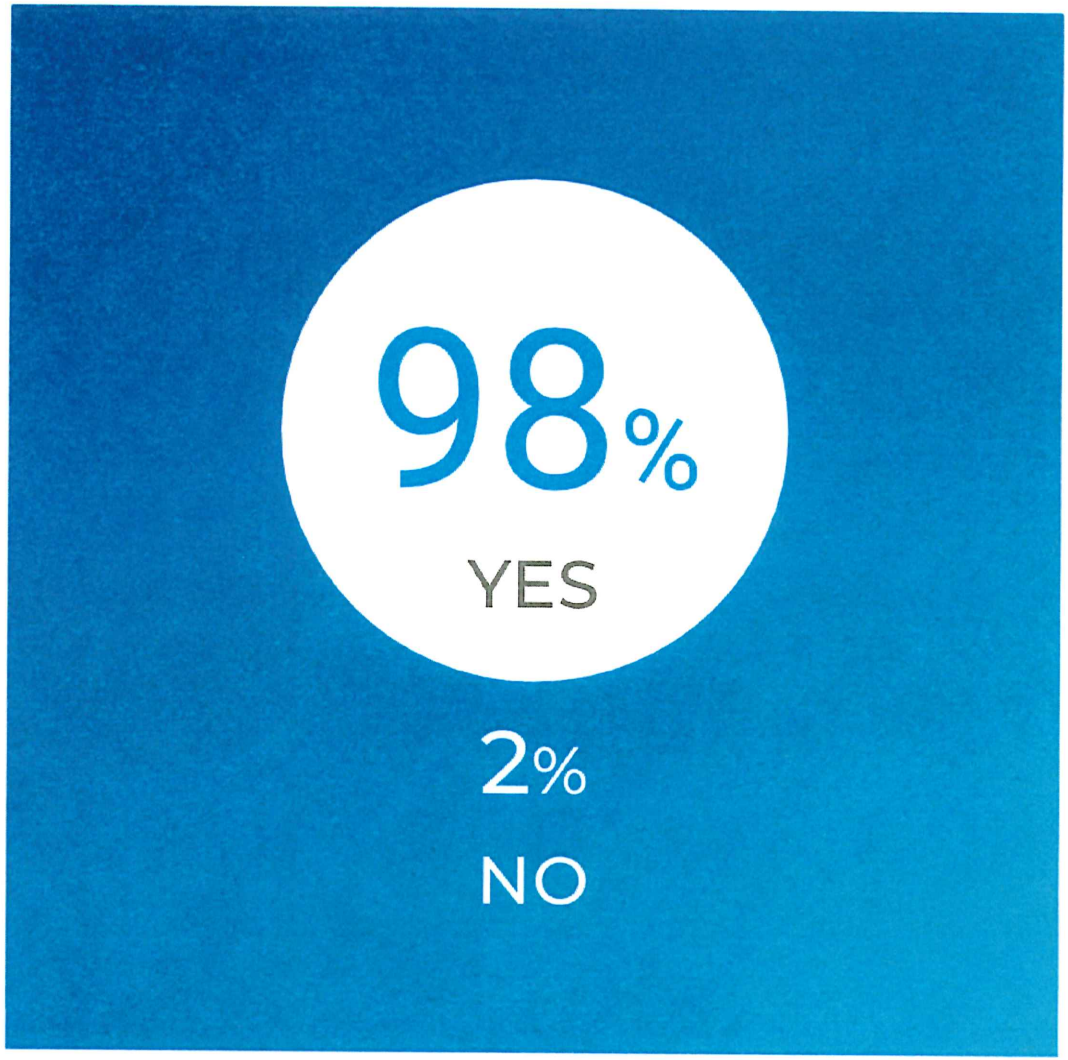
RESPONDENTS

349 +95

SPIDR TECH

January 1, 2022 - December 31, 2022

Did you recently call the Stanwood Police Department?

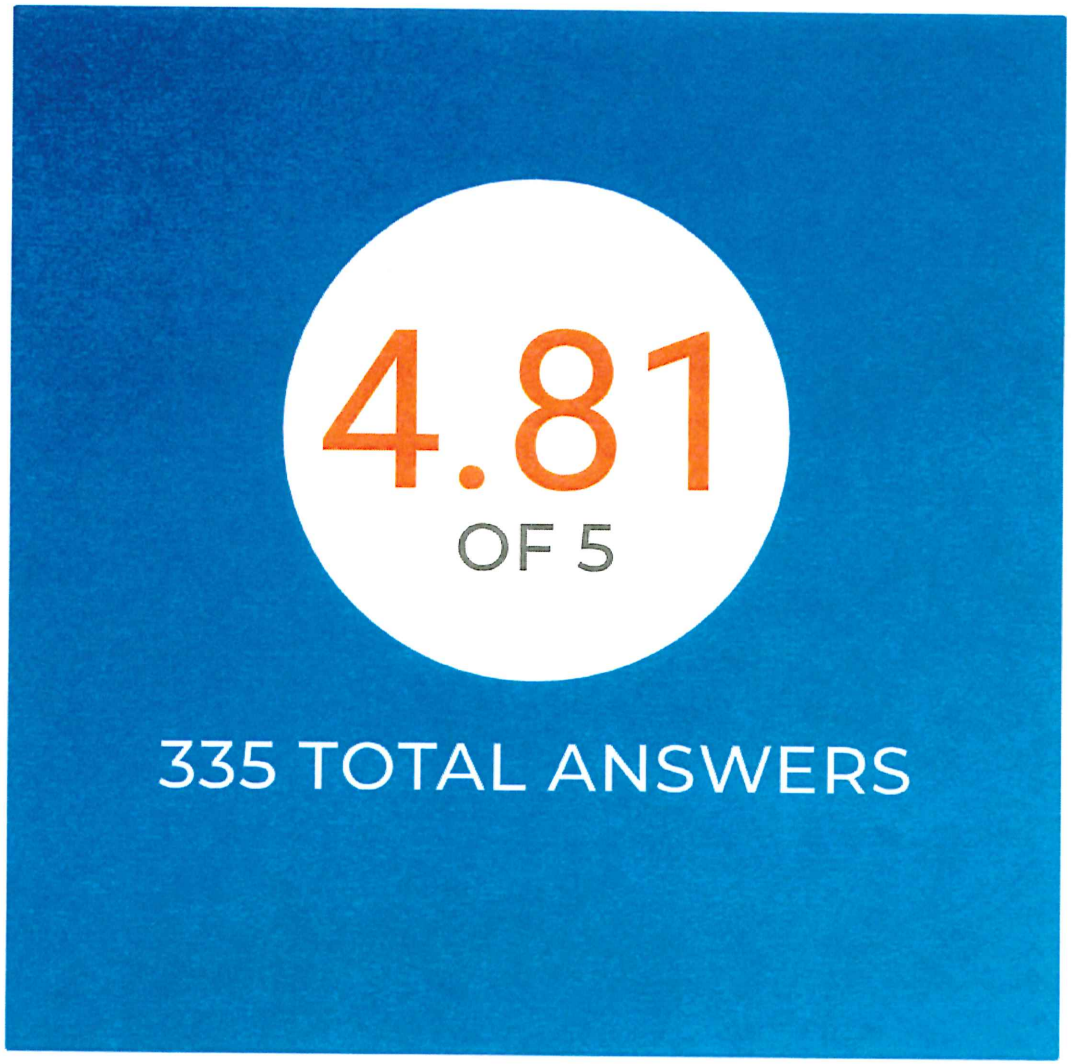


Total responses for this question: 349

SPIDR TECH

January 1, 2022 - December 31, 2022

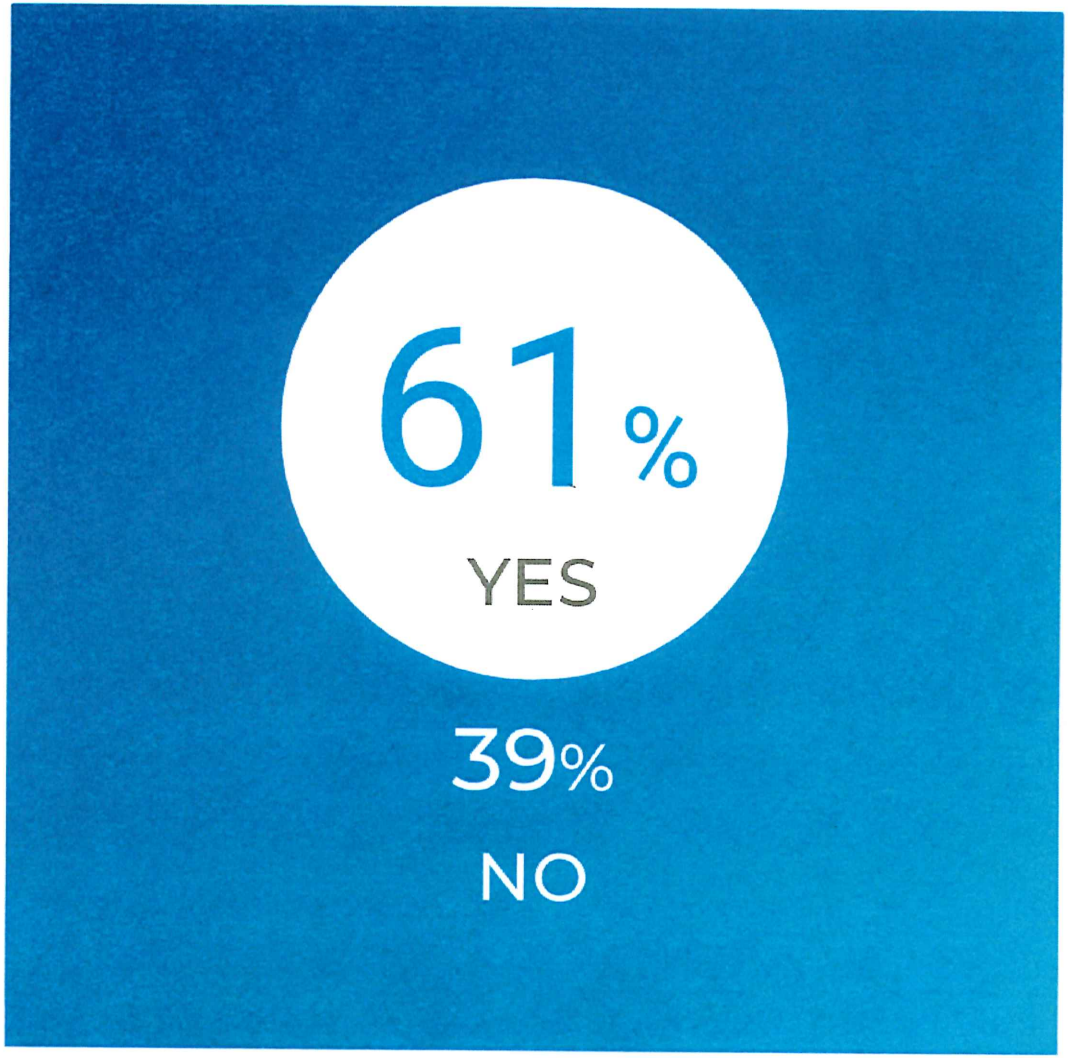
How satisfied are you with the level of courtesy and respect shown to you by the 911 dispatcher you called for police service?



SPIDR TECH

January 1, 2022 - December 31, 2022

Did you interact with a Stanwood Police Officer?



Total responses for this question: 341

SPIDR TECH

January 1, 2022 - December 31, 2022

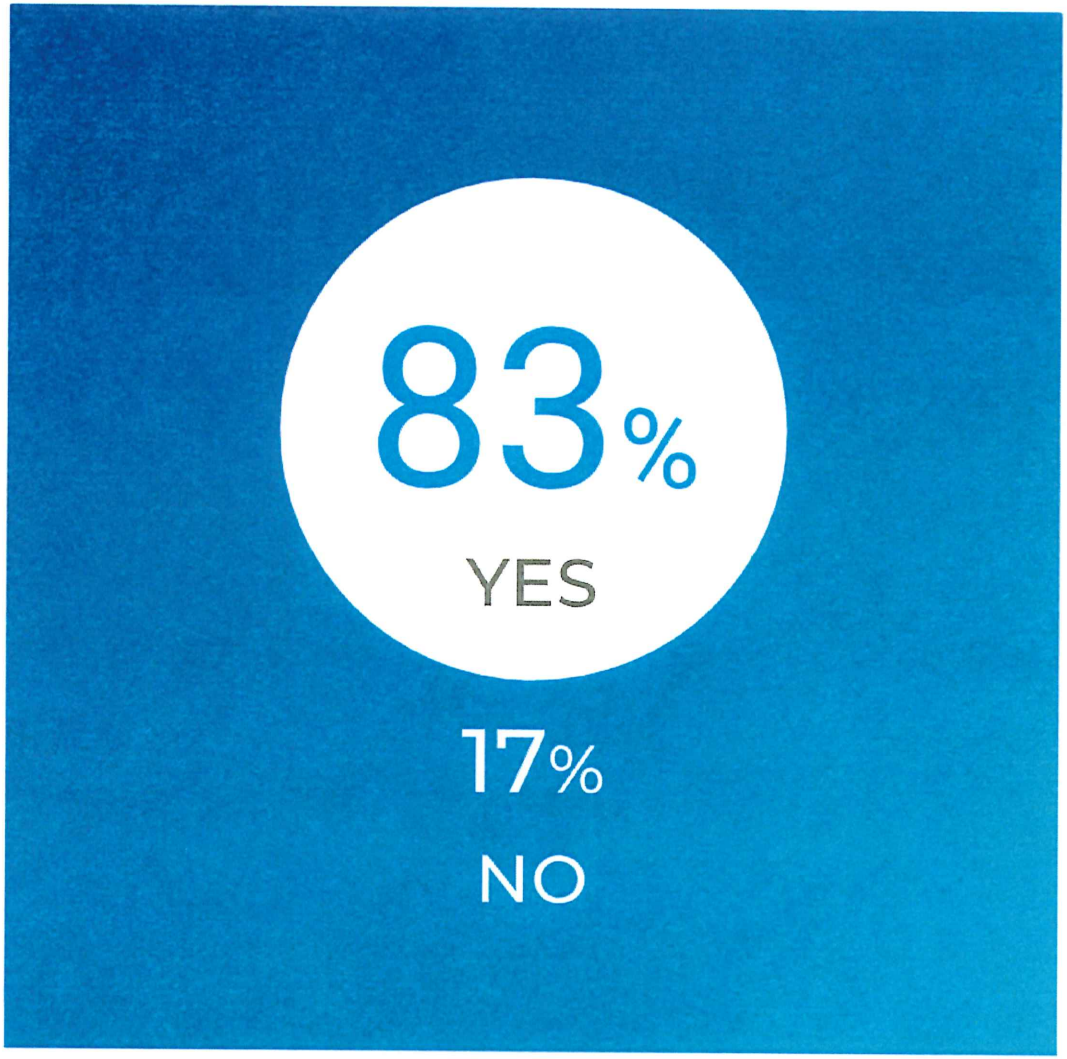
How satisfied are you with the Officer(s) who responded to your call?



SPIDR TECH

January 1, 2022 - December 31, 2022

Was your situation resolved to your satisfaction?

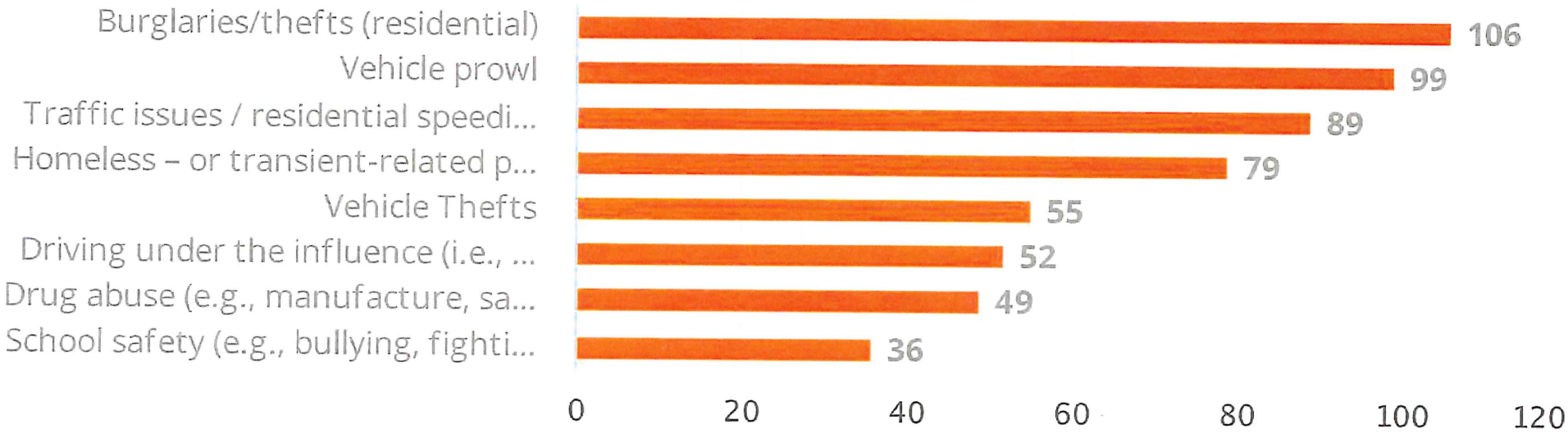


Total responses for this question: 329

SPIDR TECH

January 1, 2022 - December 31, 2022

What are the top three issues you are most concerned about in your neighborhood that the police department could assist with? (Select your top three)



CITY OF STANWOOD
COUNCIL AGENDA STAFF REPORT

ITEM NUMBER:	**7**
DATE:	March 9, 2023
SUBJECT:	Parks and Trails Advisory Committee Meeting Minutes – January 17, 2023
CONTACT PERSON:	Carly Ruacho, Senior Planner
ATTACHMENTS:	A – Meeting Minutes 1-17-2023

SUMMARY STATEMENT

Minutes from the January 17, 2023, Parks and Trails Advisory Committee Meeting are attached to this staff report for approval as presented. These minutes were approved at the February 21, 2023, Parks and Trails Advisory Committee Meeting.

Parks and Trails Advisory Committee Meeting Minutes January 17, 2023

Call to Order: 3:03 call to order

Roll call:
Gordy Holmes
Cathy Wooten
Matt Withers
Judy Williams
Lisa Bruce

Staff Present:
Carly Ruacho
Kevin Pellham
Patricia Love

Absent: Dave Hall

Citizen Comments: No Comments

Approval of Minutes: Minutes approved as written

Judy Williams moved to approve the November 21, 2022 meeting minutes as written, Second by Lisa Bruce to approve the minutes. Motion carried unanimously.

Item 4: Officer Elections
Gordy Holmes nominated Dave Hall for Chairman, Judy Williams second. No other nominees, approved by consensus.

Judy Williams nominates Gordy Holmes for Vice Chair, no other nominees, approved by consensus.

Item 5: City Beautification Project Update:
Patricia Love gave an update on the City Beautification project. Patricia explained that they will be breaking the 1-mile project into sections. She went over the different projects to accomplish the 1-mile project known as the Twin City Mile. Carly will be sending out the small version of the plan to the PTAC members to view. The committee discussed the project.

Patricia Love gave an update on the Sebranke Property project. The cleanup of the property has been completed and now they will be moving onto the design stage of the new park that is located on the corner of 271st and _--- across from the Amtrac Station. The Sebranke Project will be turned into a small city park. Patricia has reached out to city staff to help name the park and change current name of Sebranke Property to something that relates to the city of Stanwood. The committee discussed the projects.

Item 6: Volunteer Project Process:
The committee reviewed and discussed the current volunteer program and what the process is like for volunteers to sign up.

The committee discussed an unannounced project that the disc golf group was planning on doing without communication. Carly will be looking further into this process.

Parks department will look into doing a list of volunteer projects that are ready to go and can be volunteered for. There was talk about organizing a volunteer day. More conversations need to be had on this topic.

Item 7: Park/Trail Updates
Carly informed the committee on current updates to the parks. No actions were taken

Item 8: PTAC Opening
There is a current PTAC committee opening. This is posted online, and the current members were told to spread the word.

Item 9: Committee Comments
Judy Williams is excited to see actions going on!

There have been sprinkler heads ordered and the RFP has gone out to bid for irrigation at Heritage Park. Design was done in-house and money was saved. Hopefully late February the heads will be installed.

Cathy Wooten is happy there has been discussion with the disc golf group regarding the process for doing work.

Gordy asked if the PTAC opening is advertised. Yes, it is listed on the City website and social media.

Adjourn: 4:57

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CITY OF STANWOOD
COUNCIL AGENDA STAFF REPORT

ITEM NUMBER:	**8a**
DATE:	March 9, 2023
SUBJECT:	Approval of Voucher and Payroll Checks
CONTACT PERSON:	Amy Bergemeier, Accounting Specialist
ATTACHMENTS:	A - Voucher Check Detail

SUMMARY STATEMENT

Approve issuance of Washington Federal payroll electronic fund transfers in the amount of $50,200.00.

RECOMMENDED MOTION

APPROVE ISSUANCE OF WASHINGTON FEDERAL PAYROLL FUND TRANSFERS IN THE AMOUNT OF $50,200.00.

CHECK REGISTER

City Of Stanwood

Time: 07:49:06 Date: 03/01/2023

02/15/2023 To: 03/01/2023

Trans	Date	Type	Acct #	Chk #	Claimant	Amount	Memo
750	02/23/2023	Payroll	3	EFT		3,000.00	Feb 2023 Draw
751	02/23/2023	Payroll	3	EFT		1,800.00	Feb 2023 Draw
752	02/23/2023	Payroll	3	EFT		2,000.00	Feb 2023 Draw
753	02/23/2023	Payroll	3	EFT		2,500.00	Feb 2023 Draw
754	02/23/2023	Payroll	3	EFT		2,000.00	Feb 2023 Draw
755	02/23/2023	Payroll	3	EFT		1,000.00	Feb 2023 Draw
756	02/23/2023	Payroll	3	EFT		2,000.00	Feb 2023 Draw
757	02/23/2023	Payroll	3	EFT		2,700.00	Feb 2023 Draw
758	02/23/2023	Payroll	3	EFT		2,400.00	Feb 2023 Draw
759	02/23/2023	Payroll	3	EFT		4,000.00	Feb 2023 Draw
760	02/23/2023	Payroll	3	EFT		1,600.00	Feb 2023 Draw
761	02/23/2023	Payroll	3	EFT		1,000.00	Feb 2023 Draw
762	02/23/2023	Payroll	3	EFT		2,000.00	Feb 2023 Draw
763	02/23/2023	Payroll	3	EFT		2,000.00	Feb 2023 Draw
764	02/23/2023	Payroll	3	EFT		1,600.00	Feb 2023 Draw
765	02/23/2023	Payroll	3	EFT		2,000.00	Feb 2023 Draw
766	02/23/2023	Payroll	3	EFT		500.00	Feb 2023 Draw
767	02/23/2023	Payroll	3	EFT		1,500.00	Feb 2023 Draw
768	02/23/2023	Payroll	3	EFT		1,800.00	Feb 2023 Draw
769	02/23/2023	Payroll	3	EFT		1,000.00	Feb 2023 Draw
770	02/23/2023	Payroll	3	EFT		2,350.00	Feb 2023 Draw
771	02/23/2023	Payroll	3	EFT		2,000.00	Feb 2023 Draw
772	02/23/2023	Payroll	3	EFT		500.00	Feb 2023 Draw
773	02/23/2023	Payroll	3	EFT		3,450.00	Feb 2023 Draw
774	02/23/2023	Payroll	3	EFT		1,500.00	Feb 2023 Draw
775	02/23/2023	Payroll	3	EFT		2,000.00	Feb 2023 Draw
		001 General Fund				50,200.00	
						50,200.00	Payroll: 50,200.00

CERTIFICATION: I, the undersigned do hereby certify under penalty of perjury, that the materials have been furnished, the services rendered or the labor performed as described herein and that the claim is a just, due and unpaid obligation against the City of Stanwood, and that I am authorized to authenticate and certify to said claim.

( ) Finance Director ( ) Auditing Officer Wendy DeRoner Date: 3-1-2023

(X) Deputy Finance Director

CITY OF STANWOOD
COUNCIL AGENDA STAFF REPORT

ITEM NUMBER:	**8b**
DATE:	March 9, 2023
SUBJECT:	City Council Regular Meeting Minutes – February 23, 2023
CONTACT PERSON:	Lisa Sokolik, City Clerk
ATTACHMENTS:	A – Council Regular Meeting Minutes

SUMMARY STATEMENT

February 23, 2023, Regular City Council Meeting minutes are attached.

RECOMMENDED MOTION

MOTION TO APPROVE THE FEBRUARY 23, 2023, CITY COUNCIL REGULAR MEETING MINUTES AS PRESENTED.

CITY OF STANWOOD

Regular Meeting of the City Council
Thursday, February 23, 2023 – 7:00 p.m.
In-Person & Zoom Online Meeting
MINUTES

1. Call to Order and Pledge of Allegiance

Mayor Sid Roberts called the meeting to order at 7:00 p.m. Councilmember Schmitt led the Pledge of Allegiance.

2. Roll Call

City Clerk Lisa Sokolik called the roll with the following Councilmembers present: Dani Gaumond, Darren Robb, Tim Pearce, Steve Shepro, Andreena Bergman, and Tim Pearce. The meeting was quorate.

Motion by Councilmember Robb, second by Councilmember Pearce, to excuse Councilmember Marcus Metz. ***Motion carried unanimously.***

Also present: City Administrator Shawn Smith, Finance Director David Hammond, Public Works Director Kevin Hushagen, Associate Engineer Alan Lytton, Parks Planning Manager Carly Ruacho, City Attorney Nikki Thompson, Fire Chief John Cermak, Police Chief Jason Toner, Patrol Sergeant Raulie Robertson, Communications Manager Krista Hintz, and City Clerk Lisa Sokolik.

3. Approval of the Agenda

Motion by Councilmember Pearce, second by Councilmember Bergman to approve the agenda as published. ***Motion carried unanimously.***

4. Presentation

5. Public Comments

Written comments must be provided to the Clerk by 9:00 a.m. on the day of the meeting. Verbal comments may be provided by attending the meeting in person or via Zoom.

Written and Verbal:
Katrina Dohn, Tukwila, WA Topic: Fireworks Advisory Vote

6. Staff / Department Reports

7. Council Committee Reports

a. Community Development Committee Minutes – February 2, 2023

Councilmember Shepro encouraged everyone to read the Capital Improvement Plan Questionnaire when it becomes available.

b. Planning Commission Meeting Minutes – November 14, 2022 & January 10, 2023

c. Public Works Committee Minutes – February 6, 2023

Councilmember Shepro asked where we are with the continuation of the sidewalk on the north side on 276th. Hushagen answered that the City will need to work with a property owner about obtaining Right-of-Way for the sidewalk.

8. Consent Agenda

a. Approve Vouchers and Payroll Checks
b. Approve City Council Regular Meeting Minutes – February 9, 2023
c. Approve City Council Special Workshop Minutes – February 9, 2023

Motion by Councilmember Robb, second by Councilmember Gaumond to approve the consent agenda items A through C. ***Motion carried unanimously.***

9. Unfinished Business

10. Public Hearing

11. New Business

a. Approve Parks and Trails Advisory Committee Member Meagan Watne

Motion by Councilmember Gaumond, second by Councilmember Shepro to appoint Meagan Watne to the Stanwood Parks and Trails Advisory Committee, Position Seven (7), for a term ending December 31, 2025. ***Motion carried unanimously.***

b. Authorize the Mayor to Sign a Letter of Intent for the Ramaley Property

City Administrator Smith said the 1.24 acres is similar in size as the 72nd Avenue parcel so it should be large enough for a potential Police Station and Council Chambers if needed. To properly evaluate the site for civic use, a feasibility study should be prepared which includes an appraisal, geotech report, critical areas, cultural resources, and a preliminary site design analysis.

Council comment and questions:

- Why would a municipality go through this expense before a purchase and sale agreement is in place? City Attorney Thompson answered that the letter of intent says the city will enter into an agreement with the property owner and that the city will do its due diligence before finalizing the purchasing agreement.
- What will happen to the property on 72nd? Smith said that property will be sold.
- How will a site feasibility analysis be done when we don't have a building plan? Smith said we are looking at how we will access the property and looking for a flat area that would work for a building pad.

Motion by Councilmember Pearce, second by Councilmember Robb to authorize the Mayor to sign a letter of intent in a form acceptable to the city attorney to explore possible purchase of real property located at 26855 Pioneer Highway.

Roll call of votes was taken. ***Motion carried unanimously.***

c. Authorize the Mayor to Accept the Puget Sound Nutrient Reduction Grant

Motion by Councilmember Robb, second by Councilmember Shepro to authorize the Mayor to sign a grant agreement with Washington State Department of Ecology for $141,921.00 from Puget Sound Nutrient Reduction Grant program. ***Motion carried unanimously.***

d. Approve Resolution 2023-04 Placing an Advisory Measure on the November 2023 Ballot Regarding a Fireworks Ban Within the City Limits

Finance Director Hammond Love discussed the key points of this issue.

- The City currently allows the sale and use of fireworks around the July 4th holiday and on New Year's Eve.
- This is a non-binding advisory vote. It will allow residents to inform council if they are for or against prohibiting consumer sales, purchase and use of fireworks within the city limits.
- A 'yes' vote would mean the voter is in favor of banning fireworks, a 'no' vote would mean the voter is in favor of allowing the sale and use of fireworks within city limits.
- A representative from TNT sent a letter to council with an option for a modified ban.
- The City will advertise for a Pros and Cons committee.

Council comments and questions:

- CM Pearce asked if we could have more than two options? Hammond said the auditor's office said that the interpretation of the answer may be muddied and unclear with multiple choice answers, so is not allowed. Mayor Roberts added that the council can submit a second question on the ballot.

Motion by Councilmember Shepro, second by Councilmember Gaumond to adopt Resolution 2023-04, for voters of the city of Stanwood to approve or reject the advisory measure regarding a fireworks ban within the city limits.

Roll call of votes was taken. ***Motion carried unanimously.***

12. Public Closing Comments

Katrina Dohn, Tukwila, WA — Topic: The difference between a modified fireworks ban and a full fireworks ban

13. Executive/Legislative Reports

a. Mayor's Report

- The Mayor delivered the State of the City address last Monday, February 20th at the New Stanwood Commerce Alliance. Nate Nehring shared some Snohomish County updates. There were about 60 people in attendance.
- Krista Hintz, Communications Manager is leaving the City after 6 ½ years, she has worn many hats at the City, she will be missed and we wish her well.
- Encouraged Council to read and study the three title issues that were on the February 9th agenda and to contact Director Love with any questions. The titles will be on the

next council agenda as a second read and final, but if there are lots of questions there can be a third read before final adoption.

b. City Administrator Report
   - Wished Krista Hintz well in her new adventure, she will be missed. She is like a utility player on a baseball team, she can pretty much do everything, she will be hard to replace.

c. Councilmember Reports/Questions
   - Thank city staff for participating in the Great Glass Quest, the community really enjoys this event.
   - Glass Quest was great event for businesses; some business owners tallied a couple hundred people coming through daily.
   - Sorry to see you go Krista, but Good Luck!
   - Councilmember Pearce attended the memorial service for Carol Schmitt, she worked for the Stanwood Camano News for 45 years, she was a real pillar of our community. It was a well-attended service and a testimony to who she was.
   - Thank you, Krista for all you've done for Council and the Planning Commission, you will be missed.

14. Recess to Executive Session

15. Adjourn

There being no further business before the Council, and hearing no objection to adjournment, Mayor Roberts adjourned the meeting at 7:45 p.m.

CITY OF STANWOOD

Sid Roberts, Mayor

ATTEST:

Lisa Sokolik, City Clerk

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CITY OF STANWOOD
COUNCIL AGENDA STAFF REPORT

ITEM NUMBER:	**9a**
DATE:	March 9, 2023
SUBJECT:	Stanwood Municipal Code Title 1 – General Provisions
CONTACT PERSON:	Patricia Love, Community Development Director
ATTACHMENTS:	A – Ordinance 1512 Adoption of Title 1 Amendments B – Ordinance 1512 Attachment A – Code Amendment C – Title 1 Code Amendment Descriptive Notations D – Edit Tracking Form E – MRSC Initiative and Referendum Publication

PURPOSE

The purpose of this agenda item is for Council review and acceptance of the second and final reading of Ordinance 1512, adoption of updated Title 1 – General Provisions of the Stanwood Municipal Code.

SUMMARY

The general provisions listed in Title 1 of the Municipal Code establishes the foundation upon which the remaining titles and chapters structurally follow. It formally adopts the Municipal Code, establishes the numbering system, includes definitions, interpretation of words, and formally declares the City as a Noncharter Code City in the State of Washington.

A new Title 4 – Administration, has been created to logically segregate material about government administration into its own title. Portions of existing Title 1 are proposed to be moved to this new Administration Title for clarity and better code organization.

Changes to this Title 1 – General Provisions include:

- Public Noticing has been moved to Title 4 because of its administration function
- Public Works Contracts has been moved to Title 4 because of its administration function
- The following new definitions have been added: Day, Hearing Examiner, Mayor, Month, and Year
- The following new chapters have been added:
  - Numbering system methodology has been added to ensure all code sections follow the same format

- Includes state statutes for municipal code updates
- General penalty chapter has been added which creates a default penalty if other chapters of the code do not refer to penalties
- Datum plane coordinates have been added to ensure that all development designs use consistent geospatial measurements
- Either an Initiative and referendum or petition provisions have been added as selected by the City Council.

BACKGROUND

The last comprehensive update to the Stanwood Municipal Code occurred in the late 1960's. As the City has grown and development increased, so has the need for updated regulations. Fifty years of amendments has resulted in inconsistencies, conflicts and outdated regulations.

The City initiated the Municipal Code Update project in 2022 to modernize the code reflecting best practices with respect to content and administration of the code. The update is intended to be user friendly for staff, property owners and developers by 1) removing legalese and jargon unfamiliar to the lay person, 2) improving clarity and overall functionality, and 3) reflect regulatory best practices. The amendments will also be consistent with current case, state and federal laws.

Changes to the code use a "Style Guide" that applies a consistent approach to organization and drafting of the municipal code. This approach emphasizes plain language legal writing, modularity in the code organization, and avoidance of repetition to improve readability, predictability, and ease of administration. In general, titles and chapters have been reorganized for better flow and readability with similar topics being grouped together. Long, difficult paragraphs have been broken up into subsections and the "legalese" language removed.

To help guide the review of the amendments, two types of informational banners are included in the descriptive versions of each amendment. These blue- and yellow-colored bars highlight changes, recommendations and questions; it notes where new sections have been added or where moved.

Blue banner describes actions taken or issue descriptions.

Yellow banners highlight important policy issues.

Due to the sheer size of amending an entire municipal code, work has been broken into manageable pieces with similar titles, or titles that interact with each other, being processed together. The first batch of amendments will begin with the general governmental structure of the city:

Title 1 - General Provisions,
Title 2 - Personnel, and
New Title 4 – Administration.

Titles 1, 2 and 4 will be adopted as three separate ordinances, but because of the interconnectivity between the Titles, they should be adopted simultaneously.

ANALYSIS

Following the style guide mentioned above, amendments to Title 1 – General Provisions include the following:

Chapter 1.01 Code

Generally, this section follows the existing code with the application of the style guide to simplify and clarify code language and combine like sections. Three new sections have been added:

- Following best practices, new section 1.01.030(5) notes that when referencing code, the actual code section should be used not the adopting ordinance number. Code sections are easily found on the on-line electronic version of the municipal code.
- Section 1.01.040, Numbering System, has been added to ensure future code amendments follow a consistent pattern throughout the municipal code.
- Similarly, Section 1.01.050, Updates to the Code, has been added to ensure code updates follow state law requirements while being consistent with the organizational structure and flow of the municipal code.

Chapter 1.02 Interpretation

New chapter in Title 1 that describes how words should be used and applied for consistency throughout the entire municipal code.

Chapter 1.04 Definitions

This existing chapter has been modified to add new definitions and clarify a few existing definitions. Definitions in Title 1 apply throughout the municipal code unless modified in succeeding titles and chapters.

Chapter 1.10 Noncharter Code City

Existing chapter removing legalese language. Eliminates historical reference to the city as a town.

Chapter 1.12 General Penalty

At the request of the City Attorney a general penalty chapter has been added to ensure there is a default penalty section if other chapters of the code do not refer to penalties. This can be an issue if a code violation is found and there are no specific penalty provisions. Without general penalty provisions it restricts the ability of the Police Department or Code Enforcement to obtain compliance.

Chapter 1.14 Datum Plane

New chapter establishing the baseline requirements for vertical and horizontal elevation measurements in the city.

Chapter 1.22 Initiative and Referendum

In 2022 Councilmember Shepro requested that the Council adopt an initiative and referendum code amendment. This request was postponed at the time and forwarded for inclusion in the Municipal Code Update project. Title 1 – General Provisions, is the logical place to incorporate these provisions and has been added to facilitate Councils review and debate of the issue.

As proposed in the draft ordinance, the initiative and referendum process is a short chapter as it adopts the Revised Code of Washington (RCW) governance procedures.

- Power of Initiatives: Allows voters to directly enact a new ordinance; and
- Power of Referendum: Allows voters to reject / overturn legislation adopted by the City Council.

Adoption of Initiative and Referendum powers is a policy decision of the local legislative body; it is not mandated by the State of Washington. There are 197 Code Cities in the State of Washington and 56 cities, or approximately 28%, have adopted the powers of initiative and referendum.

As a comparison, all of the 10 first class cities, or 100%, in Washington have adopted these powers. First class cities, as defined by RCW 35.01.010, are cities that have a population of 10,000 or more at the time of organization or reorganization and have adopted a charter under article XI, section 10 of the state constitution.

Code Cities

Initiative and referendum powers are available to code cities, but they are not automatic powers either at the time of incorporation or reclassification as a code city. Code cities must formally adopt these powers (RCW 35A.11.010). The following code cities have adopted the powers of initiative and referendum.

Battle Ground (1987)	Goldendale	Olympia (1978)
Bellevue (1975)	Issaquah (1986)	Port Angeles (2006)
Black Diamond (2012)	Kahlotus (1981)	Puyallup (2012)
Blaine (1989)	Kalama (2022)	Rainier (2002)
Bonney Lake (2003)	Kelso (Charter city)	Redmond (1982)
Bothell (1974)	Kenmore (2022)	Renton (1973)
Brier (1991)	Kent	Ridgefield (1991)
Burien (1993)	La Center (2010)	Sammamish (2015)
Camas (1988)	Lakewood (2006)	SeaTac (1989/1990)
Chelan (1983)	Lake Forest Park (1994)	Sequim (1996)
Cheney (1993)	Longview (1983)	Shoreline (1998)
Clarkston (1994)	Lynnwood (1997)	Spokane Valley (2005)
Des Moines (1990)	Mercer Island (1978)	Tukwila (1991)
Edgewood	Mill Creek	Tumwater (1997)
Edmonds (1985)	Monroe (1997)	Walla Walla (1995)
Ellensburg (1991)	Mountlake Terrace (1990)	Washougal (2007)
Federal Way (1992)	Mukilteo (1993)	Wenatchee (2002)
Ferndale (1999)	North Bend (2002)	Woodinville (1995)
Gig Harbor (2020)	Ocean Shores (1992)	

Source: Municipal Research and Service Center of Washington (MRSC)

MRSC publication *Initiative and referendum Guide* (August 2022) attached to this staff report lays out two general schools of thought regarding these powers: those who favor voter participation and those who that believe governance should be decided by elected representatives. Below is an excerpt from their referendum guide summarizing arguments for and against initiative and referendum powers being adopted.

Arguments For and Against

The use of initiative is direct democracy at its most fundamental level. It is favored by those who value widespread voter participation both in choosing candidates and in drafting and deciding upon legislation. It is an attempt to enlarge the role of the electorate while at the same time diminishing the power of the elected representatives, in this case the city or charter county council-members.

The classic arguments for initiative powers have changed little since the initiative and referendum process was introduced in its present form in this country in the early twentieth century. Proponents argued that the initiative process would neutralize special interest groups, curtail corruption, provide a vehicle for civic education, and put pressure on public officials to act in the public interest. Supporters claimed that the initiative process was the culmination of the steady advance of the broadened franchise and direct democracy in this century.

Those opposed to the use of initiative power are basically supporters of representative democracy. They stress the need for knowledge and deliberation in the drafting of legislation and the daily business of governing. While those favoring this position are often accused of being undemocratic and lacking faith in the people, they assert that the most important democratic act is the selection of representatives.

Critics of the initiative process argue that it is a dangerous device that undercuts representative government by taking lawmaking out of the hands of the legislators elected to do the job. Complex issues are reduced to fast "yes" or "no" decisions by voters who may be swayed by misleading television or other commercials paid for by special interest groups. Initiatives may be crudely drafted and no allowance made for the usual give and take of the legislative process, which often results in the kind of compromises that make laws more workable.

Both sides agree that most of the business of governing cannot be decided directly by the people but must be decided by elected representatives. Therefore, the power of initiative is always recognized as a supplement to the normal legislative process.

The same basic philosophical arguments apply to the power of referendum as apply to the initiative power.

Source: Page 3, MRSC Publication *Initiative and referendum Guide*

Below are some things to consider when evaluating whether or not to adopt the Initiative and Referendum powers:

Pro's	**Con's**
Provides residents with a direct voice on legislative issues by providing a forum to enact meaningful policy changes. Public disclosure and "car tab" initiatives are two examples of Washington State initiatives	Putting measures on the ballot usually incurs costs to the city to pay the county to administer the election, and may result in a multi-month delay before the ordinance could go into effect, as a referendum

Pro's	Con's
that addressed important issues to Washington State voters.	petition suspends the operation of the ordinance that is the subject of the petition. Receiving multiple initiatives and / or referendums can be time consuming and expensive.
Initiatives and referendums hold government accountable to the people who elect them.	An ordinance enacted by initiative cannot be repealed or amended except by a vote of the people. RCW 35.17.340.
Ballot initiatives and referendums generally create more interest, therefore higher voter turnout, in elections.	Once adopted, these powers are simi-permanent as they can only be restricted or abandoned by vote of the people.
	Potential on-going litigation over the constitutionality of the measure, which can only occur after the initiative / referendum is enacted.

Other issues that should be understood prior to adoption:

- Powers only apply to ordinances and not resolutions.
- The statute does not provide for the City Council to itself submit a measure to a binding vote absent a petition from the voters, although even without adoption of these powers, the City Council may submit a measure for a non-binding advisory ballot at any time.
- The City does not have the authority to prescribe the procedural rules for initiative and referendum; instead, RCW 35A.11.100 provides that the powers of initiative and referendum in non-charter code cities must be exercised in the manner set forth in RCW 35.17.240 through 35.17.360.
- RCW 35A.11.100 sets the threshold number of signatures of 15% of the total number of registered voters on the day of the last preceding city general election.

Alternative Approach: Petition for Advisory Vote Process:

As an alternative to the initiative / referendum process, the Council may elect to adopt an advisory vote process. There are two ways to put advisory votes on the ballot: government sponsored or citizen initiatives. Advisory votes are non-binding ballot measures where voters are asked a question and are used to get direct citizen feedback on issues.

The difference between an advisory vote and the initiative / referendum process is that the outcome of the advisory question will not result in new or changed laws. Rather, advisory questions allow voters to voice their opinions on an issue and allows elected officials to gauge public will on the issue being presented. The result of the advisory vote is then used by local or state governments to make informed decisions on whether to draft new laws or reject requests.

If the advisory vote process is selected for inclusion in the ordinance by the Council, the city would still incur election costs as noted above in the initiative / referendum section.

The optional advisory vote procedure requires:

- Submittal of a signed petition with at least 10% of those voting in the last general municipal election.
- Once Council receives the petition, they have three options:
    1. Adopt the proposed legislation through normal adoption methods;
    2. Place the petition question on the ballot within 12 months; or
    3. Reject the petition

Council Policy Decision Issue:

There is one significant policy issue in Title 1 that will need to be decided before the final reading:

- Adopt Initiative / Referendum or Petition Advisory Vote code language

Fiscal Impact			
No direct financial impact. Code work was already budgeted and approved through the Municipal Code Update Project contract and scope of work.			
Fund(s):	Staff Time		
Amount:	$	**Project Estimate:**	$ -
Budget Authorized	**[ ] Yes [ ] No**	**Amendment Required**	**[ ] Yes [ ] No** **[ ] Monitor**

RECOMMENDATIONS

Staff Recommendation:

Staff recommends that the Council accept the second reading of the proposed amendments and proceed with adoption.

Committee/Board Recommendation:

The Advisory Group, Planning Commission and City Council Community Development Committee have all reviewed the proposed amendments to Title 1 and have forwarded their recommendation to adopt the amendments. All groups have recommended adoption of the changes and support adding the initiative and referendum section as they felt it gives voice to constituents if needed.

CITY COUNCIL OPTIONS

1. Accept the second and final reading of Ordinance 1512 adopting an updated version of Title 1 – General Provisions, relating to the general organizational structure of the City and the Municipal Code.

2. Request changes to Ordinance 1512 and direct staff to prepare a third reading of the ordinance.

PROPOSED MOTIONS

Motion1:
I MOVE TO INCLUDE THE INITIATIVE / REFERENDUM PROCESS IN DRAFT TITLE 1, GENERAL PROVISIONS OF THE STANWOOD MUNICIPAL CODE.

Or

I MOVE TO INCLUDE THE ADVISORY VOTE PROCESS IN DRAFT TITLE 1, GENERAL PROVISIONS OF THE STANWOOD MUNICIPAL CODE.

AND

Motion 2:
I MOVE TO APPROVE THE SECOND AND FINAL READING OF ORDINANCE 1512 AS SET FORTH IN ATTACHMENT "A" AMENDING TITLE 1 – GENERAL PROVISIONS OF THE STANWOOD MUNICIPAL CODE.

OR

I MOVE TO APPROVE THE SECOND READING OF ORDINANCE 1512 WITH EDITS TO ATTACHMENT "A" AMENDING TITLE 1 – GENERAL PROVISIONS OF THE STANWOOD MUNICIPAL CODE AND PROCEED WITH THE THIRD AND FINAL READING ON MARCH 23, 2023.

ATTACHMENT A

CITY OF STANWOOD
WASHINGTON

ORDINANCE NO. 1512

AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, AMENDING STANWOOD MUNICIPAL CODE (SMC) TITLE 1 - GENERAL PROVISIONS, AND ESTABLISHING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Stanwood has begun a process to comprehensively update its municipal code to conform to current law and practice; and

WHEREAS, the purpose of this code amendment is to eliminate conflicts, improve clarity and overall function of the municipal code, and reflect current city and best practices;

WHEREAS, amendments to Title 1, General Provisions, improves the flow and organization of the chapter; removes procedural processes from the general provisions, updates definitions and adds new Datum Plane and Initiative and Referendum chapters; and

WHEREAS, the amendment establishes clear guidelines for future code amendments to ensure consistency throughout the municipal code; and

WHEREAS, a general penalty section has been added to ensure such provisions apply throughout the municipal code if missing from other chapters; and

WHEREAS, the City of Stanwood SEPA Responsible Official has reviewed the proposed amendments to the Stanwood Municipal Code, determined that the amendments are categorically exempt from SEPA, and memorialized those conclusions under file number 220162; and

WHEREAS, the Stanwood Advisory Group reviewed the draft ordinance at their November 30, 2022, regular meeting and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the Stanwood Planning Commission and Community Development Committee reviewed the draft ordinance at a November 14, 2022, joint meeting and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the City Council held a public meeting and first reading of the draft code amendment on February 9, 2023 and their second and final reading on March 9, 2023 and accepted public comment; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Code Revisions. Stanwood Municipal Code Title 1, General Provisions, is repealed in its entirety and replaced with the new Title 1, General Provisions, as provided in Exhibit "A" attached to this ordinance and incorporated herein by reference as if set forth in full.

Section 2. Severability. The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 3. Authority to Make Necessary Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's clerical errors, references, ordinance numbers, section/subsection numbers and any references thereto.

Section 4. Effective Date. This Ordinance shall take effect five days after its passage and publication as required by law.

PASSED AND APPROVED by the Stanwood City Council this ____ day of _____ 2023.

CITY OF STANWOOD

_____
Sid Roberts, Mayor

ATTEST:

By: _____
Lisa Sokolik, City Clerk

APPROVED AS TO FORM:

By: _____
Nikki Thompson, City Attorney

Date of Publication: _____
Effective Date: _____

DRAFT

Attachment A

Title 1 General Provisions

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Chapter 1.01 Code

1.01.010 Adoption

This code is adopted pursuant to RCW 35A.21.130.

1.01.020 Content of this code.

This code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the City of Stanwood, Washington.

1.01.030 Title—Citation—Reference.

(1) This code may be cited as the "Stanwood Municipal Code" or by the initialism "SMC."

(2) It is sufficient to refer to this code as the "Stanwood Municipal Code" in any prosecution for the violation of any provision thereof or in any proceeding at law or equity.

(3) It is sufficient to designate any ordinance adding to, amending, correcting, or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the "Stanwood Municipal Code."

(4) Reference to the titles, chapters, and sections of the "Stanwood Municipal Code" apply to that numbered title, chapter, or section as it appears in the code.

(5) Whenever this code requires a sign to be posted to provide notice of a law or rule, it must include reference to the provision in the Stanwood Municipal Code, not to the ordinance number.

(6) Whenever a reference is made to this code as the "Stanwood Municipal Code" or to any portion thereof, or to any ordinance of the city of Stanwood, Washington, the reference applies to all amendments, corrections, and additions heretofore, now or hereafter made.

1.01.040 Numbering system.

(1) This code is numbered with the same tri-part system of numbering used in the Revised Code of Washington, in the form SMC X.YY.ZZZ (Title.Chapter.Section).

   (a) The first number is one or two digits that designates the title.

   (b) The second number is two digits, with a leading zero as necessary, that designates the chapter.

   (c) The third number is three digits, with leading zeros as necessary, that designates the section.

   (d) Paragraphs within each section are numbered with a hierarchical numbering scheme in the form (1)(a)(i)(A)(I).

(2) A single subject within the code should be organized into a chapter, unless the subject is so broad as to require an entire title.

1.01.050 Updates to the code.

(1) This code may be amended pursuant to per State law.

(2) As a codification of ordinances, this code may only be amended by ordinance, except for the correction mechanisms described in RCW 35.21.500, which may be directed by resolution.

(3) The City Council should take action by ordinance to enact or amend a local law, to create permanent policies for governance of the city, or when directed by state law to take a particular action by ordinance. The City Council should codify ordinances that enact or amend local laws or create permanent policies for governance of the city. When the City Council desires to include such an ordinance within this code, the City Council must include direction to codify the ordinance or otherwise amend the code in the text of the ordinance.

(4) Per RCW 35A.12.130, no section of the code may be revised and amended unless the ordinance amending the code section sets forth the revised section in full.

(5) Per RCW 35A.12.130, no ordinance may contain more than one subject, and that subject must be clearly expressed in its title.

(6) If the existing code section need only be amended, the text of the ordinance should expressly amend the code sections as follows:

   "Section X.YY.ZZZ is hereby amended to read as follows:"

(7) If the prior code section is to be totally replaced by the new ordinance, the text should specifically repeal the prior code section by stating:

   "Section X.YY.ZZZ is hereby repealed."

(8) Chapters and titles may be amended or repealed in a similar manner.

1.01.060 Title, chapter, and section headings.

Title, chapter, and section headings contained within this code may not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any part of this code.

1.01.070 Effect of code on past actions and obligations.

(1) The provisions of this code may not in any manner affect matters of record which refer to, or are otherwise connected with ordinances that are herein specifically designated by number or otherwise and which are

included within the code. Such reference must be construed to apply to the corresponding provisions contained within this code.

(2) The adoption of this code, or the repeal or amendment of any ordinance or part or portion of any ordinance, may not:

(a) affect in any manner the prosecution for violations of ordinances committed prior to the effective date of the ordinance codified in this chapter;

(b) be construed as a waiver of any license, fee, or penalty at the effective date of the ordinance codified in this chapter, due and unpaid under such ordinances;

(c) be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, or the penal provisions applicable to any violation thereof;

(d) affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed, or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining continue in full force and effect.

1.01.090 Severability.

If any section, subsection, sentence, clause, or phrase of this code is for any reason held to be invalid or unconstitutional, such decision may not affect the validity of the remaining portions of this code. The City Council declares that it would have passed this code, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances will be in full force and effect.

Chapter 1.02 Interpretation

1.02.010 Applicability

This chapter applies to the entirety of the Stanwood Municipal Code unless specifically provided otherwise.

1.02.020 Interpretation

(1) All words used within this code have their normal and customary meanings unless specifically provided otherwise.

(2) Statements of purpose, policy, or intent throughout this code are explanatory but not by themselves binding.

(3) Words used in the present tense include the past and the future tenses and vice versa.

(4) Singular words include the plural, and the plural the singular.

(5) Any gender includes the other genders.

(6) Distances are measured horizontally unless provided otherwise.

(7) The use of the title of any officer, employee, department, board, or commission means that officer, employee, department, board, or commission of the city.

1.02.040 Words of authority

(1) "May" means "has authority to" or "is permitted to."

(2) "May not" means "is not permitted to."

(3) "Must" means "is required to."

(4) "Must not" means "is required not to."

(5) "Shall" conveys a mandatory instruction or duty.

(6) "Shall not" means "has a duty not to."

(7) "Will" expresses a subsequent action or obligation or a future contingency.

1.02.060 Symbols

(1) The < symbol means "less than."

(2) The ≤ symbol means "less than or equal to."

(3) The > symbol means "greater than."

(4) The ≥ symbol means "greater than or equal to."

1.02.080 Computation of timespans

Except when otherwise provided, the timespan within which an act is required to be done must be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it must also be excluded.

Chapter 1.04 Definitions

1.04.010 Applicability

This chapter applies to the entirety of the Stanwood Municipal Code unless specifically provided otherwise.

1.04.020 Definitions

The following words and phrases whenever used in the ordinances of the city must be construed as defined in this chapter unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases.

“City” means the city of Stanwood, Washington, or the area within the territorial limits of the city of Stanwood.

“Council” means the city council of Stanwood.

“County” means the county of Snohomish, Washington.

"Day" means calendar day unless otherwise specified.

"Hearing examiner" means the officer appointed pursuant to SMC Chapter 2.22. Unless the context requires otherwise, the term “hearing examiner” includes any hearing examiner pro tem who may be appointed.

“Law” means applicable federal law, the Constitution and statutes of the state of Washington, the ordinances of the city, and when appropriate, general law, and any and all rules and regulations which may be promulgated thereunder.

"Mayor" means the mayor of Stanwood, or the mayor's designee when the mayor's authority has been delegated.

"Month" means a calendar month.

“Oath” includes affirmation.

“Ordinance” means a law of the city.

“Person” means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

“State” means the state of Washington.

“Street” includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this city which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

"Year" means a calendar year.

“Written” includes printed, typewritten, mimeographed, multigraphed, or electronically produced.

Chapter 1.10 Noncharter Code City

1.10.010 Classification adopted.

The City of Stanwood, a municipal corporation of Snohomish County, Washington, has adopted the classification of a noncharter code city, operating under the mayor-council plan of government as set forth in Chapter 35A.12 RCW, endowed with all of the applicable rights, powers, privileges, duties and obligations of noncharter code cities as set forth in RCW Title 35A, as this now exists amended, including but not by way of limitation those set forth in Chapter 35A.11, and further including any and all supplements, amendments or other modifications of RCW Title 35A, which may hereafter be enacted.

Chapter 1.12 General Penalty

1.12.010 Civil infractions, misdemeanors, and gross misdemeanors.

(1) Any person violating any provision or failing to comply with any of the mandatory requirements of the ordinances of the city may be subject to a civil infraction or a criminal charge. If not otherwise specified in the Stanwood Municipal Code, any violation of the City's ordinances is punishable as a class 1 civil infraction.

   (a) The maximum penalty and the default amount for a class 1 civil infraction shall be $250, not including statutory assessments;

   (b) The maximum penalty and the default amount for a class 2 civil infraction shall be $125, not including statutory assessments;

   (c) The maximum penalty and the default amount for a class 3 civil infraction shall be $50, not including statutory assessments; and

   (d) The maximum penalty and the default amount for a class 4 civil infraction shall be $25, not including statutory assessments.

(2) Except where a different punishment is prescribed by the Stanwood Municipal Code, any person convicted of a misdemeanor may be punished by a fine of not more than $1,000 or by imprisonment not to exceed 90 days, or both, except that:

   (a) whenever a lesser maximum penalty is provided under state law for a violation of an analogous provision of state law then such lesser maximum penalty applies;

   (b) whenever a minimum mandatory penalty is provided for violation of an analogous provision of state law then such minimum mandatory penalty applies.

(3) Except where a different punishment is prescribed by the Stanwood Municipal Code, any person convicted of a gross misdemeanor may be punished by a fine of not more than $5,000, or by imprisonment up to 364 days, or both, with the same exceptions as described in subsection (2)(a) and (2)(b).

1.12.020 Continuing offense

Each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the city is committed, continued, or allowed to continue by any such person, and is punishable accordingly.

Chapter 1.14 Datum Plane

1.14.010 Purpose

The City of Stanwood is located within known FEMA flood hazard areas. It is necessary to establish a "vertical datum" to be used for all purposes associated with community planning and development, together with any public works projects.

1.14.020 Established

(1) There is established a datum plane from which all elevations used in establishing the grades of the various streets, avenues, alleys, utilities, and public places of the city must be reckoned.

(2) The datum for vertical measurement is NAVD 88 (North American Vertical Datum 88).

(3) The datum for horizontal measurement is NAD 83 (North American Datum 83).

1.14.030 Grades and elevations to be taken from fixed base or datum.

(1) All grades and elevations to be established for any private or public works project within the city must be fixed and established with reference to, and must be described in feet and decimals above the base or level datum established in SMC 1.14.020.

(2) The horizontal control survey standards as adopted by RCW 58.20 and WAC 332-130-060 must also be followed.

Chapter 1.22 Initiative and Referendum [Alternative]

1.22.010 Purpose

The City of Stanwood desires to allow its residents to have the power to initiate legislation or refer a law passed by the City Council to the ballot so that voters may decide whether to uphold or repeal the law. The power of initiative is used to propose new legislation and the power of referendum is used to review previously adopted legislation.

1.22.020 Adoption

The City of Stanwood hereby adopts the power of initiative and referendum for the qualified electors of the city as provided pursuant to RCW 35A.11.080 and 35A.11.100. Such powers are to be exercised as provided in the above referenced sections of the Revised Code of Washington as they now exist or may be amended from time to time and said sections are hereby incorporated in full by this reference.

Chapter 1.22 Petition for Advisory Vote on Proposed Legislation [Alternative]

1.22.010 Purpose

The City of Stanwood desires to prescribe a process whereby its residents may have the power to petition the City Council for adoption of proposed legislation.

1.22.020 Petition

(1) A petition may filed with the City Clerk seeking the adoption of proposed legislation by the City Council.

(2) A petition must include a general description of the proposed legislation being sought. It need not include nor seek the precise text of the proposed legislation.

(3) A petition must be signed by the registered voters of the City of Stanwood in a number equal to at least 10% of the votes cast at the last general municipal election.

(4) Each page of the petition must be printed on standard letter-sized paper and include:

  (a) a general description of the proposed legislation;

  (b) not more than 20 numbered lines, each with space for a voter's signature, the date the voter signed, the voter's printed name, and the address, city, and county at which they are registered to vote;

  (c) the following warning, prominently displayed at least two inches from the top of the page: "Every person who signs this petition with anything other than the voter's true name, knowingly signs more than one of these petitions, signs this petition when not a legal voter or makes any false statement on this petition may be punished by fine or imprisonment or both."

  (d) a place for each signature gatherer to sign and print his or her name as well as the address, city, and county at which he or she is registered to vote.

1.22.030 Advisory Vote

(1) The City Council may assume or obtain the validation of the signatures on the petition by whatever means it determines.

(2) The City Council may take any of the following action on the petition:

  (a) adopt the proposed legislation;

  (b) place the question of whether to adopt the proposed legislation on the ballot at a convenient election within the subsequent 12 months;

  (c) reject the petition due to a failure to obtain the required number of valid signatures, insufficient specificity in the description of the proposed legislation, illegality or invalidity of the proposed legislation, changed circumstances, or other reasons as the City Council may conclude. If the City Council rejects the petition, it must do so by resolution including findings of fact or conclusions of law that describe the reason for the rejection.

(3) The effect of the ballot question is advisory and not binding on the City Council, and the City Council may choose to adopt the proposed legislation, or not, in form or substance different from that initially proposed.

SMC Title 1 Amendment Descriptions

ℹ This table of contents is included here for illustration of the code structure, but will not be included in the adopting ordinances. Tables of contents will be created and maintained by the code reviser.

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Because RCW 35A.12.130 requires an ordinance to contain no more than one subject, each of Titles 1, 2, and 4 should be adopted as three separate ordinances. Because of the interactivity between Titles 1 and 2 and new Title 4, all three ordinances should be adopted simultaneously.

The following adopting language is proposed to handle codification instructions for adoption of the Title 2 ordinance.

Title 2 ordinance:

- SMC 2.32.060, Fee for Fire Inspections, is recodified to SMC 3.30.160.
- SMC Chapter 2.48, Public Services Fees, is recodified to SMC Chapter 3.31.
- SMC Chapter 3.25, Acceptance of Donations, is repealed.
- SMC 3.36.055, Lodging Tax Advisory Committee, is repealed.
- SMC 17.87.120, Report of department, is recodified as SMC 17.80.381.
- The remainder of SMC Chapter 17.87, Hearing Examiner, is repealed.

Resolution 2014-04 creating the Economic Development Board is repealed.

Resolution 2019-14 establishing the Parks and Trails Advisory Committee is repealed.

Title 1 General Provisions

This title is based on the existing SMC title 1. Chapter 1.08 regarding public notice has been moved to new Title 4.

Chapter 1.01 Code

This chapter is based on existing chapter 1.01. Minor modifications were made throughout. Major modifications will be identified with a Change Explainer block like this one. Section 1.01.080 setting effective date was deleted as unnecessary.

Although our scoping memo proposed more limited changes to section numbering and organization within this chapter, the changes proposed here are more extensive to improve flow and organization.

1.01.010 Adoption

The following subsection is based on existing SMC 1.01.010; the 1971 codebook publishing company name has been deleted.

This code is adopted pursuant to RCW 35A.21.130.

1.01.020 Content of this code.

ℹ The following subsection is unchanged from existing SMC 1.01.030 except application of the Style Guide and deletion of the redundant reference to RCW 35A.21.130.

This code consists of all the regulatory and penal ordinances and certain of the administrative ordinances of the City of Stanwood, Washington.

1.01.030 Title—Citation—Reference.

ℹ This section is a combination of existing SMC 1.01.020 and .040, with application of the Style Guide and additional numbering to delineate separate subsections.

(1) This code may be cited as the "Stanwood Municipal Code" or by the initialism "SMC."

(2) It is sufficient to refer to this code as the "Stanwood Municipal Code" in any prosecution for the violation of any provision thereof or in any proceeding at law or equity.

(3) It is sufficient to designate any ordinance adding to, amending, correcting, or repealing all or any part or portion thereof as an addition to, amendment to, correction or repeal of the "Stanwood Municipal Code."

(4) Reference to the titles, chapters, and sections of the "Stanwood Municipal Code" apply to that numbered title, chapter, or section as it appears in the code.

ℹ The following paragraph is new, based on best practices.

(5) Whenever this code requires a sign to be posted to provide notice of a law or rule, it must include reference to the provision in the Stanwood Municipal Code, not to the ordinance number.

ℹ The following paragraph is existing SMC 1.01.040, unchanged except application of the Style Guide.

(6) Whenever a reference is made to this code as the "Stanwood Municipal Code" or to any portion thereof, or to any ordinance of the city of Stanwood, Washington, the reference applies to all amendments, corrections, and additions heretofore, now or hereafter made.

1.01.040 Numbering system.

ℹ This is a new section.

(1) This code is numbered with the same tri-part system of numbering used in the Revised Code of Washington, in the form SMC X.YY.ZZZ (Title.Chapter.Section).

  (a) The first number is one or two digits that designates the title.

  (b) The second number is two digits, with a leading zero as necessary, that designates the chapter.

  (c) The third number is three digits, with leading zeros as necessary, that designates the section.

  (d) Paragraphs within each section are numbered with a hierarchical numbering scheme in the form (1)(a)(i)(A)(I).

(2) A single subject within the code should be organized into a chapter, unless the subject is so broad as to require an entire title.

1.01.050 Updates to the code.

ℹ This is a new section.

(1) This code may be amended pursuant to RCW 35A.21.130 and RCW 35.21.540.

(2) As a codification of ordinances, this code may only be amended by ordinance, except for the correction mechanisms described in RCW 35.21.500, which may be directed by resolution.

(3) The City Council should take action by ordinance to enact or amend a local law, to create permanent policies for governance of the city, or when directed by state law to take a particular action by ordinance. The City Council should codify ordinances that enact or amend local laws or create permanent policies for governance of the city. When the City Council desires to include such an ordinance within this code, the City Council must include direction to codify the ordinance or otherwise amend the code in the text of the ordinance.

(4) Per RCW 35A.12.130, no section of the code may be revised and amended unless the ordinance amending the code section sets forth the revised section in full.

(5) Per RCW 35A.12.130, no ordinance may contain more than one subject, and that subject must be clearly expressed in its title.

(6) If the existing code section need only be amended, the text of the ordinance should expressly amend the code sections as follows:

"Section X.YY.ZZZ is hereby amended to read as follows:"

(7) If the prior code section is to be totally replaced by the new ordinance, the text should specifically repeal the prior code section by stating:

"Section X.YY.ZZZ is hereby repealed."

(8) Chapters and titles may be amended or repealed in a similar manner.

1.01.060 Title, chapter, and section headings.

ℹ This section is unchanged from existing IMC 1.01.050 except application of the Style Guide.

Title, chapter, and section headings contained within this code may not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any part of this code.

1.01.070 Effect of code on past actions and obligations.

ℹ The following subsection is unchanged from existing SMC 1.01.060 except application of the Style Guide.

(1) The provisions of this code may not in any manner affect matters of record which refer to, or are otherwise connected with ordinances that are herein specifically designated by number or otherwise and which are included within the code. Such reference must be construed to apply to the corresponding provisions contained within this code.

The following subsection is unchanged from existing SMC 1.01.070 with the exception of added numbering and application of the Style Guide.

(2) The adoption of this code, or the repeal or amendment of any ordinance or part or portion of any ordinance, may not:

(a) affect in any manner the prosecution for violations of ordinances committed prior to the effective date of the ordinance codified in this chapter;

(b) be construed as a waiver of any license, fee, or penalty at the effective date of the ordinance codified in this chapter, due and unpaid under such ordinances;

(c) be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee, or penalty, or the penal provisions applicable to any violation thereof;

(d) affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed, or deposited pursuant to any ordinance and all rights and obligations thereunder appertaining continue in full force and effect.

SMC 1.01.080, Effective Date, has been deleted as unnecessary.

1.01.090 Severability.

This section was previously titled "Constitutionality" and has been retitled to match the content. Municipal codes may be rendered invalid for reasons other than constitutionality.

If any section, subsection, sentence, clause, or phrase of this code is for any reason held to be invalid or unconstitutional, such decision may not affect the validity of the remaining portions of this code. The City Council declares that it would have passed this code, and each section, subsection, sentence, clause, and phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases had been declared invalid or unconstitutional, and if for any reason this code should be declared invalid or unconstitutional, then the original ordinance or ordinances will be in full force and effect.

Chapter 1.02 Interpretation

This is a new chapter that imports existing SMC 1.04.010 regarding grammatical interpretation.

1.02.010 Applicability

This chapter applies to the entirety of the Stanwood Municipal Code unless specifically provided otherwise.

1.02.020 Interpretation

New rules of interpretation have been added for measurement of distances, statements of purpose. Interpretation rule for title of officeholder has been moved here from elsewhere in this chapter.

(1) All words used within this code have their normal and customary meanings unless specifically provided otherwise.

(2) Statements of purpose, policy, or intent throughout this code are explanatory but not by themselves binding.

(3) Words used in the present tense include the past and the future tenses and vice versa.

ℹ The following rule is in the existing code. We will be editing the code throughout this project to write all rules in the singular.

(4) Singular words includes the plural, and the plural the singular.

ℹ The following rule is in the existing code and is included for completeness. We will be editing the code throughout this project to achieve gender neutrality.

(5) Any gender includes the other genders.

(6) Distances are measured horizontally unless provided otherwise.

(7) The use of the title of any officer, employee, department, board, or commission means that officer, employee, department, board, or commission of the city.

1.02.040 Words of authority

ℹ This is a new section that clarifies how the various words of authority are related, based on Garner's Dictionary of Modern Legal Usage, Second Edition. "May" and "must" are preferred. "Shall" and "will" are heavily discouraged in code writing. We will remove them from other code sections as we progress through the code update project. These definitions are included here, rather than in the Definitions chapter, to effectively demonstrate the difference among each of these words of authority.

(1) "May" means "has authority to" or "is permitted to."

(2) "May not" means "is not permitted to."

(3) "Must" means "is required to."

(4) "Must not" means "is required not to."

(5) "Shall" conveys a mandatory instruction or duty.

(6) "Shall not" means "has a duty not to."

(7) "Will" expresses a subsequent action or obligation or a future contingency.

1.02.060 Symbols

ℹ This is a new section. We expect tables in future titles could make heavy use of symbols.

(1) The < symbol means "less than."

(2) The ≤ symbol means "less than or equal to."

(3) The > symbol means "greater than."

(4) The ≥ symbol means "greater than or equal to."

1.02.080 Computation of timespans

ℹ This is a new section that articulates a standard rule of how to measure periods of time.

Except when otherwise provided, the timespan within which an act is required to be done must be computed by excluding the first day and including the last day, unless the last day is Sunday or a holiday, in which case it must also be excluded.

Chapter 1.04 Definitions

ℹ This chapter is based on existing chapter 1.04, Definitions.

1.04.010 Applicability

This chapter applies to the entirety of the Stanwood Municipal Code unless specifically provided otherwise.

1.04.020 Definitions

ℹ In existing code, each defined term had its own section number. Because definitions should be in alphabetical order and many may be added over time, they are presented here in an unnumbered list. We should expect to add more defined terms that are global in scope during the code update project.

The following words and phrases whenever used in the ordinances of the city must be construed as defined in this chapter unless from the context a different meaning is intended, or unless a different meaning is specifically defined and more particularly directed to the use of such words or phrases.

ℹ The existing definition of "City" is common, but has been modified here to avoid the possibility of it being construed to include the UGA, over which the City does not have the same authority.

“City” means the city of Stanwood, Washington, or the area within the territorial limits of the city of Stanwood.

“Council” means the city council of Stanwood.

“County” means the county of Snohomish, Washington.

ℹ "Day", "Hearing Examiner," "Mayor," "Month," and "Year" are new definitions.

"Day" means calendar day unless otherwise specified.

"Hearing examiner" means the officer appointed pursuant to SMC Chapter 2.22. Unless the context requires otherwise, the term “hearing examiner” includes any hearing examiner pro tem who may be appointed.

“Law” means applicable federal law, the Constitution and statutes of the state of Washington, the ordinances of the city, and when appropriate, general law, and any and all rules and regulations which may be promulgated thereunder.

"Mayor" means the mayor of Stanwood, or the mayor's designee when the mayor's authority has been delegated.

"Month" means a calendar month.

“Oath” includes affirmation.

“Ordinance” means a law of the city.

“Person” means a natural person, joint venture, joint stock company, partnership, association, club, company, corporation, business, trust, organization, or the manager, lessee, agent, servant, officer or employee of any of them.

“State” means the state of Washington.

“Street” includes all streets, highways, avenues, lanes, alleys, courts, places, squares, curbs, or other public ways in this city which have been or may hereafter be dedicated and open to public use, or such other public property so designated in any law of this state.

"Year" means a calendar year.

ℹ "Written" has been modified to include email and other electronic production.

“Written” includes printed, typewritten, mimeographed, multigraphed, or electronically produced.

Chapter 1.12 General Penalty

ℹ This chapter, which is common in municipal codes in Title 1, restores a chapter in the SMC that was repealed by ordinance 1112 which established chapter 13.01 regarding enforcement. We believe a criminal provision is complementary. It's also helpful to state the maximum penalty for misdemeanors and gross misdemeanors once and not repeat it every time the code establishes such crimes.

1.12.010 Misdemeanors and gross misdemeanors.

(1) Any person violating any provision or failing to comply with any of the mandatory requirements of the ordinances of the city may be punished with a class 1 civil infraction per Chapter 7.80 RCW, unless otherwise provided by the Stanwood Municipal Code.

(2) Except where a different punishment is prescribed by the Stanwood Municipal Code, any person convicted of a misdemeanor may be punished by a fine of not more than $1,000 or by imprisonment not to exceed 90 days, or both, except that:

  (a) whenever a lesser maximum penalty is provided under state law for a violation of an analogous provision of state law then such lesser maximum penalty applies;

  (b) whenever a minimum mandatory penalty is provided for violation of an analogous provision of state law then such minimum mandatory penalty applies.

(3) Except where a different punishment is prescribed by the Stanwood Municipal Code, any person convicted of a gross misdemeanor may be punished by a fine of not more than $5,000, or by imprisonment up to 364 days, or both, with the same exceptions as described in subsection (2)(a) and (2)(b).

1.12.020 Continuing offense

Each such person is guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of the city is committed, continued, or allowed to continue by any such person, and is punishable accordingly.

Chapter 1.14 Datum Plane

ℹ This is a new chapter adopting the datum plane from which all measurements used in public works for the city are measured. Establishment of the datum is placed in Title 1 to ensure it is globally applicable to streets, sidewalks, public places, and the floodplain.

ℹ This section is based on Anacortes Municipal Code 1.16 and Everett Municipal Code 13.04. Note that SMC 16.15.070(5) requires a contour map using the "City of Stanwood datum."

1.14.010 Purpose

The City of Stanwood is located within known FEMA flood hazard areas. It is necessary to establish a “vertical datum” to be used for all purposes associated with community planning and development, together with any public works projects.

1.14.020 Established

(1) There is established a datum plane from which all elevations used in establishing the grades of the various streets, avenues, alleys, utilities, and public places of the city must be reckoned.

(2) The datum for vertical measurement is NAVD 88 (North American Vertical Datum 88).

(3) The datum for horizontal measurement is NAD 83 (North American Datum 83).

1.14.030 Grades and elevations to be taken from fixed base or datum.

(1) All grades and elevations to be established for any private or public works project within the city must be fixed and established with reference to, and must be described in feet and decimals above the base or level datum established in SMC 1.14.020.

(2) The horizontal control survey standards as adopted by RCW 58.20 and WAC 332-130-060 must also be followed.

Chapter 1.20 Noncharter Code City

ℹ This is existing SMC Chapter 1.20 with adjustments for consistency with the Style Guide, retained in its existing form for posterity.

1.20.010 Classification adopted.

The city of Stanwood, a municipal corporation of Snohomish County, Washington, adopts the classification of a noncharter code city, operating under the mayor-council plan of government as set forth in Chapter 35A.12 RCW, endowed with all of the applicable rights, powers, privileges, duties and obligations of noncharter code cities as set forth in RCW Title 35A, as this now exists amended, including but not by way of limitation those set forth in Chapter 35A.11, and further including any and all supplements, amendments or other modifications of RCW Title 35A, which may hereafter be enacted.

1.20.020 Town designation changed to city.

The municipal corporation of Stanwood heretofore referred to as a town of the fourth class is no longer designated as a town, but is designated and referred to in all cases for all purposes whatsoever as the city of Stanwood.

1.20.030 Forwarding of copies of ordinance.

The clerk-treasurer is directed to forward to the Secretary of State of Washington a certified copy of the ordinance codified in this chapter.

1.22 Initiative and Referendum

This is a new chapter. The power of initiative allows the voters to directly enact a new ordinance. The power of referendum allows the voters to reject an ordinance enacted by the City Council.

City Council should note that:

- These two powers apply only to ordinances and not resolutions.
- An ordinance enacted by initiative cannot be repealed or amended except by a vote of the people. RCW 35.17.340.
- The statute does not provide for the City Council to itself submit a measure to a binding vote absent a petition from the voters, although even without adoption of these powers, the City Council may submit a measure for a non-binding advisory ballot at any time.
- The City does not have the authority to prescribe the procedural rules for initiative and referendum; instead, RCW 35A.11.100 provides that the powers of initiative and referendum in non-charter code cities must be exercised in the manner set forth in RCW 35.17.240 through 35.17.360.
- RCW 35A.11.100 sets the threshold number of signatures of 15% of the total number of registered voters on the day of the last preceding city general election.
- Putting measures on the ballot usually incurs costs to the city to pay the county to administer the election, and may result in a multi-month delay before the ordinance could go into effect, as a referendum petition suspends the operation of the ordinance that is the subject of the petition.
- Once adopted, these powers can only be restricted or abandoned by vote of the people. RCW 35A.11.080.

An alternative to adoption of the statutory initiative and referendum provisions is to create our own code chapter allowing for petition and advisory votes. Such votes would be non-binding, but would allow the City to set its own thresholds within the process, and would not have to affect the effective date of ordinances.

1.22.010 Purpose

The City of Stanwood desires to allow its residents to have the power to refer a law passed by the City Council to the ballot so that voters may decide whether to uphold or repeal the law.

1.22.020 Adoption

The City of Stanwood hereby adopts the power of initiative and referendum for the qualified electors of the city as provided pursuant to RCW 35A.11.080 and 35A.11.100. Such powers are to be exercised as provided in the above referenced sections of the Revised Code of Washington as they now exist or may be amended from time to time and said sections are hereby incorporated in full by this reference.

responsibilities, against any person because that person files a complaint under this chapter.



Stanwood Municipal Code Project
Change Request Tracking Form

Applicable Amendments: Title 1 – General Provisions

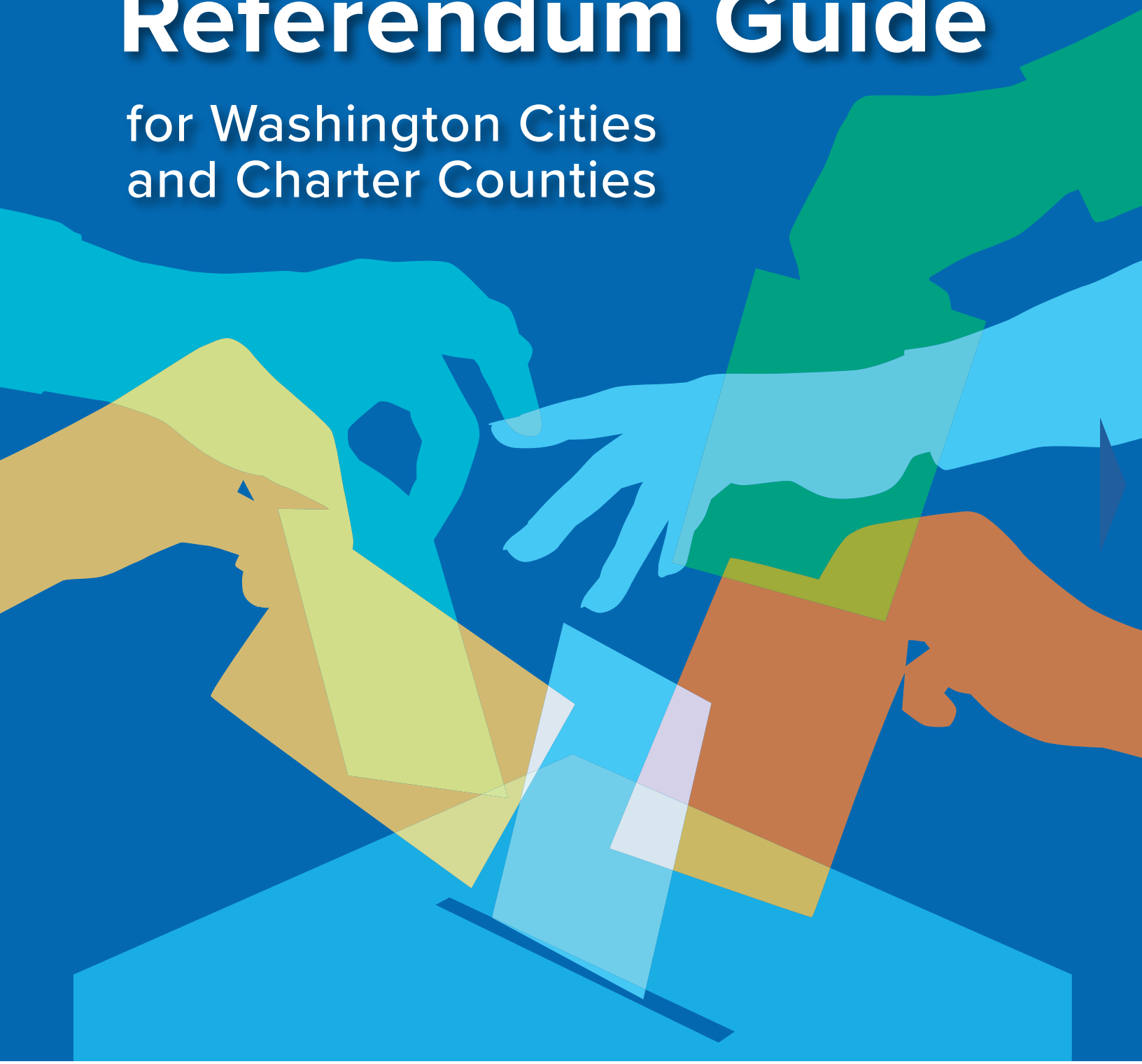
Requestor	Title / Chapter / Section	Change	Action Taken
City Attorney	Title 1, General Provisions	1.20.020 & 1.20.030 – Do these really need to remain in Code? I do not think they do. Discuss if 1.12 should remain the way it is or move to more of a civil penalty emphasis. One thing that jumps out right away is that the default in Stanwood's code for violations is a criminal penalty. I think that's excessive. When I was at Oak Harbor, we redid some of the civil penalties provisions. I like the idea of incorporating the definitions of the different classes of infractions found in the RCWs and then having a general catch all that says a violation of the code is a Class 1, unless otherwise stated. See .020. Chapter 1.28 CIVIL OFFENSES (codepublishing.com). I don't disagree that there is frequently a criminal provision that exists for excessive civil violations, but I don't think the starting point should be a misdemeanor/GM. I am also of the opinion that the M/GM provisions should be code provision specific. I don't think it should be general. For example, if you have been cited for a civil violation multiple times, it becomes criminal. Or if you something exceeds what would be the appropriate penalty for	1.20.020-030 are retained from existing code. They could be deleted, but that change is not made here. New general penalty section included.

Requestor	Title / Chapter / Section	Change	Action Taken
		a civil, then it's criminal. (e.g. littering over a certain amount is criminal, under that amount is civil.)	
Advisory Group	SMC 1.22, Initiative and Referendum	Add guidance language describing that the initiative / referendum is established to allow citizens to refer a law passed by the City Council to the ballet for voters to decide whether to uphold or repeal. Move existing language to a new subsection 2.	Added 1.22.010 for the policy statement.
Tom Barry Metron and Associates	SMC 1.14 Datum Plane	The adoption of the vertical datum and horizontal datum should incorporate information on how to establish such datums as required by city. I think the references I provide should cover that aspect. 1. The City of Stanwood is located within known FEMA flood hazard areas. It is necessary to establish a "vertical datum" to be used for all purposes associated with community planning and development, together with any public works projects. 2. FEMA maps are based on the "National Vertical Datum of 1988" or abbreviated as "NAVD 88". This datum is the adopted "vertical datum" of the United States. 3. The City of Stanwood will adopt the NAVD 88 vertical datum as the official vertical datum to be used for all purposes as herein described. 4. The elevations established on the adopted vertical datum of NAVD 88 for the herein described purposes shall be based on National Geodetic Survey/NOAA Vertical Control	Implemented.

Requestor	Title / Chapter / Section	Change	Action Taken
		Benchmark monuments as established maintained and documented by state, county or city agencies that provide such information. 5. The City of Stanwood adopts the North American Datum of 1983 for the horizontal and geometric control datum, also known as “NAD 83”. NAD 83 is the United States adopted horizontal and geometric control datum. This horizontal control datum is to be used for all purposes as described herein. 6. The horizontal control datum of NAD 83 shall be based on National Geodetic Survey/NOAA horizontal control monuments as established maintained and as documented by state, county or city agencies that provide such information. 7. The horizontal control survey standards as adopted by RCW 58.20 and WAC 332-130-060 shall be followed.	

Initiative and Referendum Guide

for Washington Cities and Charter Counties



MRSC

Please note, our publications are updated frequently. To ensure you have the most accurate information, download the latest version of this publication from our website: www.mrsc.org/publications/publications.aspx.

INITIATIVE AND REFERENDUM GUIDE FOR WASHINGTON CITIES AND CHARTER COUNTIES

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DISCLAIMER

The content of this publication is for informational purposes only and does not represent criteria for legal or audit purposes. It is intended to provide city staff and officials with an overview of their available revenue options, restrictions on the use of such revenues, and key questions to consider. It is not intended to replace existing prescriptive guidance in the BARS Manual, issued by the State Auditor's Office. You should contact your own legal counsel if you have a question regarding your legal rights or any other legal issue.

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Revision History

MRSC does our best to update this publication every year to reflect any new legislation or other relevant information impacting city and town revenues. Below is a summary of significant recent changes. If you are aware of any other sections that you think need to be updated or clarified, please contact mrsc@mrsc.org. To make sure you have the most recent version, please go to mrsc.org/publications.

DATE	SUMMARY
August 2022	**Appendix A:** • Added Kenmore to the list of code cities that have adopted powers of referendum and initiative.
April 2022	**Appendix A:** • Added Kahlotus and Washougal to the list of code cities that have adopted powers of referendum and initiative.
November 2021	**Appendix A:** • Added Gig Harbor to the list of code cities that have adopted powers of referendum and initiative.
April 2018	**Appendix A:** • Added Black Diamond, La Center, Lakewood, Sammamish, and Spokane Valley to the list of code cities that have adopted powers of referendum and initiative, and removed Raymond.
February 2018	**Appendix A:** • Removed Shelton as commission city, and as a code city that has adopted powers of initiative and referendum; added Clark County to list of charter counties.

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Preface

There is increasing interest in the power of the people at both the state and local level to directly exercise authority to enact and repeal laws. This authority is exercised through the powers of initiative and referendum. This publication provides an overview of these powers as they may be exercised at the local level – in the cities and charter counties of the state of Washington. It reviews which cities and counties have the powers available and, when legally permitted, how the powers may be adopted in cities and counties that have not already done so. It also reviews in some detail which types of actions are subject to the initiative and referendum process, since there are limitations on the exercise of the power even when it is available.

We hope this publication will be helpful to officials in cities and counties that already have the powers of initiative and referendum, as well as to officials in cities and counties that are considering adopting the powers.

Initiative and Referendum Powers

Basically, the power of initiative as applied to municipalities refers to the authority of the voters of a city or charter county to directly initiate and enact legislation (hereafter the term “municipality” will include cities, towns, and counties). The process involves an initial petition containing a specified number of signatures that proposes an ordinance for adoption. If the proper form and the number of signatures is sufficient, the issue must either be adopted by the city or charter county council or submitted to the entire electorate of the city or charter county for adoption or rejection at an election.

The power of referendum in a municipality is the right of the people to have an ordinance that has been enacted by the city or charter county council submitted to the voters for their approval or rejection. The process also includes the filing of a petition, with a required minimum number of registered voters, prior to the effective date of the ordinance. If the required number of signatures in the proper form are obtained on the petition, the ordinance is suspended from becoming effective until it has either been repealed by the city or charter county council or is submitted to the voters for approval or rejection at an election.

Briefly, the power of initiative is used to propose new legislation and the power of referendum is used to review previously adopted legislation. These powers exist at the state level also, but this publication deals exclusively with the powers as applied to government at the local level, specifically to cities and charter counties.

Arguments For and Against

The use of initiative is direct democracy at its most fundamental level. It is favored by those who value widespread voter participation both in choosing candidates and in drafting and deciding upon legislation. It is an attempt to enlarge the role of the electorate while at the same time diminishing the power of the elected representatives, in this case the city or charter county council-members.

The classic arguments for initiative powers have changed little since the initiative and referendum process was introduced in its present form in this country in the early twentieth century. Proponents argued that the initiative process would neutralize special interest groups, curtail corruption, provide a vehicle for civic education, and put pressure on public officials to act in the public interest. Supporters claimed that the initiative process was the culmination of the steady advance of the broadened franchise and direct democracy in this century.

Those opposed to the use of initiative power are basically supporters of representative democracy. They stress the need for knowledge and deliberation in the drafting of legislation and the daily business of governing. While those favoring this position are often accused of being undemocratic and lacking faith in the people, they assert that the most important democratic act is the selection of representatives.

Critics of the initiative process argue that it is a dangerous device that undercuts representative government by taking lawmaking out of the hands of the legislators elected to do the job. Complex issues are reduced to fast “yes” or “no” decisions by voters who may be swayed by misleading television or other commercials paid for by special interest groups. Initiatives may be crudely drafted and no allowance made for the usual give and take of the legislative process, which often results in the kind of compromises that make laws more workable.

Both sides agree that most of the business of governing cannot be decided directly by the people but must be decided by elected representatives. Therefore, the power of initiative is always recognized as a supplement to the normal legislative process.

The same basic philosophical arguments apply to the power of referendum as apply to the initiative power.

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Municipalities that have the Powers of Initiative and Referendum Available

The powers of initiative and referendum are not available to all classes of municipalities. These powers are not automatically included in the powers granted to cities, towns, or counties. The authority for use of these powers is found either in the state constitution or in enabling legislation adopted by the state legislature, or both.

In Washington, the only cities that have been granted the powers of initiative and referendum are the first class cities, code cities that have formally adopted these powers, and cities with the commission form of government.

The only counties that may exercise these powers are counties that have formally adopted them by charter. Of the 39 counties in Washington, 32 retain the commission structure as outlined in Title 36 RCW; seven counties have established themselves as charter counties by drafting a charter and submitting it to a vote of the people. Counties that have not taken steps to become charter counties are hereafter referred to as "commission counties."

FIRST CLASS CITIES

The state constitution specifically grants the authority to adopt a charter to first class cities, and RCW 35.22.200 specifically provides that a first class city charter may provide for direct legislation by the people through the initiative and referendum process. All of the ten first class cities in Washington have adopted the powers of initiative and referendum, and the procedures for exercising these powers are set out in the city charter of each city. (A brief review of the procedures exercised in each city is contained in Appendix M.)

SECOND CLASS CITIES AND TOWNS

Second class cities and towns do not have the authority to establish initiative and referendum powers; consequently, voters in these two classes of municipalities may not exercise either power. In second class cities and towns, the council may submit an issue to the voters on an advisory ballot basis. This means that the voters may vote on an issue or an ordinance, but the results of the vote are not legally binding. While a city or town council may consider the vote of the people in an advisory ballot in deciding whether to enact or repeal an ordinance, the council is not bound to follow the majority vote.

COMMISSION CITIES

A city that has the commission form of government automatically has the powers of initiative and referendum. These powers are set out in the enabling authority for commission cities in RCW 35.17.220 - 35.17.360.

CODE CITIES

While initiative and referendum powers are available to code cities, they are not automatic powers either at the time of incorporation or reclassification as a code city. Code cities must formally adopt these powers. The procedures for adoption are outlined on pages 11-12 of this publication. As of August 2022, 55 code cities in Washington have formally adopted these powers. (See Appendix A for a list of these code cities.) Citizens in other code cities do not have these powers available. All code cities have authority to submit issues to the public on an advisory basis, but the results of an advisory election are not binding on the city council.

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COMMISSION COUNTIES

Commission counties are granted their authority under the state constitution and Title 36 RCW. If a county does not go through the charter process, then it remains a commission form of government. Counties with the commission form of government do not have the powers of initiative and referendum available to them.

CHARTER COUNTIES

The state constitution grants counties the option of adopting a charter for their own form of government, and that charter may provide for direct legislation by the people through the initiative and referendum process. Seven counties have adopted a charter: Clallam, Clark, King, Pierce, San Juan, Snohomish, and Whatcom. Each has adopted the powers of initiative and referendum. Procedures for the exercise of these powers are set out in the charter of each county. (A brief review of the procedures as exercised in each charter county is contained in Appendix N.)

Types of Legislation Subject to the Initiative and Referendum Process

Even if the citizens of a city or county have the powers of initiative and referendum available to them, this does not mean that every type of legislation is subject to these powers. There are a number of statutory limitations on these powers, at least in code cities, and additional limitations have been imposed by the courts. First class city and charter county charters also contain restrictions, and these can differ from city to city and county to county (the specific charter for each jurisdiction must be checked). This section will review the various limitations on the types of legislation which are subject to the initiative and referendum powers.

Only ordinances may be enacted by initiative or repealed by referendum. The powers of initiative and referendum are not applicable to any other type of legislative enactment by a city or county council, such as a motion, order, or resolution.

STATUTORY LIMITATIONS PLACED ON A CODE CITY

The statutes granting the power of referendum to code cities contain a list of the types of ordinances that are not subject to that power. This means that the 30-day waiting period for ordinances to go into effect, which applies in code cities that have adopted the powers of initiative and referendum, does not apply to these ordinances, since they are not subject to referendum. The list of exempt ordinances contained in RCW 35A.11.090 is as follows:

1. Ordinances initiated by petition;
2. Emergency ordinances necessary for the immediate preservation of public peace, health and safety or for the support of the city government and its existing public institutions which contain a statement of urgency and are passed by unanimous vote of the council;
3. Ordinances providing for local improvement districts;
4. Ordinances appropriating money;
5. Ordinances providing for or approving collective bargaining;
6. Ordinances providing for the compensation of or working conditions of city employees;
7. Ordinances authorizing or repealing the levy of taxes.

These types of ordinances take effect as provided in general law – five days after publication, unless a later date is specified in the ordinance.

STATUTORY LIMITATIONS PLACED ON A COMMISSION CITY

The statutes that grant the power of referendum to commission cities also contain a limitation on the exercise of that power. RCW 35.17.240 indicates that most ordinances adopted in a commission city do not take effect for 30 days after adoption to allow the citizens an opportunity to file a referendum petition. However, under RCW 35.17.230, the following types of ordinances are not subject to the 30-day waiting period or the referendum process:

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1. Ordinances initiated by initiative;

2. Ordinances necessary for the immediate preservation of public peace, health and safety which contain a statement of urgency and are passed by unanimous vote of all the commissioners;

3. Ordinances providing for local improvement districts.

OTHER LIMITATIONS

In addition to the above statutory limitations, the courts in Washington have recognized other limitations on the use of the powers of initiative and referendum. Basically, the courts have recognized two tests to determine if an ordinance is beyond the scope of direct legislation by the people either through the exercise of the initiative power or the referendum power.

The first test is whether the underlying action is legislative or administrative in nature. If the action is administrative, then it is not subject to the power of initiative or referendum. If it is legislative, then it may be subject to initiative and referendum, depending upon the outcome of the second test.

The second test is whether the power is one that has been granted by the legislature to the legislative authority of a city or county or whether it is a power that has been granted to the corporate entity as a whole. If it is a power that has been granted to the legislative authority (city or county council), then it is not subject to the powers of initiative and referendum. If it is a power that has been granted to the city as a corporate entity, then it may be subject to initiative and referendum.

Both of these powers will be explained in more detail, but it is important to note that the action must pass both tests to be subject to initiative or referendum. If the action is administrative in nature or if the subject of the proposed legislation is a power that has been granted by the state legislature to the city or county council, it is **not** subject to the power of initiative and referendum. Citizens may exercise these powers only if the action is legislative in nature and the subject of the legislation is not one that has been granted to the city or county council.

ADMINISTRATIVE/LEGISLATIVE DISTINCTION

The courts in this state have noted that the power of direct legislation by citizens is not an inherent power of the people. The right did not exist until granted by the state constitution in 1912. There is an inherent limitation on this right in that it only extends to matters legislative in character, as compared to administrative matters. Therefore, the scope of the powers of initiative or referendum is restricted to ordinances adopting legislative policy and is not extended to ordinances effecting administrative actions.

This, of course, raises the question of what is an administrative action and what is a legislative action. The courts have applied two tests in making this determination. First, actions relating to subjects of a permanent and general character are usually regarded as legislative matters, and actions taken on subjects of a temporary and special character are usually regarded as administrative matters. Second, the power to be exercised is legislative in nature if it prescribes a new policy or plan, whereas it is administrative in its nature if it merely pursues a plan already adopted by the legislative body or some power superior to it.

Even with these tests as guides, it may not always be clear whether a matter is legislative, and subject to initiative and referendum, or administrative. One way to help understand this test is to review some court cases in which the courts have characterized various actions as being either legislative or administrative in nature. The following cases provide some guidance:

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1. The decision to fluoridate the city water supply is administrative in nature. *City of Port Angeles v. Our Water-Our Choice!*, 170 Wn.2d 1 (2010).

2. An ordinance amending a comprehensive street name ordinance is administrative in nature since it is enacted pursuant to a plan already adopted by the legislative body. *Heider v. Seattle*, 100 Wn.2d 874 (1984).

3. The enactment of a business and occupation tax is legislative in nature. *Citizens for Financially Responsible Government v. Spokane*, 99 Wn.2d 339 (1983).

4. Implementation of a punch card ballot system is legislative in nature. *Ballasiotes v. Gardner*, 97 Wn.2d 191 (1982).

5. The setting of rates is a legislative act. *Earle M. Jorgensen Co. v. Seattle*, 99 Wn.2d 861 (1983), and *Scott Paper Company v. Anacortes*, 90 Wn.2d 19 (1978).

6. A site specific rezone amendment is administrative in nature since it implements the zoning code or comprehensive plan already enacted. *Leonard v. Bothell*, 87 Wn.2d 847 (1976)

7. The selection of a contractor and the numerous other conditions incident to a building contract are administrative in nature. *Ruano v. Spellman*, 81 Wn.2d 820 (1973).

8. The granting of an unclassified use permit is administrative. *Durocher v. King County*, 80 Wn.2d 139 (1972).

9. A decision concerning where to locate a multipurpose stadium is legislative in nature. *Paget v. Logan*, 78 Wn.2d 349 (1970).

LIMITATIONS ON INITIATIVE AND REFERENDUM: CORPORATE ENTITY VS. LEGISLATIVE BODY DISTINCTION

The other test used by the courts to determine if an issue is subject to initiative or referendum is the distinction between a grant of authority by the state legislature to the city or county as a corporate entity or to its legislative authority (the city or county council). If the statutory grant of authority is to the city or county as a corporate entity, direct legislation by the people is permissible in the form of initiative or referendum. On the other hand, if the grant of power is to the legislative authority of the city or county, then initiative and referendum are prohibited.

When applying this test, it is necessary to determine the statutory grant of authority underlying the action involved. Appendix H contains a list of examples of specific statutory grants of authority to a city council (legislative authority). Presumably, these actions are not subject to initiative and referendum. Appendix I contains a list of examples of specific statutory grants to the city corporate entity. These may be subject to initiative and referendum, although it is necessary to review the other limitations on these powers to make that determination. And finally, Appendix J contains a selected list of specific grants of authority to county legislative authorities.

As an example of how this determination is made, consider the issue of whether citizens may pass an initiative rezoning an area of a city. It is first necessary to determine if there is a specific statutory grant of power to rezone property to either the legislative body or to the city as a whole. There is such a grant of authority for code cities in RCW 35A.63.100 and for other classes of cities in RCW 35.63.080. These statutes provide the legislative body with the authority to divide the city into zones. Therefore, this power is not subject to the power of initiative. This is also the holding of the Washington State Supreme Court, as noted below.

Another example of this determination is the question of whether the initiative process applies to a decision of whether a city should acquire and operate a water utility. Again, the first step is to determine if there is a specific statute that contains a grant of authority to the city as a whole or to the city council to operate a water utility. In this case, there is such a statutory grant in RCW 35.92.010. That statute indicates that a city or town may acquire and operate a water utility system. Therefore, the grant of authority is not limited to the city council but is a grant to the city as an entity. This issue then, because it is also not an administrative matter, would be subject to the initiative power.

Similarly, this analysis would apply to charter counties as well. An example would be a zoning regulation adopted pursuant to the Planning Enabling Act, chapter 36.70 RCW. Under this statute, the legislature clearly granted the authority to adopt zoning ordinances ("official controls") and a comprehensive plan to the county legislative authority and not the county as a whole. This effectively invalidates any attempts to use initiative or referendum powers for county comprehensive plans or zoning regulations.

There have been a number of court decisions examining specific issues to determine if the underlying action is subject to initiative and referendum based on this test. A brief summary of the holdings in some of these cases may also help illustrate how this test is applied:

1. In RCW 46.63.170(1), the legislature granted to local legislative bodies the exclusive power to legislate on the subject of the use and operation of automated traffic safety cameras. Therefore, an initiative to expressly restrict the authority of a city's legislative body to enact red light cameras by requiring a two-thirds vote of the electorate for approval and by limiting the amount of traffic fines is invalid. *Mukilteo Citizens for Simple Gov't v. City of Mukilteo*, 174 Wn.2d 41 (2012).

2. An initiative that would restrict or limit the authority of a city to issue revenue bonds under chapter 35.41 RCW, the Municipal Revenue Bond Act, exceeds the initiative power and is invalid. The legislature unambiguously granted the legislative body of the city the authority over revenue bonds under multiple provisions in chapter 35.41 RCW. *City of Sequim v. Malkasian*, 157 Wn.2d 251 (2006).

3. The power to amend the county charter was not exclusively delegated to the legislative authority of the county by either article 11 of the state constitution or the King County Charter. Under article 11, amending a county charter is no different than proposing an ordinance. Therefore, an amendment to a county charter may be subject to the powers of initiative and referendum, but repealing a charter is beyond the powers of initiative granted to the people under article 11. *Maleng v. King County Corrections Guild*, 150 Wn.2d 325 (2003).

4. An ordinance adopting a zoning regulation under chapter 36.70 RCW, the Planning Enabling Act, is not subject to the initiative or referendum power because that power has been specifically delegated to the county legislative authority. *Save Our State Park v. County Commissioners*, 74 Wn. App. 637 (1994).

5. An ordinance extending the business and occupation tax is subject to a referendum in a first class city because neither the constitution nor the state legislature restricted that taxing power to the city council. *Citizens for Financially Responsible Government v. Spokane*, 99 Wn.2d 339 (1983).

6. An initiative that amended the city zoning code was invalid because the zoning power has been granted by the state legislature to the city council and not to the city as a corporate entity. *Lince v. Bremerton*, 25 Wn. App. 309 (1980).

7. The legislature granted to the city council the authority to adopt and modify the zoning code. Therefore, a referendum challenging a rezone was not allowed by the court. *Leonard v. Bothell*, 87 Wn.2d 847 (1976).

8. An ordinance providing for annexation is not subject to a referendum because the powers of annexation have been granted by the legislature to the mayor and city council. *State ex rel. Bowen v. Kruegel*, 67 Wn.2d 673 (1965).

9. An ordinance setting utility rates for a municipal-owned water system, which is being financed by revenue bonds, is not subject to referendum because the authority to set utility rates has been given to the city council when revenue bonds are utilized. *State ex rel. Haas v. Pomeroy*, 50 Wn.2d 23 (1957).

LEGISLATIVE BODY DISTINCTION AND THE GROWTH MANAGEMENT ACT

The power to enact regulations under the Growth Management Act (GMA), chapter 36.70A RCW, is specifically granted to the legislative authority of cities and counties. As summarized in the following cases, the courts have addressed the use of initiative and referendum when related to the GMA in a number of cases and have found that the powers are invalid when pertaining to a regulation adopted under the Act:

1. The GMA places considerable power and responsibility in local hands, but it is still a state power that is being exercised to further state mandates. It is for the legislature, not the courts, to amend GMA procedures to provide for local referenda. Until such an amendment is enacted, the court will continue to hold that ordinances such as these that designate and protect critical areas are not subject to local referenda. *1000 Friends of Wash. v. McFarland*, 159 Wn.2d 165 (2006).

2. A citizen's initiative to require development restrictions and creek restoration activities was held invalid because development regulations were adopted under the GMA and the authority to adopt them is specifically granted to the city legislative authority. *City of Seattle v. Yes for Seattle*, 122 Wn. App. 382 (2004), *review denied*, 153 Wn.2d 1020 (2005).

3. A critical areas ordinance adopted under the GMA was not subject to the referendum power of the citizens of Whatcom County even though the power of referendum was granted to the people in the Whatcom County Charter. The power to enact critical areas ordinances under the GMA is specifically granted to the legislative authority of a city or county. *Whatcom County v. Brisbane*, 125 Wn.2d 345 (1994).

4. An ordinance that adopted a county-wide planning policy under the requirements of the Growth Management Act was held beyond the power of referendum even though that power was specifically granted to the citizens of Snohomish County in the Snohomish County Charter. The adoption of a county-wide planning policy under the GMA is specifically granted to the legislative authority of a city or county. *Snohomish County v. Anderson*, 123 Wn.2d 151, and 124 Wn.2d 834 (1994).

As these cases make clear, the powers of initiative and referendum do not apply to ordinances adopted pursuant to the Growth Management Act.

SUMMARY OF LEGISLATION SUBJECT TO THE PROCESS

A multistep approach is necessary in order to determine if a specific ordinance can be subject to the powers of initiative or referendum. First, it must be determined if the ordinance is an administrative or legislative act of the city or charter county. Second, it must be determined if the underlying issue, which is the subject of the initiative or referendum petition, has been granted by the legislature to the city or charter county as a corporate entity or to the legislative authority of the city or charter county. Finally, for a referendum in a code city, the statutory exceptions from the referendum process in RCW 35A.11.090 must be checked.

How the Powers are Acquired by a Code City

As previously indicated, not all code cities have the powers of initiative and referendum. These powers must be formally adopted to be available in a code city.

Two methods exist by which a code city may adopt the powers of initiative and referendum:

1. **Petition Method.** The adoption of the powers of initiative and referendum may be initiated by registered voters of the city filing a petition with the city requesting their adoption. To be valid, the petition must contain signatures equal in number to 50 percent of the votes cast at the last general municipal election. The petitions with signatures must then be transmitted by the city to the county auditor for verification of the signatures.

   If the petition is found to be sufficient by the county auditor, the city council must adopt a resolution declaring the intention of the city to adopt the powers of initiative and referendum. The city must publish the resolution in a newspaper of general circulation within the city not more than 10 days after passage of the resolution.

   If no referendum petition is filed within 90 days after publication of the resolution, the city council must enact an ordinance formally adopting the powers of initiative and referendum.

   If a referendum petition is filed within the 90 days after publication of the resolution that is signed by qualified electors of the city equal to not less than 10 percent of the votes cast at the last general municipal election, an election must be held on the issue of whether to adopt these powers for the city. The vote will be held at the next general municipal election if there is one within 180 days of the filing of the petition. Otherwise, the vote will be at a special election called for that purpose pursuant to RCW 29A.04.330.

2. **Resolution Method.** The second method for acquiring these powers is for a majority of the city council to initiate the process by enacting a resolution declaring the intention to provide for initiative and referendum powers. This resolution must be published in a newspaper of general circulation within the city not more than 10 days after passage of the resolution.

   If no referendum petition is filed within 90 days after publication of the resolution, then the city council must enact an ordinance formally adopting the powers of initiative and referendum.

   If a referendum petition is filed within the 90 days after publication of the resolution and is signed by qualified electors of the city equal to not less than 10 percent of the votes cast at the last general municipal election, an election must be held on the issue of whether to adopt these powers for the city. The vote will be held at the next general municipal election if there is one within 180 days or otherwise at a special election called for that purpose pursuant to RCW 29A.04.330.

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How the Powers are Exercised

INITIATIVE PROCESS IN A NONCHARTER CODE CITY

As indicated, the power of initiative is only available in those code cities that have formally adopted that power. If a code city adopts this power, it is exercised primarily in the same manner as established for the commission form of government in RCW 35.17.240 - 35.17.360. When the Optional Municipal Code was adopted in 1969, rather than set out a new and different procedure for the initiative and referendum powers, the drafters merely provided that code cities use the same basic procedure that already existed for commission cities. The one exception is in the number of signatures required for a successful petition for code cities, as specified by RCW 35A.11.100.

Only ordinances may be adopted by initiative. It is not possible to adopt resolutions by initiative. Restrictions on the types of ordinances that may be adopted by initiative have been imposed by the legislature and the courts and are reviewed on pages 5-10 of this publication.

Assuming that a code city has formally adopted the power of initiative and that the subject of an ordinance is an appropriate one for an initiative, the initiative process is basically as follows:

1. The proponent of the initiative must obtain signatures on the petition equal in number to 15 percent of the total number of registered voters within the city as of the date of the last preceding city general election. RCW 35A.11.100.

2. Everyone who signs the initiative petition must add to their signature his or her place of residence, giving the street and the number. Petitions must also be printed in the form required by RCW 35A.01.040. These requirements are outlined in detail in Appendix K.

3. The signed petition must be filed with the officer designated to receive the petition (usually the city clerk), who then has three working days to transmit it to the county auditor who will review and determine the validity and adequacy of the signatures on the petition. After review, the county auditor must attach a certificate to the petition indicating whether or not it has been signed by a sufficient number of registered voters. This written certificate is then transmitted to the city officer with whom the petition was originally filed.

4. If the number of signatures is found to be insufficient, the petitioners have 10 additional days to amend the petition by supplying additional signatures. The amended petition is then resubmitted to the receiving officer who retransmits the petition to the county auditor. If the county auditor finds the number of signatures insufficient a second time, then the petition is returned to the person filing it. Any taxpayer then has the option of filing an action in superior court to determine if the petition is sufficient.

5. If the county auditor determines that the number of signatures is sufficient, then the city council has two options. The first is for the city council to pass the proposed ordinance, without alteration, within 20 days after the county auditor's certificate of sufficiency has been received by the council. The second is to submit the measure to a vote of the people.

6. The ballot title of any initiative is to be composed of three elements: (a) an identification of the enacting legislative body and a statement of the subject matter; (b) a concise description of the measure; (c) a question asking the voters whether the enactment should be approved or rejected by the voters. The concise statement must be prepared by the city attorney and may not exceed 75 words. RCW 29A.36.071.

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7. Once the ballot title is filed, the county auditor will notify the proponents of the initiative of the exact language of the ballot title. If the persons filing the initiative are dissatisfied with the ballot title formulated by the city attorney, they may file an appeal within 10 days to the superior court of the county where the issue is to appear on the ballot. They must indicate their objections and ask for amendment. The court will hold a hearing and render a decision certifying the correct ballot title. The decision of the superior court is final. RCW 29A.36.090.

8. The election will be held by special election not less than 45 days after the certificate of sufficiency is received by the council. The special election dates are listed in RCW 29A.04.330. (See Appendix L.) If a general election is scheduled within 90 days, the election on the initiative will take place on that date instead of on the next special election date (assuming that the general election date is at least 45 days after sufficiency of the petitions is certified).

9. The city clerk must cause the ordinance that will be submitted to the voters at an election to be published at least once in each of the daily newspapers in the city between five and 20 days before the election. If there are no daily newspapers, then publication must be in each of the weekly newspapers.

10. If a majority of the number of votes cast favor the proposed measure, it is adopted and will become effective upon certification of the election results.

An ordinance that has been adopted by means of the initiative process after an election of the people may be repealed or amended only by a vote of the people. This means that the city council may not merely amend or repeal such an ordinance, as is usually the case. However, the city council may initiate the amendment or repeal of the ordinance and then submit the proposition to a vote of the people.

REFERENDUM PROCESS IN A NONCHARTER CODE CITY

The objective of the referendum process is to submit an ordinance that has been formally adopted by the city council to a vote of the people. The process is mainly the same as set out in RCW 35.17.240 - 35.17.360 for the exercise of the referendum power in commission cities.

The referendum power may be exercised only in regard to ordinances. Restrictions as to which types of ordinances are subject to the referendum are reviewed on pages 5-10 of this publication.

An ordinance that is subject to the referendum process does not go into effect for 30 days after enactment so that the citizens will have an opportunity to petition for referendum. (Ordinances that are not subject to referendum are usually effective five days after publication.)

Assuming that a code city has formally adopted the power of referendum and that the ordinance is one of the types that is subject to the referendum power, then the following basic procedures apply to exercise of the referendum power:

1. The proponent of the referendum must submit a petition with attached signatures equal to 15 percent of the number of persons listed as registered voters within the city on the day of the last preceding city general election.

2. Everyone who signs the referendum petition must add to their signature his or her place of residence, giving the street and number. The petitions must also be in the form required by RCW 35A.01.040. These requirements are outlined in detail in Appendix K.

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3. The petition must be filed with the officer designated to receive the petition (usually the city clerk). That officer has three working days after the filing of a petition to transmit it to the county auditor, who determines the validity and adequacy of the signatures on the petition. The county auditor must attach a certificate to the petition indicating whether or not it has been signed by a sufficient number of registered voters and transmit the written certificate back to the city officer with whom the petition was originally filed.

4. If the number of signatures is insufficient, then the petitioners have 10 additional days to amend the petition by supplying additional signatures. The amended petition is then resubmitted to the receiving officer who retransmits the petition to the county auditor. If the county auditor finds the number of signatures insufficient a second time, then the petition is returned to the person filing it. Any taxpayer then has the option of filing an action in superior court to determine if the petition is sufficient.

5. If the county auditor determines that the number of signatures is sufficient, then the city council has two options. The first option is to reconsider the ordinance within 20 days and repeal it in its entirety. The second option is to submit the measure for approval or disapproval to a vote of the people.

6. The ballot title of any referendum is to be composed of three elements: (a) an identification of the enacting legislative body and a statement of the subject matter; (b) a concise description of the measure; (c) a question asking the voters whether the enactment should be approved or rejected by the voters. The concise statement must be prepared by the city attorney and may not exceed 75 words. RCW 29A.36.071.

7. Once the ballot title is filed, the county auditor will notify the persons proposing the referendum of the exact language of the concise statement. If the proponents are not satisfied with the concise statement formulated by the city attorney, they may file an appeal within 10 days to the superior court of the county where the question will appear on the ballot. They must indicate their objections and ask for an amendment. After a hearing, the superior court will certify the final ballot title. The decision of the superior court on the wording is final. RCW 29A.36.090.

8. The election will be at a special election to be held not less than 45 days after the certificate of sufficiency is received by the council. The special election dates are listed in RCW 29A.04.330. (See Appendix L.) If there is a general election being held within 90 days, the election on the referendum will take place on that date instead of on the next special election date (assuming that the general election date is at least 45 days after sufficiency of the petitions is certified).

9. The city clerk must cause the ordinance that will be submitted to the voters to be published at least once in each of the daily newspapers in the city between five and 20 days before the election. If there are no daily newspapers, then publication must be once in each of the weekly newspapers.

10. If a majority of the number of votes cast is in favor of the repeal of the proposed ordinance, then the ordinance is deemed repealed and does not become effective.

If a timely referendum petition is filed, the effective date of the ordinance is suspended until the referendum petition is found to be insufficient or the ordinance is approved by the voters at the election. This means that the ordinance does not take effect until the referendum process is complete, in one way or the other.

POWERS EXERCISED IN A COMMISSION CITY

Basically, the same procedures apply to the exercise of the powers of initiative and referendum in a commission city as apply in a code city, since the code city drafters utilized the statutory procedures which already existed for initiative and referendum in the commission statutes, RCW 35.17.240 - 35.17.360.

However, there is one significant difference. In a commission city, for an initiative or referendum petition to be sufficient, the petition must be signed by registered voters in the city equal in number to 25 percent of the votes cast for all candidates for mayor at the last preceding city election. This number applies to both initiative and referendum petitions. It is significantly higher than the signature requirement for code cities.

Other than this difference in the number of signatures for a successful petition, the procedure previously outlined for code cities applies.

POWERS EXERCISED IN A FIRST CLASS CITY

All of the first class cities have adopted the powers of initiative and referendum in their charters. The exact procedure for the exercise of these powers is outlined in each city charter and varies from city to city. See Appendix M for a short summary of initiative and referendum procedures in each of these cities.

POWERS EXERCISED IN A CHARTER COUNTY

All of the charter counties have adopted the powers of initiative and referendum in their charters. The exact procedure for the exercise of these powers is outlined in each county charter and varies from county to county.

See Appendix N for a short summary of initiative and referendum procedures in each of these counties.

How the Powers are Abandoned

Code cities, first class cities, and charter counties that have acquired the powers of initiative and referendum may repeal or abandon those powers. It is not possible for a commission city to abandon those powers unless the city changes to another plan of government.

All first class cities and charter counties in Washington have adopted the powers of initiative and referendum in their respective charters. If a first class city or charter county desires to relinquish or abandon its initiative and referendum powers, it must amend its charter. This is accomplished in the same manner as any other charter amendment, which requires a vote of the citizens. No first class city or charter county has ever attempted to repeal charter provisions that contain initiative and referendum powers.

State statutes do provide for the repeal or abandonment of the powers of initiative and referendum in a noncharter code city. However, those powers may not be repealed until at least six years has elapsed since they were adopted. To date, no code city that has acquired initiative and referendum powers has ever repealed them or attempted to do so.

The procedure for a code city desiring to abandon or repeal initiative and referendum powers is the same procedure as is provided for abandonment of a plan of government by a code city. RCW 35A.11.080. A summary of the procedure is as follows:

1. Two ways exist to initiate the repeal of initiative and referendum powers. The first is for the city council to pass a resolution of intention, proposing abandonment of initiative and referendum powers. The second is for the citizens to petition for abandonment of the powers. The petition must be signed by qualified electors equal in number to not less than 10 percent of the votes cast at the last general municipal election.

2. Once the petition has been determined to be sufficient by the county auditor or the resolution of intention has been approved by the council, an election must be held at the next general election in accordance with RCW 29A.04.330.

3. If a majority of the voters voting at the election vote to repeal the powers of initiative and referendum, then they are repealed.

Process and Requirements for Petition Signature Gatherers

The U.S. Supreme Court held unconstitutional a Colorado law that prohibited the payment of individuals who solicit petition signatures because it was a burden on political expression that the state could not justify. *Meyer v. Grant*, 486 U.S. 414 (1988). In response, the Washington State Legislature in 1993 enacted a law that was more limited than Colorado's and that prohibited paying a signature gatherer only on the basis of how many signatures the gatherer obtains. Paying on the basis of how many signatures are obtained may be considered an incentive for fraud in the signature-gathering process.

In 1994, the U.S. District Court for the Western District of Washington found the Washington law to be an unconstitutional restriction on the First Amendment rights of citizens by limiting payment to gatherers on a per signature basis, absent a legislative finding based on "actual evidence" of fraud. *LIMIT v. Maleng*, 874 F.Supp. 1138 (1994).

Although the Washington law (RCW 29A.84.250 and RCW 29A.84.280) has not been repealed, it is no longer enforceable, based on *LIMIT v. Maleng*. (It remains to be seen, however, if the law would be enforceable if a finding based on actual evidence of fraud is made.) In sum, a county or city may not prohibit signature gatherers from being paid, either by a flat rate or per signature gathered.

Appendices

APPENDIX A – CITIES AND COUNTIES THAT HAVE POWERS OF INITIATIVE AND REFERENDUM

The following cities and counties in Washington State possess the powers of initiative and referendum:

First Class Cities

All ten first class cities have the powers of initiative and referendum.

Aberdeen	Bremerton	Richland	Spokane	Vancouver
Bellingham	Everett	Seattle	Tacoma	Yakima

Code Cities

The following code cities have adopted the powers of initiative and referendum.

Battle Ground	Clarkston	Kelso	Mountlake Terrace	Sammamish
Bellevue	Des Moines	Kenmore	Mukilteo	SeaTac
Black Diamond	Edgewood	Kent	North Bend	Sequim
Blaine	Edmonds	La Center	Ocean Shores	Shoreline
Bonney Lake	Ellensburg	Lakewood	Olympia	Spokane Valley
Bothell	Federal Way	Lake Forest Park	Port Angeles	Tukwila
Brier	Ferndale	Longview	Puyallup	Tumwater
Burien	Gig Harbor	Lynnwood	Rainier	Walla Walla
Camas	Goldendale	Mercer Island	Redmond	Washougal
Chelan	Issaquah	Mill Creek	Renton	Wenatchee
Cheney	Kahlotus	Monroe	Ridgefield	Woodinville

Charter Counties

All seven charter counties have adopted the powers of initiative and referendum.

Clallam	King	San Juan	Whatcom
Clark	Pierce	Snohomish	

APPENDIX B – SAMPLE RESOLUTION DECLARING INTENT OF CODE CITY TO ADOPT POWERS OF INITIATIVE AND REFERENDUM

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF _____, WASHINGTON, DECLARING THE INTENT OF THE CITY COUNCIL TO ADOPT THE RIGHT OF INITIATIVE AND REFERENDUM FOR THE REGISTERED VOTERS OF THE CITY; PROVIDING FOR PUBLICATION OF THIS RESOLUTION; AND PROVIDING THAT UPON THE EXPIRATION OF THE NINETIETH DAY AFTER THE DATE OF PUBLICATION THAT AN ORDINANCE ADOPTING THE INITIATIVE AND REFERENDUM PROCESS FOR THE REGISTERED VOTERS OF THE CITY SHALL BE PRESENTED UNLESS A TIMELY AND SUFFICIENT REFERENDUM PETITION HAS BEEN FILED REFERRING THE QUESTION TO THE REGISTERED VOTERS OF THE CITY FOR APPROVAL OR REJECTION.

The CITY COUNCIL OF THE CITY OF _____, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

Section 1. Pursuant to RCW 35A.11.080, which permits the legislative body of a noncharter code city, such as the City of _____, to provide for the exercise in the City of the powers of initiative and referendum in accordance with the provisions of state law set forth in RCW 35A.02.020 et seq, the City Council of the City of _____, Washington, a noncharter optional municipal code city, hereby declares its intention to adopt for the City the powers of initiative and referendum.

Section 2. Within ten (10) days following the passage of this resolution the City clerk is instructed to cause this resolution to be published at least once in a newspaper of general circulation within the City to wit: (NEWSPAPER TITLE).

Section 3. Notice is given that upon the expiration of the ninetieth day after the date of first publication of this resolution, but excluding the date of first publication of the resolution, if no timely and sufficient referendum petition is filed pursuant to RCW 35A.02.035, as determined by RCW 35A.29.170, the intent expressed in this resolution shall, at the next regular meeting of the City Council, be effected by an ordinance adopting for the City the powers of initiative and referendum.

RESOLVED this _____ day of (month/year).

CITY OF _____

_____

MAYOR, (name)

ATTEST/AUTHENTICATED:

_____

CITY CLERK, (name)

FILED WITH THE CITY CLERK: (date)
PASSED: (date)
PUBLISHED: Published in the (newspaper) on (date).

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APPENDIX C – SAMPLE ORDINANCE OF CODE CITY ADOPTING POWERS OF INITIATIVE AND REFERENDUM

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF _____, WASHINGTON, ADOPTING A POWER OF INITIATIVE AND REFERENDUM FOR THE REGISTERED VOTERS OF THE CITY.

WHEREAS, the City Council of the City of _____, Washington, passed Resolution No. ___ on (date), stating its intent to adopt the powers of initiative and referendum for the registered voters of the City as provided in RCW Chapter 35A.11, now, therefore,

THE CITY COUNCIL OF THE CITY OF _____, WASHINGTON DO ORDAIN AS FOLLOWS:

Section 1. A new Chapter 1.12 entitled "Initiative and Referendum" is hereby added to the _____ Municipal Code to read as follows:

Section 1.12.010 Power of Initiative and Referendum Adopted

The City of _____ hereby adopts the power of initiative and referendum for the registered voters of the city as provided pursuant to RCW 35A.11.080 through 35A.11.100. Such powers are to be exercised as provided in the above referenced sections of the Revised Code of Washington as they now exist or may be amended from time to time and said sections are hereby incorporated in full by this reference.

Section 2. This ordinance will be in full force and effect five days after passage and publication by posting as provided by law.

CITY OF _____

_____

MAYOR, (name)

ATTEST/AUTHENTICATED:

_____

CITY CLERK, (name)

APPROVED AS TO FORM:
OFFICE OF THE CITY ATTORNEY:

BY

FILED WITH THE CITY CLERK:(date) POSTED: (date)
PASSED BY THE CITY COUNCIL: (date) EFFECTIVE DATE: (date)
SIGNED BY THE MAYOR: (date)

APPENDIX D – SAMPLE INITIATIVE PETITION FORMAT FOR CODE CITIES

WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

INITIATIVE PETITION FOR SUBMISSION TO THE _____ CITY COUNCIL

TO: The City Council of the City of _____:

We, the undersigned registered voters of the City of _____, State of Washington, residing at the addresses set forth opposite our respective names, being equal to fifteen percent (15%) of the total number of names of persons listed as registered voters within the City on the day of the last preceding City general election, respectfully request that the following ordinance be enacted by the City Council or, if not so enacted, be submitted to a vote of the residents of the City. The title of the said ordinance is as follows:

(Here insert the title, ensuring that the proposed ordinance does not contain more than one subject and that the subject is clearly expressed in the title, and then insert one of the two sentences shown below.)

(The full text of the ordinance is as follows:] or (A full, true and correct copy of the ordinance is attached to this Petition.)

Each of us for himself or herself says:

I have personally signed this petition; I am a registered voter of the City of _____, State of Washington; and my residence address is correctly stated.

Signature Printed Name Street and Number City Date

1. _____

20. _____

APPENDIX E – SAMPLE REFERENDUM PETITION FORMAT FOR CODE CITIES

WARNING

Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

PETITION FOR REFERENDUM

TO: The City Council of the City of _____:

We, the undersigned registered voters of the City of _____, State of Washington, residing at the addresses set forth opposite our respective names, being equal to fifteen percent (15%) of the total number of names of persons listed as registered voters within the City on the day of the last preceding City general election, respectfully request that Ordinance No. _____ enacted by the City Council on the _____ day of _____, 20____, be repealed by the Council or, if not so repealed, be referred to a vote of the residents of the City for their approval or rejection. The title of the said ordinance is as follows:

(Here insert the title of the Ordinance as enacted, and then insert one of the two sentences shown below.)

(The full text of the ordinance, as enacted by the City Council, is as follows:) or (A full, true and correct copy of the ordinance as enacted by the City Council is attached to this Petition.)

Each of us for himself or herself says:

I have personally signed this petition; I am a registered voter of the City of _____, State of Washington; and my residence address is correctly stated.

Signature Printed Name Street and Number City Date

1. _____

20. _____

APPENDIX F – SOME COMMON QUESTIONS RELATING TO INITIATIVE AND REFERENDUM POWERS

1. **What is the power of initiative?**
   The power of initiative is the ability of the voters of the city or charter county to initiate and enact legislation directly, with or without the consent of their elected representatives, the city or county legislative authority.

2. **What is the power of referendum?**
   The power of referendum is the ability of the citizens of the city or charter county to have an ordinance that has been enacted by the city or county legislative authority submitted to the voters for approval or disapproval before it becomes effective.

3. **Have all first class cities adopted the powers of initiative and referendum?**
   Yes. All ten first class cities have adopted these powers in their charters. The exact procedures vary for each city as provided in their charter (See Appendix M).

4. **Do all counties have the powers of initiative and referendum?**
   No. Only the six counties that have adopted a charter have the ability to adopt the powers of initiative and referendum. Each of those counties has adopted the powers of initiative and referendum in their charters. The exact procedures vary for each county as provided in their charters (See Appendix N).

5. **Do all code cities have the powers of initiative and referendum?**
   No. The powers of initiative and referendum are available to all code cities, but they must be specifically adopted. Most of the code cities in the state have not adopted these powers.

6. **Do second class cities or towns have these powers available?**
   No. A statutory grant of authority from the state legislature is necessary for the powers of initiative and referendum to be available. There is no such grant of authority for second class cities or towns to adopt these powers.

7. **May the legislative authority of a city or county that does not have the powers of initiative and referendum available submit an issue to the voters in an advisory ballot?**
   Yes. All cities and counties in the state have the ability to submit an issue to the public on an advisory basis at an election. However, the results of the election are not binding on the city or county legislative authority, as they are for an initiative or referendum; they merely serve to reflect the mood of the electorate.

8. **How may a code city adopt the powers of initiative and referendum?**
   There are two methods by which a code city may adopt these powers. One method is initiated by a resolution of the city council and the other by a voter petition. The exact procedure for each of these methods is outlined in on pages 11-12 of this publication.

9. **How many signatures are required to initiate a referendum or initiative in a code city?**
   For an initiative or referendum petition to be valid in a code city, the petition must contain the signatures of registered voters consisting of at least 15 percent of the total number of persons listed as registered voters within the city on the day of the last preceding city general election.

10. **Does the referendum power apply to resolutions of the city or county legislative authority?**
    No. The power of referendum only applies to ordinances adopted by the city or county legislative authority. Resolutions are not subject to the referendum power and the initiative process may not be applied to a resolution.

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11. **Are all types of ordinances subject to the initiative and referendum process?**
No. There are a number of limitations on the exercise of initiative and referendum powers. Some of these limitations arise out of the state statutes that grant the right of initiative and referendum. Other limitations arise from court decisions concerning the extent of these powers.

12. **What statutory limitations are placed on the right of referendum in code cities?**
RCW 35A.11.090 contains a list of types of ordinances that are not subject to the power of referendum in a code city. This list includes emergency ordinances, ordinances providing for local improvement districts, ordinances appropriating money, ordinances providing for collective bargaining, ordinances for compensation or other working conditions of city employees, and ordinances authorizing or repealing the levy of taxes.

13. **What other limitations are placed on the exercise of the powers of initiative and referendum?**
The courts in Washington have imposed two tests to determine if a specific ordinance is subject to the powers of initiative and referendum. The first test is whether the underlying action is administrative or legislative. Only legislative actions are subject to initiative and referendum; administrative actions are not. The second test is to determine if the power is one that has been granted to the legislative authority of the city or county or whether it is a power that has been granted to the corporate entity as a whole. If it is a power that has been granted to the legislative authority or city council specifically, then it is not subject to initiative and referendum.

14. **What is an administrative action and what is a legislative action for purposes of determining if an action is subject to initiative and referendum?**
The courts have established two tests to determine this. Actions relating to subjects of a permanent and general character are usually regarded as legislative in nature, and actions relating to subjects of a temporary and special character are usually regarded as administrative in nature. Secondly, the power to be exercised is legislative in nature if it prescribes a new policy or plan, while it is administrative in nature if it merely pursues a policy or plan already adopted by the city or county council.

15. **Is a rezone ordinance subject to the referendum process in a code city?**
No. This specific issue was the subject of a court case, *Leornard v. Bothell*, 87 Wn.2d 847 (1976). Although the court considered a site-specific rezone to be an administrative action, it held that the authority to adopt and modify the zoning code in a code city had been given by the state legislature to the city council, and so a site-specific rezone is not subject to the power of referendum.

16. **Is the power to annex property subject to the initiative or referendum process?**
No. The power to annex property has been granted by the state legislature specifically to the city council and so it is not subject to the initiative process. This is the holding in *State ex rel. Bowen v. Kruegel*, 67 Wn.2d 673 (1965).

17. **May the powers of initiative and referendum be abandoned once they have been adopted?**
Yes, first class cities, code cities, and charter counties may abandon these powers after they have been adopted. First class cities and charter counties must amend their charters to abandon these powers. A code city may abandon these powers so long as at least six years have elapsed since their adoption. The process is described on page 18 of this publication. Only commission cities have no authority to abandon these powers since they are a part of the commission form of government and are contained in the state enabling legislation for that form of government.

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18. **Can petition signature gatherers be paid?**
    Yes, petition signature gatherers can be paid either a flat fee or on a per signature gathered basis. Cities and counties do not have the authority to ban signature gatherers from being paid on either basis.

19. **Are ordinances enacted pursuant to the Growth Management Act (GMA) subject to the power of referendum?**
    No. Any ordinance adopted pursuant to the GMA is not subject to the power of referendum, because the legislature specifically delegated the power to act under GMA to the legislative authority of a city or county and not to the corporate entity.

20. **Can ordinances that pertain to the Growth Management Act be enacted by initiative?**
    No. Any ordinance related to the GMA is not subject to the powers of initiative as well, because the legislature specifically delegated the power to act under GMA to the legislative authority of a city or county and not to the corporate entity.

APPENDIX G – SELECTED WASHINGTON CASES THAT RELATE TO INITIATIVE AND REFERENDUM POWERS OF CITIES AND COUNTIES

Most of the case law authority in Washington regarding initiative and referendum powers relate to whether a particular issue is subject to those powers or not. The following are some of the leading cases on this issue:

***Mukilteo Citizens for Simple Gov't v. City of Mukilteo*, 174 Wn.2d 41 (2012)**
The legislature granted to local legislative bodies the exclusive power to legislate on the subject of the use and operation of automated traffic safety cameras. Therefore, an initiative to expressly restrict the authority of a city's legislative body to enact red light cameras by requiring a two-thirds vote of the electorate for approval and by limiting the amount of traffic fines is invalid.

***City of Port Angeles v. Our Water-Our Choice!*, 170 Wn.2d 1 (2010)**
The decision to fluoridate the city water supply is administrative in nature, and so is beyond the scope of the local initiative power and is subject to preelection challenge.

***1000 Friends of Wash. v. McFarland*, 159 Wn.2d 165 (2006)**
Ordinances enacted under the GMA that designate and protect critical areas are not subject to local referenda.

***City of Sequim v. Malkasian*, 157 Wn.2d 251 (2006)**
An initiative that would restrict or limit the authority of a city to issue revenue bonds under chapter 35.41 RCW, the Municipal Revenue Bond Act, exceeds the initiative power and is invalid. The legislature unambiguously granted the legislative body of the city the authority over revenue bonds under multiple provisions in chapter 35.41 RCW.

***City of Seattle v. Yes for Seattle*, 122 Wn. App. 382 (2004), *review denied*, 153 Wn.2d 1020 (2005)**
A local initiative that related to development restrictions over creeks or their buffers and required certain creek restoration activities was invalid because the initiative concerned a development regulation under the Growth Management Act and the statutory grant of power to enact such regulations is to the legislative authority of the city.

***King County v. Taxpayers of King County*, 133 Wn.2d 584 (1997)**
An ordinance authorizing the issuance of bonds to build a new baseball stadium as permitted under the Stadium Act (RCW 82.14.0485) was not subject to initiative.

***Bidwell v. Bellevue*, 65 Wn. App. 43, *review denied*, 119 Wn.2d 1023 (1992)**
An initiative that restricted the authority of the Bellevue Convention Center Authority to issue negotiable bonds or notes to finance construction of the convention center without prior voter approval was not appropriate because the initiative dealt with administrative matters and would have unconstitutionally impaired contract rights.

***Heider v. Seattle*, 100 Wn.2d 874 (1984)**
Changing the name of a street is an administrative action not subject to the initiative process.

***Citizens for Financially Responsible Government v. Spokane*, 99 Wn.2d 339 (1983)**
The enactment by a first class city of a business and occupation tax is subject to referendum because it is legislative in nature and the power to enact such taxes is shared with the electorate because of provisions in the Spokane city charter.

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***Seattle Building and Construction Trades Council v. Seattle*, 94 Wn.2d 740 (1980)**
A proposed initiative that would have prohibited further work on the I-90 construction project across Lake Washington was held invalid because the actions of the city were administrative in nature and not subject to the initiative process.

***Lince v. Bremerton*, 25 Wn. App. 309 (1980)**
An initiative is not an appropriate measure to amend the zoning code of a first class city because that is a power that has been given to the legislative body of the city.

***Leornard v. Bothell*, 87 Wn.2d 847 (1976)**
A site-specific rezone ordinance is not subject to the referendum power because it is administrative in nature and also because the power to amend the zoning code has been granted to the legislative body of the city.

***Ruano v. Spellman*, 81 Wn.2d 820 (1973)**
An attempt to prevent construction of the Kingdome by repealing the resolution authorizing the project and the bonds to finance it and to prohibit spending of funds for further development was improper because the decisions remaining were held to be administrative in nature and the passage of the initiative would also result in the impairment of existing contract rights.

***State ex rel. Guthrie v. Richland*, 80 Wn.2d 382 (1972)**
Initiative and referendum powers can only be invoked at the local level if their exercise is not in conflict with state law. In this case, an ordinance providing for extensions to the municipally-owned waterworks, financed by revenue bonds, was held not subject to a referendum.

***Durocher v. King County*, 80 Wn.2d 139 (1972)**
Action by the county in granting an "unclassified use permit" was not subject to referendum because it is administrative in nature.

***Ford v. Logan*, 79 Wn.2d 147 (1971)**
The repeal of a county home rule charter is not within the initiative powers granted to the voters of a county.

***Paget v. Logan*, 78 Wn.2d 349 (1970)**
An initiative that prohibited location of a multipurpose stadium at the Seattle Center was held to be appropriate because the issue was legislative and the power was one that had been granted to the county as a corporate entity.

***State ex rel. Bowen v. Kruegel*, 67 Wn.2d 673 (1965)**
An annexation ordinance is not subject to referendum power because the authority to annex property has been given to the city council.

***State ex rel. Haas v. Pomeroy*, 50 Wn.2d 23 (1957)**
The action of a city council in setting water utility rates, where the system is financed by revenue bonds, is not subject to referendum because the grant of power to set rates when revenue bonds have been used to create the utility is to the city council.

Cases that relate to other aspects of the local initiative and referendum process:

***Eyman v. McGehee*, 173 Wn. App. 684 (2013)**
The city clerk had a mandatory duty under RCW 35A.01.040(4) and RCW 35A.29.170 to transfer to the county

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auditor the initiative petition to prohibit the city's using automatic ticketing cameras, but the issuance of writ of mandamus the issuance of a writ would have been improper as a vain and useless act, because the initiative exceeded the local initiative power.

***City of Sequim v. Malkasian*, 157 Wn.2d 251 (2006)**
The city had standing to bring a postelection challenge to an initiative approved by the voters. The question of whether the initiative was beyond the scope of the initiative power was not mooted by the election because the election did not alter or expand the scope of the initiative power. The sponsor of a local initiative can be the proper defendant in a preelection declaratory action to determine whether the initiative exceeds the initiative power of the people.

***Maleng v. King County Corrections Guild*, 150 Wn.2d 325 (2003)**
A county initiative changing the number of council-members was valid. The state supreme court held that the initiative was not beyond the initiative powers under the state constitution or the King County Charter because amending a charter is no different that proposing an ordinance.

***Priorities First v. City of Spokane*, 93 Wn. App. 406 (1998), *review denied*, 137 Wn.2d 1035 (1999)**
An action against the city for refusing to put an initiative on the ballot that sought voter approval before it created a public development authority (PDA) to provide off-street parking facilities was invalid. The court of appeals ruled that the city was correct in declaring the initiative invalid because it conflicted with a state statute (chapter 35.41 RCW) in which the legislature has delegated authority to the city council.

***CLEAN v. City of Spokane*, 133 Wn.2d 455 (1997)**
A referendum challenging an ordinance to support an off-street parking garage for a private retail development under the emergency clause of the Spokane City Charter was invalid. The court ruled that the city had an interest in preventing economic loss to the downtown area.

***Whatcom County v. Brisbane*, 125 Wn.2d 345 (1994)**
A critical areas ordinance enacted under the Growth Management Act was not subject to the referendum power. The court stated that where a statutory grant of authority is given to the legislative body of a city or county then that grant of authority supersedes the county or city charter.

***Snohomish County v. Anderson*, 123 Wn.2d 151 (1994), also 124 Wn.2d 834 (1994)**
A citizen's referendum to the county council adopting a county-wide planning policy ordinance as required under the Growth Management Act (GMA) was invalid. The court ruled that the GMA requires the legislative authority of counties to adopt a county-wide planning policy and a referendum regarding that policy is beyond the referendum power of the citizens.

***Save Our State Park v. County Commissioners*, 74 Wn. App. 637 (1994)**
An initiative to repeal a zoning regulation adopted by the county commissioners pursuant to the Planning Enabling Act, chapter 36.70 RCW, was invalid. The court of appeals ruled that the legislature has clearly delegated the authority to approve a comprehensive plan, adopt official controls, and engage in zoning under chapter 36.70 RCW to the county legislative authority.

***LIMIT v. Maleng*, 874 F.Supp. 1138 (1994)**
The U.S. District Court found that, based on the U.S. Supreme Court's interpretation, the Washington law that made it a gross misdemeanor to pay signature gatherers per signature was an unconstitutional prohibition on freedom of political speech guaranteed by the First Amendment.

***State ex rel. Uhlman v. Melton*, 66 Wn.2d 157 (1965)**
Petitions for referendums in municipalities must strictly comply with procedural requirements, such as the time for filing petitions, since these requirements are mandatory and jurisdictional.

***State ex. rel. O'Connell v. Meyers*, 51 Wn.2d 454 (1957)**
The presumption in favor of constitutionality of legislation also applies to statutes enacted by initiative.

APPENDIX H – EXAMPLES OF SPECIFIC STATUTORY GRANTS OF POWER TO MUNICIPAL LEGISLATIVE AUTHORITY

These topics are not likely to be subject to initiative and referendum powers.

Statutory Grants	RCW
Consolidation/Annexation of One City to Another	Ch.35.10
Annexation of Unincorporated Areas to City	Ch.35.13
Assumption of Water-Sewer Districts	35.13A.020
Power to Acquire Auditoriums, Art Museums, Swimming Pools, etc.	35.21.020
Power to Create Special Funds: Payroll & Claims	35.21.085
Authority to Designate Streets as Parkways Transfer of Maintenance Responsibilities	35.21.190
Power to Establish Residency Qualifications for Appointed Officials/Preference in Employment	35.21.200
Power to Purchase Liability and Workman's Compensation Insurance	35.21.209
Power to Establish Transportation Benefit Districts	35.21.225
Power to Participate in Economic Opportunity Act Programs	35.21.680
Authority to Promote Tourism	35.21.700
Authority to Establish Public Ambulance Utility	35.21.766
Authority to Establish B & O Tax on Ambulance Businesses	35.21.768
Authority to Revise Corporate Boundary Street Center Lines	35.21.790
Authority to Create Park Board Commissioners	35.23.170
Authority to Create Special Funds, Sell Revenue Bonds, Warrants & Set Rates Municipal Bond Revenue Act	Ch.35.41
Authority to Order Local Improvements	35.43.040
Authority to Create Utility Local Improvement Districts (ULID)	35.43.042
Authority to Issue LID Bonds	35.45.010
Authority to Create Pedestrian Malls	35.71.030
Authority to Contract for Street Projects	35.72.010
Authority to Create Comprehensive (6-year) Street Plan	35.77.010
Authority to Classify Streets	35.78.010
Authority to Vacate Streets	35.79.030
Authority to Regulate Unfit Dwellings, Buildings, Structures	35.80.030
Authority to Enable Local Housing Authority	35.82.030
Authority to Acquire, Construct, Maintain, etc., Out-of-State Property, Plant and Equipment for Municipal Utilities	35.92.014
Authority to Appropriate Funds, Levy Tax for Transportation System	35.95.030
Authority to Annex Property Code Cities	35A.14.015
Authority to Establish a Planning Agency	35A.63.020
Authority to Approve Comprehensive Plan	35A.63.072, 35.63.100
Authority to Adopt Land Use Regulations (Zoning Code)	35A.63.100, 35.63.110
Authority to Establish Short Plat/Subdivision Regulations	58.17.060
Authority to Approve Plats	58.17.100, 58.17.110, 58.17.170

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APPENDIX I – EXAMPLES OF SPECIFIC STATUTORY GRANTS OF POWER TO MUNICIPAL CORPORATE ENTITY

These topics may be subject to initiative and referendum powers if the other statutory and judicial limitations on the powers are satisfied.

Statutory Grants	RCW
Petition for Reduction of City Limits	35.16.010
Power to Provide Auxiliary Water System for Fire Protection	35.21.030
Power to Create Equipment Fund	35.21.088
Power to Establish, Construct and Maintain Dikes and Levees	35.21.090
Power to Accept Donations of Property	35.21.100
Authorization to Construct, Acquire and Maintain Ferries	35.21.110
Power to Establish Solid Waste Handling System	35.21.120
Power to Establish Sewers, Drainage and Water Supplies	35.21.210
Power to Regulate Sidewalks	35.21.220
Authority to Require Removal of Debris/Plants	35.21.310
Authority to Establish Lake Management Districts	35.21.403
Authority to Establish Youth Agencies	35.21.630
Authority to Assist Development of Low Income Housing	35.21.685
Authority to Own/Operate Professional Sports Franchise	35.21.695
Authority to Acquire/Construct Multi-Purpose Community Center	35.59.030
Authority to Participate in World Fairs and Expositions	35.60.030
Authority to Construct Sidewalks, Gutters, Curbs, etc.	35.68.010
Authority to Erect/Maintain Draw Bridges	35.74.010
Authority to Regulate and License Bicycles	35.75.010
Authority to Provide Off-Street Parking Facilities	35.86.010
Authority to Acquire and Operate Municipal Utilities Generally	35.92.010
Authority to Require Conversion to Underground Utilities	35.96.030
Authority to Establish Heating Systems	35.97.020
Power to Adopt Code City Status	35A.02.010
Power to Adopt Charter Code City Status	35A.07.010
Authority for Library, Museum and Historical Activities	35A.27.010
Authority for Joint Acquisition of Land for Schools	35A.28.010
Authority for Joint Facilities and Agreements Intergovernmental Relations Civic Center, Jails, Armories	35A.35.010
Authority for Emergency Services Participation	35A.38.010
Authority for Granting of Property for Highways and Streets	35A.47.010
Authority for Local Regulatory Option on Sale of Liquor	Ch.35A.66
Authority to Acquire Recreational Facilities	Ch.35A.67
Authority to Acquire Cemeteries/Morgues	Ch.35A.68
Authority to Regulate Food and Drugs	Ch.35A.69

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Statutory Grants	RCW
Authority to Regulate Health and Safety	Ch.35A.70
Authority to Provide for the General Welfare	Ch.35A.74
Power to Acquire, Use and Manage Property and Materials	Ch.35A.79
Authority to Provide Public Utilities	Ch.35A.80
Authority to Regulate Harbors and Navigation	Ch.35A.88

APPENDIX J – EXAMPLES OF SPECIFIC STATUTORY GRANTS OF POWER TO THE COUNTY LEGISLATIVE AUTHORITY

Under RCW 36.32.120, the legislature has granted specific powers to the legislative authority of counties. Specifically those powers are:

1. The erection and repairing of public buildings for use by the county.

2. Laying out, discontinuing, or altering county roads or highways within the county.

3. License and fix rates of ferriage.

4. Fix the amount of taxes to be assessed.

5. Allow all accounts legally chargeable and audit, manage, collect and disburse any money belonging to the county or appropriated to its benefit.

6. Care of the county property and management of the county funds and business as well as prosecute and defend all actions for and against the county.

7. Make and enforce all such police and sanitary regulations as are not in conflict with state law and may adopt building codes for unincorporated areas.

8. The power to compound or release in whole or part any debt due the county.

9. Administer oaths or affirmations necessary to discharge their duties and commit for contempt any witness refusing to testify.

10. The power to declare what shall be deemed a nuisance within the county.

APPENDIX K – RULES FOR PETITIONS IN CITIES

Specific statutory rules apply to petitions in cities, including referendum and initiative petitions. RCW 35.21.005, 35A.01.040. The most important of these rules relating to petitions signed by voters are as follows:

1. The petition may include any page or group of pages which contain an identical text intended by the circulators to be considered as one petition. The following are essential elements of the petition:

    a. The text of the petition must be a concise statement of the action or relief desired by the petitioners;

    b. All initiative and referendum petitions must contain an attached copy of the full ordinance;

    c. The petition must contain numbered lines for signatures with space provided beside each signature for the date of signing and the address of the signer;

    d. The warning statement that is outlined below must be contained on each page of the petition having a space for signatures;

    e. Any petition that seeks the annexation, incorporation, withdrawal or reduction of city limits must contain an accurate legal description of the area proposed for such action and a map if practical.

2. The petitions must be printed or typed on single sheets of white paper of good quality. Each sheet of petition paper that has a space of signatures must contain the text of the petition and the following warning language:

    WARNING

    Every person who signs this petition with any other than his or her true name, or who knowingly signs more than one of these petitions, or signs a petition seeking an election when he or she is not a legal voter, or signs a petition when he or she is otherwise not qualified to sign, or who makes herein any false statement, shall be guilty of a misdemeanor.

    Each signature must be signed in ink or indelible pencil and must be followed by the date of signing and the address of the signer.

3. In code cities, the petition must contain the valid signatures of 15 percent of the total number of names of persons listed as registered voters within the city on the day of the last preceding city general election. RCW 35A.11.100.

4. The signatures do not have to all be attached to one sheet of paper.

5. Petitions that contain the required number of signatures are to be accepted as valid until their invalidity has been proved.

6. A variation between the signature on the petition and that on the voter's permanent registration which is caused by use of initials instead of the first or middle names, or both, does not invalidate the signature on the petition if the last name and handwriting are the same.

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7. Signatures that are followed by a date of signing that is more than six months prior to the date of filing the petition are also to be stricken. This means, in effect, that signatures are valid only for six months after the date of signing.

8. Within three working days after the filing of the petition with the city, the officer with whom the petition is filed shall transmit the petition to the county auditor, who must proceed with the determination of whether the signatures are sufficient. The office of the county auditor must notify the officer who received the petition of the date on which this determination was begun, and this date is to be known as the terminal date.

9. Any signer of a filed petition may withdraw his or her signature by filing a written request for withdrawal with the receiving officer prior to the terminal date. The name of the person seeking to withdraw must be signed exactly as the signature on the initial petition. After the filing of the request for withdrawal, the signature of the person seeking to withdraw is to be considered withdrawn.

10. Additional pages of one or more signatures may be added to the petition by filing with the receiving officer such pages prior to the terminal date.

11. The officer responsible for determining the sufficiency of the petition shall do so in writing and transmit the written certificate to the officer with whom the petition was originally filed.

APPENDIX L – SPECIAL ELECTION DATES

Initiative and referendum elections may be held only on specific dates. These dates are set out in RCW 29A.04.330 and apply to all classes of cities and to all counties. The following are the dates on which an initiative or referendum election may be held:

1. The second Tuesday in February;

2. The fourth Tuesday in April;

3. The third Tuesday in May;

4. The day of the primary election as specified by RCW 29A.04.311;

5. The first Tuesday after the first Monday in November (this is the same date as the general election date in November).

If a sufficient initiative and referendum petition is filed, the election on the ordinance must be held on one of the above listed dates.

APPENDIX M – BRIEF REVIEW OF INITIATIVE AND REFERENDUM POWERS OF FIRST CLASS CITIES AS ESTABLISHED IN THEIR CHARTERS

The following is a brief synopsis of the initiative and referendum powers of each of the first class cities. However, for complete details of the procedures and limitations on these powers, the specific charters of each of the cities must be carefully reviewed.

Aberdeen

Initiative – An ordinance may be initiated by a petition of 25 percent of the qualified registered voters of the city voting at the last preceding general municipal election. The proposed ordinance and initiative must be filed with the finance director at least 60 days before the next municipal general election. If the signatures are sufficient, the measure must be placed on the ballot at the next general municipal election.

Referendum – The citizens have 45 days after the final publication of an ordinance to circulate a petition and obtain the signatures of registered voters equal to at least 25 percent of the total number of persons voting at the last preceding regular municipal election. The election may be at a special election or a general municipal election. If the ordinance is repealed, the council may not reenact it for at least one year.

Bellingham

Initiative – An ordinance may be initiated on petition of a number of qualified voters equal to not less than 20 percent of the total number of votes cast for the office of mayor at the last preceding municipal general election. The initiative petition is to be filed with the finance director. The election will be at the next municipal general election, although the council may provide for a special election on the initiative.

Referendum – An ordinance may be referred to a referendum election if a petition is filed signed by qualified voters equal in number to not less than 8 percent of the total number of votes cast for the office of mayor at the last preceding municipal general election. The petition must be filed with the finance director at least 30 days following the effective date of such ordinance. Any ordinance initiated or referred and approved at an election may not be amended or repealed within two years after the effective date.

Bremerton

Initiative – An ordinance may be initiated on petition signed by registered voters equal in number to at least 20 percent of the votes cast at the last municipal general election for all candidates for the office of mayor. The initiative must be filed with the city clerk. The election may be at a special election. No ordinance initiated by this process and voted on favorably by the people may be amended or repealed by the city council unless submitted to the citizens for a vote.

Referendum – An ordinance may be referred to a referendum election if a petition is filed before the effective date of the ordinance signed by qualified electors of the city equal in number to not less than 25 percent of the votes cast at the last municipal general election for all candidates for the office of mayor. The petition must be filed with the city clerk and the election may be at a special or general election.

Everett

Initiative – An ordinance may be initiated by a petition signed by qualified electors equal in number to at least 15 percent of the total number of votes cast at the last preceding municipal general election. The petition must be filed with the clerk and the election may be at a special or general election. No ordinance passed by this process may be amended or repealed except by popular vote of the people.

Referendum – An ordinance may be referred to a referendum election if a petition is filed before the effective date signed by qualified electors equal in number to 10 percent of the entire vote cast at the last preceding general municipal election. It must be filed with the clerk and the election may be at a general or special election.

Richland

Initiative – An ordinance may be initiated by a petition signed by a number of registered voters equal to at least 20 percent of the total vote cast at the last preceding regular general election. The petition must be filed with the city clerk and the election may be at a special or general election. An initiative ordinance may not be amended or repealed within one year of its enactment.

Referendum – An ordinance may be referred to a referendum election if a petition is filed within 30 days of first publication of the ordinance. The petition must be signed by a number of registered electors equal to at least 25 percent of the total votes cast at the last preceding regular general election. The petition must be filed with the clerk and the election may be at a general or special election. No ordinance repealed by such an election may be reenacted by the council within one year of the effective date of the repeal.

Seattle

Initiative – An ordinance may be initiated by a petition signed by a number of registered voters equal to not less than 10 percent of the total number of votes cast for the office of mayor at the last preceding municipal election. The petition must be filed with the city comptroller. The election may be at a special or general election.

Referendum – An ordinance may be referred to a referendum election if a petition is filed signed by a number of registered voters equal to not less than 8 percent of the total number of votes cast for the office of mayor at the last preceding municipal election. The petition must be filed with the city comptroller and the election may be at a special or general election. No ordinance so initiated or referred and approved by the voters may be amended or repealed by the council for at least a two-year period.

Spokane

Initiative – An ordinance may be initiated by a petition signed by registered and qualified electors equal in number to at least 15 percent of the total number of votes cast at the last preceding general municipal election. The petition must be filed with the clerk and submitted at the next available special or general election. No ordinance adopted by this process may be amended by the council within three years without a vote of the people. After three years, the council may amend or repeal the ordinance if passed by vote of a majority plus one and the ordinance is subject to referendum.

Referendum – An ordinance may be referred to a referendum election if prior to its effective date a petition is filed signed by qualified electors equal in number to at least 10 percent of the total number of votes cast at the last preceding general municipal election. The petition must be filed with the clerk and voted upon at a general or special election.

Tacoma

Initiative – An ordinance may be initiated by a petition signed by registered voters equal in number to at least 10 percent of the total votes cast at the last preceding council-manic election. The petition must be filed with the city clerk and submitted to a vote at the next general municipal election or at a special election. No ordinance enacted in this manner may be amended or repealed by the council within two years unless the amendment or repeal is submitted to a vote of the people.

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Referendum – An ordinance may be referred to a referendum election if prior to its effective date a petition is filed signed by qualified electors equal in number to at least 10 percent of the total vote cast in the last preceding council-manic election. The petition must be filed with the city clerk and submitted to a vote at the next general municipal election or at a special election.

Vancouver

Initiative – An ordinance may be initiated by a petition signed by registered voters equal in number to at least 15 percent of the number of votes cast at the last preceding municipal general election. The petition must be filed with the city clerk and submitted at a general or special election. No ordinance enacted by this process may be amended or repealed within one year by the city council.

Referendum – An ordinance may be referred to a referendum election if within 30 days after enactment a petition is filed signed by registered voters of the city equal in number to at least 10 percent of the number of votes cast at the last preceding municipal general election. The petition must be filed with the city clerk and may be submitted at a general or special election.

Yakima

Initiative – An ordinance may be initiated by a petition signed by qualified electors equal in number to 20 percent of the total number of votes cast at the last preceding general city election. The petition must be filed with the city clerk and the election may be at a special or general election.

Referendum – An ordinance may be referred to a referendum election if prior to its effective date a petition is filed signed by qualified electors equal in number to 10 percent of the entire vote cast at the last preceding general city election. It must be filed with the city clerk and submitted at a general or special election.

APPENDIX N – BRIEF REVIEW OF INITIATIVE AND REFERENDUM POWERS OF CHARTER COUNTIES AS ESTABLISHED IN THEIR CHARTERS

Clallam County

Initiative – A sponsor must submit the proposed ordinance to the county auditor for the petition to become registered. The sponsor has 90 days from the date of registration to collect the signatures of not less than 10 percent of the number of voters who voted in the last gubernatorial election. The county commissioners will call for a public hearing within 30 days after receipt of the proposed ordinance and, after the public hearing, the county commissioners have 30 days to adopt or reject the proposed ordinance. If rejected, then the commissioners must set a date for the election of the proposed ordinance and any possible substitute ordinance within 240 days of the rejection but not before 105 days after rejection.

Mini-Initiative – The process for a mini-initiative is the same set forth for an initiative but the sponsor need only get signatures of three percent of the number of those that voted in the last gubernatorial election in the county. The commissioners have 60 days to hold a public hearing on the proposed ordinance and have 30 days after the public hearing to adopt or reject the proposed ordinance in whole or in part.

Referendum – A sponsor may submit a petition for registration requesting the referral of an adopted ordinance to the people for acceptance or rejection in the form of a referendum proposal. The proposed petition for registration must be within 10 days of the adoption of the ordinance that is the subject of the proposed referendum. Once the petition is registered, the ordinance referred to in the petition is suspended without force. The format for signatures is the same as for initiative and mini-initiative but the time allowed to gather the signatures of 10 percent of those that voted in the last gubernatorial election is 60 days instead of 90. The commissioners will then place the proposed referendum on the ballot for the next election but not before 45 days has elapsed since the petitions were validated.

Referendum by the Commissioners – The commissioners may, by ordinance, refer any proposed or adopted ordinance to the voters for their approval or rejection in the next regular or special election. If a proposed ordinance is approved by the majority of voters then it shall become effective 10 days after the election results are certified.

Clark County

Initiative – Any registered county voter may file an initiative petition with the county auditor. Within 10 business days of the filing date, the prosecuting attorney must formulate a ballot title. The auditor then gives the proposed initiative an identifying number. Within 5 business days, the auditor must then confer with the initiative sponsor and establish the form and style of the initiative petition. The sponsor then has 120 days to collect valid signatures from registered county voters equaling no less than 10 percent of the number of votes cast in the county in the last gubernatorial election. The signatures must be submitted to the auditor no less than 150 days before the date of the next general election. If a sufficient number of valid signatures has been submitted, the auditor then places the proposed initiative on the ballot for the next general election.

Mini-Initiative – An initiative proposal can be put directly to the county council if a sponsor gets the valid signatures of county voters totaling at least 3 percent of the number of votes cast in the county in the last gubernatorial election. The auditor has 30 business days to validate signatures. If a sufficient number of signatures is verified, the county council must hold a public hearing on the initiative petition within 60 days. After the hearing, the county council has 30 calendar days to enact, reject, or modify the proposed ordinance.

Referendum – Within 10 days after an ordinance is passed by the county council, a county voter may submit to the county auditor a referendum petition signed by 100 registered county voters against all or any portion of the ordinance. The auditor has 10 calendar days to verify the signatures. If 100 signatures are validated, the relevant portions of the ordinance are suspended. Within five business days, the auditor must confer with the referendum sponsor to review the proposal and give the referendum an identifying number. Within 10 business days, the prosecuting attorney must issue a title to the referendum. The sponsor then has 120 calendar days to collect valid signatures from county voters totaling no less than 10 percent of the total votes cast in the county in the last gubernatorial election. If the appropriate number of valid signatures was received by the auditor, the referendum is submitted to the voters at the next general election.

King County

Initiative – Proposed ordinances may be enacted by initiative of the people if petitions bearing not less than 10 percent of the voters of the county that voted in the last election for county executive are filed with the county council. If sufficient, the council has 90 days to adopt the ordinance as petitioned or place the proposed ordinance on the ballot not less than 135 days after the petitions were filed. The council may also reject the proposed ordinance and adopt a substitute ordinance. Both ordinances are then placed on the ballot and the voters are given the choice of rejecting both or choosing one over the other.

Referendum – An ordinance may be subject to referendum if the ordinance petitions have signatures of no less than eight percent of voters in the county that voted in the last election for county executive, and they are filed prior to the effective date of the ordinance. The full text of the ordinance to be referred must be on each petition. If sufficient, the referendum will be put on the ballot at the next special or general election occurring more than 45 days after the petitions are filed.

Institutional Initiative – Any city or town within the county boundaries may, after securing consent by motion or resolution of at least half of the cities within the county, petition the council directly with a proposed ordinance. The proposed ordinance must have county-wide significance and be of a subject matter not already prohibited by referendum.

Pierce County

Initiative – Any voter can propose an initiative to be filed with the filing officer. The filing officer must confer with the sponsor as to the form and style and the prosecuting attorney gives the initiative a ballot title. The petitioner has 120 days to get the signatures of not less than 10 percent of the registered voters who voted in the last election for county executive. After the filing officer verifies the sufficiency of the signatures, the council can adopt the proposed ordinance without amendment or reject the ordinance and adopt a substitute ordinance. Both ordinances will then be put on the same ballot at the next general election not less than 120 days before validation.

Referendum – Any voter has 15 days after an ordinance is passed by the council to file a referendum proposal. The filing officer confers with the petitioner as to the style and form as well as give the referendum proposal a number. The prosecuting attorney then gives the referendum proposal a ballot title and petitioner has 120 days to gather signatures of at least eight percent of the registered voters in the last election for county executive. The filing officer verifies the sufficiency of the signatures and submits the measure to the people in the next general election not less than 120 days after validation.

Snohomish County

Initiative – An initiative proposal must be filed with the officer charged with holding elections. The prosecuting attorney then drafts the ballot title and the filing officer confers with the petitioner to review and establish the form and substance of the petitions. The petitioner has 90 days to collect the signatures of at least seven percent of the registered voters who voted in the last gubernatorial election. If the sufficiency of petitions is validated then the proposal will be submitted to the people not less than 60 days after validation. Or the council can adopt the proposed ordinance without change or adopt a substitute ordinance. If a substitute ordinance is adopted then both ordinances will be put on the ballot for the voters.

Mini-Initiative – An initiative proposal can be put directly to the council if a sponsor gets the signatures of at least three percent of the voters in the last gubernatorial election. The council then holds a public hearing on the proposed ordinance and can enact, reject, or modify the proposed ordinance within 30 days.

Referendum – Within 10 days after an ordinance is passed by the council, a voter may submit a referendum petition with at least 100 signatures of those that are opposed to the ordinance with the filing officer. After the form and style of the petitions is confirmed and the ballot title is issued, the petitioner has 45 days to get the signatures of at least five percent of the number of votes that voted in the last gubernatorial election. After validation of the petitions the measure is put to the voters in the next general election not less than 60 days from the time the petitions are validated.

San Juan County

Initiative – Any voter or organization of voters may file an initiative proposal with the county auditor. After the form and style of the petitions are reviewed and the initiative is given a ballot title by the prosecuting attorney, then the petitioner has 120 days to collect the signatures of at least 15 percent of the number of votes in the county from the last gubernatorial election. After the sufficiency of the petitions is verified the measure is to be put to the voters at the next general election not less than 120 days after validation of the petitions. The council can adopt the initiative measure without change or adopt a substitute measure concerning the same subject matter and both will be put on the ballot.

Mini-Initiative – Any voter can propose an ordinance to the council if they collect at least 3 percent of the number of qualified voters who voted in the last gubernatorial election. The council will then hold a public hearing and has 60 days to enact or reject the proposed ordinance.

Referendum – Any voter has 45 days after an ordinance is passed by the council to file a referendum proposal. After the form and style of the petitions is reviewed by the auditor and the prosecuting attorney gives the proposal a ballot title, the petitioner has 120 days to collect the signatures of registered voters of the county not less than 15 percent of those that voted in the last gubernatorial election. If the sufficiency of the petitions is verified, the proposal will be submitted to the voters at the next general election not less than 120 days after verification.

Whatcom County

Initiative – Any voter may file an initiative proposal with the county auditor. After the form and style of the petitions are reviewed and the initiative is given a ballot title by the prosecuting attorney, then the petitioner has 120 days to collect the signatures of at least 15 percent of the number of votes in the county from the last general election. After the sufficiency of the petitions is verified the measure is to be put to the voters at the next general election not less than 120 days after validation of the petitions. The council can adopt the initiative measure without change or adopt a substitute measure concerning the same subject matter and both will be put on the ballot.

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Mini-Initiative – Any voter can propose an ordinance to the council if they collect at least 3 percent of the number of qualified voters who voted in the last gubernatorial election. The council will then hold a public hearing and has 60 days to enact or reject the proposed ordinance.

Referendum – Any voter has 45 days after an ordinance is passed by the council to file a referendum proposal. After the form and style of the petitions is reviewed by the auditor and the prosecuting attorney gives the proposal a ballot title, the petitioner has 120 days to collect the signatures of registered voters of the county not less than 15 percent of those that voted in the last general election. If the sufficiency of the petitions is verified, the proposal will be submitted to the voters at the next general election not less than 120 days after verification.

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CITY OF STANWOOD
COUNCIL AGENDA STAFF REPORT

ITEM NUMBER:	**9b**
DATE:	March 9, 2023
SUBJECT:	Stanwood Municipal Code Title 2 – Personnel
CONTACT PERSON:	Patricia Love, Community Development Director
ATTACHMENTS:	A – Ordinance 1513 Adoption of Title 2 Amendments B – Ordinance 1513 Attachment A – Code Amendment C – Title 2 Code Amendment Descriptive Notations D – Edit Tracking Form

PURPOSE

The purpose of this agenda item is for Council review and acceptance of the second and final reading of Ordinance 1513, adoption of updated Title 2 – Personnel of the Stanwood Municipal Code.

SUMMARY

Existing Title 2, Administration and Personnel, groups several disconnected topics into a single title, including council, board and committee descriptions, personnel descriptions and duties; emergency management operations; and public services fees. Grouping non-related chapters together can cause confusion and misinterpretations of city regulations. To simplify the code structure, Title 2 – Administration and Personnel has been renamed to Personnel and the administrative sections are being moved to new Title 4, Administration.

- Title 2, Personnel has been reorganized to follow the general hierarchical order of city government: City Council, Mayor, City Administrator, City Department Heads, Boards and Commissions, Hearing Examiner and Traffic Violations Bureau.
- Titles regarding police and fire services have been deleted as they are no longer relevant to current city operations as they are either provided through contract services or the North County Regional Fire Authority:
  - 2.20 – Volunteer Fire Department
  - 2.32 – Fire Marshal
  - 2.36 – Civil Service System – Fire Department
  - 2.40 – Police Department
- The following chapters have been moved to the new Title 4, Administration, as they appropriately describe city operations:
  - City hall hours

    - Public Employees Retirement System
    - Emergency Management
- All fees are moved to Title 3 – Revenue and Finance

BACKGROUND

The last comprehensive update to the Stanwood Municipal Code occurred in the late 1960's. As the City has grown and development increased, so has the need for updated regulations. Fifty years of amendments has resulted in inconsistencies, conflicts and outdated regulations.

The City initiated the Municipal Code Update project in 2022 to modernize the code reflecting best practices with respect to content and administration of the code. The update is intended to be user friendly for staff, property owners and developers by 1) removing legalese and jargon unfamiliar to the lay person, 2) improving clarity and overall functionality, and 3) reflect regulatory best practices. The amendments will also be consistent with current case, state and federal laws.

Changes to the code use a "Style Guide" that applies a consistent approach to organization and drafting of the municipal code. This approach emphasizes plain language legal writing, modularity in the code organization, and avoidance of repetition to improve readability, predictability, and ease of administration. In general, titles and chapters have been reorganized for better flow and readability with similar topics being grouped together. Long, difficult paragraphs have been broken up into subsections and the "legalese" language removed.

To help guide the review of the amendments, two types of informational banners are included in the descriptive versions of each amendment. These blue- and yellow-colored bars highlight changes, recommendations and questions; it notes where new sections have been added or where moved.

Blue banner describes actions taken or issue descriptions.

Yellow banners highlight important policy issues.

Due to the sheer size of amending an entire municipal code, work has been broken into manageable pieces with similar titles, or titles that interact with each other, being processed together. The first batch of amendments will begin with the general governmental structure of the city:

Title 1 - General Provisions,
Title 2 - Personnel, and
New Title 4 – Administration.

Titles 1, 2 and 4 will be adopted as three separate ordinances, but because of the interconnectivity between the Titles, they should be adopted simultaneously.

ANALYSIS

Following the style guide mentioned above, amendments to Title 2 – Personnel include the following:

Chapter 2.02 City Council

This chapter combines several sections related to Council duties and responsibilities into a single chapter and applies the style guide to simplify and clarify code language. The following changes have been made:

- A new Rules of Procedures section has been added (Section 2.02.080) which notes that the City Council may adopt rules to govern the conduct of its meetings and affairs by resolution.
- The existing SMC 2.44.300 regarding violations of City Council rules as a Class B infraction has been deleted as it is uncommon and unnecessary.

Chapter 2.04 Mayor

Similarly, to the Council Chapter, this new chapter consolidates all code sections regarding the Mayor into a single chapter, including moving the mayor's compensation and benefits, adding sections describing the mayor's duties and responsibilities per statute, adds sections describing mayor's eligibility for benefits, and adds a section describing procedures in the event of the mayor's absence.

One minor text change includes an edit to section 2.04.040(3)(a), Benefits: The mayor is entitled to receive the same health insurance benefits as are available to the city's exempt employees~~, including spousal coverage and eligibility for the opt-out incentive~~." The qualifier is not needed if the same benefits apply across the board.

Chapter 2.06 City Administrator

No significant changes to this chapter with the exception of applying the style guide to simplify the language.

Chapter 2.08 City Officers and Department Heads

This chapter describes the duties and responsibilities of each officer and department head. It also reorganizes other sections to standardize the organization structure of the chapter and describes one officer per section with authority, duties, and qualifications of each (per RCW 35A.12.020).

Two significant changes have been made to this Chapter:

- Chapter 2.08.060 Director of Finance and City Treasurer has been changed to Director of Finance. City Treasurer is an outdated term used generally by towns. In addition, subsection (e) has been amended to delete all of the investment options and changed to "as authorized by RCW 39.59.040".

- Section 2.08.100(2)(f), duties of the Public Works Director, has been changed to reflect the recent Council action allowing change order modifications per the Stanwood financial Management Policy.

Chapter 2.10 Default Rules for Boards, Commissions, and Committees

New chapter that establishes general rules for operation of boards and commissions. The chapters establishing each board or commission may override these default provisions.

Section 2.10.060(1), Removal, gives the authorization to the Mayor to remove any board member to neglect of duty or malfeasance in office.

Section 2.10.060(2), Removal, makes it clear that any board member that has three consecutive unexcused absences may be removed from that board by the Mayor. This language was purposefully noted as “may be removed” giving the Mayor some discretion for extenuating circumstances when appropriate.

> (2) A member of a board who fails to attend three consecutive regular meetings of the board, without being excused by vote of the board, may be removed from the board by the Mayor.

New Section 2.10.100 Rules for Remote Participation In Meetings, has been added to accommodate the option to participate remotely.

Chapter 2.12 Planning Commission

This Chapter modifies the existing code by breaking it up into multiple more readable sections for consistency with the Style Guide. Two minor changes include removing the conflict-of-interest section because it is now covered by the new Ethics code in Chapter in Title 4 and the Planning Commissioner removal section was deleted because it is covered by the default rules in Chapter 2.10.

2.14 Lodging Tax Advisory Committee

The Lodging Tax Advisory Committee duties and responsibilities is moved out of Title 3 and listed with the other boards and committees in Title 2. Similarly to other chapters, the text is broken into multiple sections consistent with the style guide, and cross-references to the lodging tax provisions in Title 3. New sections have been added describing the process for review and comment on lodging tax funding proposals, consistent with the statute. Default language such as "appointed by the legislative body of the municipality…" has been replaced with "appointed by the City Council”.

2.16 Parks and Trails Advisory Committee

This is a new chapter that uses Resolution 2019-14 as a guide and follows the same format as the other boards and commissions chapters.

2.18 Economic Development Board
This is a new chapter that uses Resolution 2014-04 as a guide and follows the same format as the other board and commissions chapters.

2.20 Salary Commission
This chapter is moved from existing Chapter 2.10, adjusted for consistency with the style guide.

2.30 Hearing Examiner
This chapter is a recodification of existing SMC Chapter 17.87 (zoning) creating the office of the Hearing Examiner. All such offices should be organized in Title 2, particularly since the Hearing Examiner is charged with hearing cases other than land use cases. The Hearing Examiner has reviewed the Chapter for consistency and best management practices. His recommendations have been integrated into the Chapter.

One issue for Council consideration is the adoption of a Hearing Examiner Pro-Tem in cases of potential conflict of interests. It is staff and committee recommendations that the Pro-Tem be appointed by the Council, not by the Hearing Examiner. As the Hearing Examiner makes final decisions on land use applications, the review authority should be appointed by the Council.

2.32 Traffic Violation Bureau
At the request of the police chief, this chapter has been modified for ease of reading and administration, references the correct RCW's and establishes the Cascade District Court as the processing court for traffic infractions.

Because this Bureau is not a multimember "board or commission" and is predominantly about traffic violations not personnel, it doesn't fit into this Title as well as other chapters. The consultant is proposing to recodify it to Title 10, Vehicles and Traffic, when we get to that Title in our code update project.

Council Policy Decision Issue:
There are two significant policy issue in Title 2 that will need to be decided before the final reading:

- Add any additional general board or commission rules such as noting that all the meetings to be open, require compliance with the OPMA, or specific provisions of the OPMA?
- Increase the number of Lodging Tax Advisory Committee members from 5 to 6 to include one nonvoting member who is an elected official of Snohomish County.

Fiscal Impact			
No direct financial impact. Code work was already budgeted and approved through the Municipal Code Update Project contract and scope of work.			
Fund(s):	Staff Time		
Amount:	$	**Project Estimate:**	$ -
Budget Authorized	**[ ] Yes [ ] No**	**Amendment Required**	**[ ] Yes [ ] No [ ] Monitor**

RECOMMENDATIONS

Staff Recommendation:
Staff recommends that the Council accept the second reading of the proposed amendments and proceed with adoption.

Committee/Board Recommendation:
The Advisory Group, Planning Commission and City Council Community Development Committee have all reviewed the proposed amendments to Title 2 and have forwarded their recommendation to adopt the amendments. All groups have recommended adoption of the changes and support the restructuring of the Title to follow the general organizational chart of the City.

CITY COUNCIL OPTIONS

1. Accept the second and final reading of Ordinance 1513 adopting an updated version of Title 2 – Personnel, relating to the general organizational structure of the City.

2. Request changes to Ordinance 1513 and direct staff to prepare a third reading of the ordinance.

PROPOSED MOTION

I MOVE TO APPROVE THE SECOND AND FINAL READING OF ORDINANCE 1513 AS SET FORTH IN ATTACHMENT "A" AMENDING TITLE 2 – PERSONNEL PROVISIONS OF THE STANWOOD MUNICIPAL CODE.

Or

I MOVE TO APPROVE THE SECOND AND FINAL READING OF ORDINANCE 1513 WITH AMENDMENTS TO ATTACHMENT "A" AMENDING TITLE 2 – PERSONNEL PROVISIONS OF THE STANWOOD MUNICIPAL CODE.

Or

I MOVE TO APPROVE THE SECOND READING OF ORDINANCE 1513 WITH EDITS TO ATTACHMENT "A" AMENDING TITLE 2 – PERSONNEL PROVISIONS OF THE STANWOOD MUNICIPAL CODE, AND TO PROCEED WITH THE THIRD AND FINAL READING OF THE ORDINANCE ON MARCH 23, 2023.

ATTACHMENT A

CITY OF STANWOOD
WASHINGTON

ORDINANCE NO. 1513

AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, AMENDING STANWOOD MUNICIPAL CODE (SMC) TITLES 2 - PERSONNNEL, 3 – REVENUE AND FINANCE, AND 17 - ZONING, REPEALING OBSOLETE RESOLUTIONS, AND ESTABLISHING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Stanwood has begun a process to comprehensively update its municipal code to conform to current law and practice; and

WHEREAS, the purpose of this code amendment is to eliminate conflicts, improve clarity and overall function of the municipal code, and reflect current city and best practices;

WHEREAS, amendments to Title 2, Personnel, adopts new provisions and personnel duties reorganized around the general hierarchical order of city government: City Council, Mayor, City Administrator, City Department Heads, Boards and Commissions, Hearing Examiner and Traffic Violations Bureau; and

WHEREAS, the City of Stanwood SEPA Responsible Official has reviewed the proposed amendments to the Stanwood Municipal Code, determined that the amendments are categorically exempt from SEPA, and memorialized those conclusions under file number 220163; and

WHEREAS, the Stanwood Advisory Group reviewed the draft ordinance at their November 30, 2022, regular meeting and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the Stanwood Planning Commission and Community Development Committee reviewed the draft ordinance at a November 14, 2022, joint meeting and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the City Council held a public meeting and first reading of the draft code amendment on February 9, 2023 and their second and final reading on March 9, 2023 and accepted public comment; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Code Revisions. The Stanwood Municipal Code is hereby revised as follows:

A. SMC 2.32.060, Fee for Fire Inspections, is recodified to SMC 3.30.160.

B. SMC Chapter 2.48, Public Services—Fees, is recodified to SMC Chapter 3.31

C. Stanwood Municipal Code Title 2, Administration and Personnel, is repealed in its entirety and replaced with the Title 2, Personnel, as provided in Exhibit "A" attached to this ordinance and incorporated herein by reference as if set forth in full.

D. SMC 3.36.055, Lodging Tax Advisory Committee, is repealed.

E. SMC 17.87.120, Report of department, is recodified as SMC 17.80.381.

F. The remainder of SMC Chapter 17.87, Hearing Examiner, is repealed.

Section 2. Obsolete Resolutions. The following resolutions, the contents of which have been addressed the code provisions adopted above, are hereby repealed:

A. Resolution 2014-04 creating the Economic Development Board.

B. Resolution 2019-14 establishing the Parks and Trails Advisory Committee.

Section 3. Severability. The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 4. Authority to Make Necessary Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's clerical errors, references, ordinance numbers, section/subsection numbers and any references thereto.

Section 5. Effective Date. This Ordinance shall take effect five days after its passage and publication as required by law.

PASSED AND APPROVED by the Stanwood City Council this ____ day of _____ 2023.

CITY OF STANWOOD

_____

Sid Roberts, Mayor

DRAFT

ATTEST:

By: _____
Lisa Sokolik, City Clerk

APPROVED AS TO FORM:

By: _____
Nikki Thompson, City Attorney

Date of Publication: _____
Effective Date: _____

DRAFT

Attachment A

Title 2 Personnel

Chapter 2.02 City Council....1

Chapter 2.04 Mayor....3

Chapter 2.06 City Administrator....3

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Chapter 2.02 City Council

2.02.020 Council positions.

In accordance with RCW 35A.12.010, the City Council has seven council member positions.

2.02.040 Mayor pro tempore

Annually, at the first meeting of the City Council, the members thereof must choose a councilmember for the position of mayor pro tempore. In addition to the powers conferred upon that councilmember as mayor pro tempore, that councilmember continues to have all the rights, privileges, and immunities of every other member of the council.

2.02.050 Meetings—Schedule

(1) Per RCW 42.30.070, the City Council's regular meeting schedule is the second and fourth Thursdays of each month at 7:00 p.m., except that when the date for any regular meeting of the City Council falls upon a day designated by law as a legal or national holiday, that meeting must be held at the same hour on the preceding Monday if it is not a holiday.

(2) Scheduled City Council meetings may be canceled consistent with the City Council's adopted rules of procedure.

(3) Special meetings of the City Council may be scheduled by the mayor or council according to the City Council rules of procedure and RCW 35A.12.110 and 42.30.080.

2.02.060 Meetings—Location.

(1) The City Council must hold its meetings at the Stanwood Camano School District Administration Building, located at 26920 Pioneer Highway, Stanwood, Washington, unless:

  (a) Notice has been given for a special meeting that states an alternate location; or

  (b) The meeting is convened at the regular location and then moved to another location for review of city business, or for the convenience of the council.

(2) Remote participation in City Council meetings must be consistent with the City Council's rules of procedure. Consistent with RCW Chapter 42.30, the City Council must also offer a physical location for observation of its meetings.

2.02.070 Meetings—Notice of agenda

(1) The City Clerk must notify the public of the preliminary agenda for a forthcoming city council meeting by posting the agenda at least 24 hours before the meeting:

  (a) to the City website, consistent with RCW 42.30.077; and

  (b) in a prominent location at the following public places:

    (i) Stanwood City Hall, 10220 270th St. NW, Stanwood, WA 98292;

    (ii) Stanwood Police Station, 8727 271st NW, Stanwood WA 98292;

    (iii) Stanwood City Library, 9701 271st St. NW, Stanwood, WA 98292;

    (iv) Stanwood Post Office, 9229 271st St. NW, Stanwood, WA 98292.

(2) Nothing in this section prohibits subsequent modifications to agendas nor invalidates any otherwise legal action taken at a meeting where the agenda was not posted in accordance with this section.

2.02.080 Rules of procedure.

The City Council may adopt rules to govern the conduct of its meetings and affairs by resolution.

2.02.090 Compensation and reimbursement.

(1) Default compensation. The compensation of councilmembers must be determined by the salary commission pursuant to SMC Chapter 2.20.

(2) Mayor pro tem. In the event of the absence of the mayor for a period of 30 days or longer, the mayor pro tempore is entitled to receive the mayor’s compensation for the duration of said absence

(3) Expenses. Each councilmember must be reimbursed for actual expenses incurred in the discharge of the councilmember's official duties upon presentation of a claim therefore, after allowance and approval by motion of the city council.

(4) Waiver and election not to receive compensation. A councilmember may waive all or any portion of that councilmember's salary during that councilmember's term of office.

  (a) Notice of waiver must be:

    (i) In writing and delivered to the finance director prior to the effective date of such waiver; and

    (ii) Signed by the council member and their spouse, if married, as required by RCW 49.48.100. Signatures must be acknowledged by a notary public.

(b) A waiver is only effective for salary earned starting on the effective date of the waiver.

(c) A waiver continues in effect until withdrawn in writing, signed by the councilmember and the councilmember's spouse, and delivered to the finance director.

Chapter 2.04 Mayor

2.04.020 Duties and authority

The mayor has all the duties and authority provided by state law, including those established in RCW 35A.12.100.

2.04.040 Compensation and benefits

(1) Salary.

(a) The mayor may receive, as compensation for services to the City of Stanwood and attendance at regular council meetings, a payment as determined by the salary commission pursuant to SMC Chapter 2.20.

(b) The mayor may voluntarily waive and elect not to be paid all or any portion of the mayor's salary during their term of office in the same manner available to councilmembers in SMC 2.02.090.

(2) Expenses. The mayor may receive reimbursement for the mayor's actual and necessary expenses incurred in the performance of the duties of his office, consistent with city policy on such reimbursements.

(3) Benefits.

(a) Health insurance. The mayor is entitled to receive the same health insurance benefits as are available to the City's exempt employees.

(b) Retirement. The mayor may be eligible for pension and retirement benefits available to other city employees, including those available through the State Public Employees Retirement System (PERS), if the Mayor meets the employment requirements per State law.

(c) Paid time-off. As an elected official with a fixed salary, the mayor does not accrue leave time and is not eligible for vacation, sick, or disability time.

Chapter 2.06 City Administrator

2.06.010 Position created.

There is created the office of city administrator with the authority, powers, and duties as described in this chapter.

2.06.020 Appointment.

(1) The position of City Administrator may be filled at the pleasure of the Mayor, subject to the confirmation of the City Council.

(2) The City may specify additional terms and conditions of employment in a written agreement executed by the Mayor and approved by the City Council.

2.06.030 Scope of authority.

Under the direction and authority of the mayor, the city administrator must supervise, administer, and coordinate the activities and functions of all city officers, departments, commissions, and boards to implement

city ordinances and policies through the effective use of city employees, funds, grants, materials, facilities, and time, and control the overall operations of the city to ensure optimum service to the community.

2.06.050 Powers and duties.

Under the direction and authority of the mayor the city administrator has the following powers and duties:

(1) Plan and direct all administrative activities of the city, develop and implement internal policies and procedures, evaluate city employees, and take necessary actions to improve operations;

(2) Provide information and advice to the mayor, city council, other public officials and the general public regarding city operations;

(3) Act as the city representative in such areas as labor relations, intergovernmental relations, conferences, conventions and seminars related to public management;

(4) Delegate responsibility as necessary to accomplish the desired objectives;

(5) Attend meetings of the city council, and other boards and commissions as necessary to coordinate and satisfy the administrative needs of the city;

(6) Act to resolve operational conflicts, decide and implement alternate courses of action, formulate administrative policies and otherwise make decisions in the best interest of the city's operation; and

(7) Coordinate and supervise the preparation of the preliminary budget for submittal to the mayor, and administer the entire budget after its adoption.

Chapter 2.08 City Officers and Department Heads.

2.08.010 Default Provisions

(1) The provisions of this section apply to each of the city officers and department heads named in this chapter unless otherwise provided.

(2) The city officers and department heads named in this chapter are appointed by the mayor and do not require council confirmation.

(3) Each of the city officers and department heads named in this chapter may be removed by the mayor for any lawful reason.

(4) Each of the officers and department heads named in this chapter must be paid either the salary annually fixed by the city council or other compensation as described in a relevant interlocal agreement or personal services agreement.

(5) Each of the officers and department heads named in this chapter is responsible to the director of finance to authenticate and certify any claims for services rendered for performance of labor.

(6) Per RCW 35A.12.080, the clerk, treasurer, and chief of police must annually provide an official bond conditioned on the honest and faithful performance of their official duties. Compliance with the provisions of the bond is an essential qualification for the position.

2.08.020 City Attorney.

(1) Position created

There is created and established the position of City Attorney.

(2) Qualifications.

(a) The city attorney must be a practicing attorney.

(b) The city attorney need not be a resident of the city.

(3) Duties.

(a) The city attorney must advise the mayor, city council, and city staff on all questions of law presented to them in the course of their administration of city affairs.

(b) The city attorney must attend all regular and special meetings of the city council, unless excused by the mayor.

(c) The city attorney must attend meetings, when requested by the chair thereof, of committees of the city council. The city attorney must also attend public hearings when requested by the city's hearing examiner, city council, or mayor.

(d) The city attorney must prosecute or defend any litigation in any court involving the city.

(e) The city attorney must, when directed by the mayor, represent the city before any county, state or federal agency in any proceeding involving the city.

(f) The city attorney must, when a conflict of interest occurs in any city matter coming to their attention, advise and request the mayor appoint a temporary substitute city attorney as to any such matter.

(g) Consistent with the Rules for Professional Conduct, the city attorney owes a duty of representation to the city as an entity, not to the mayor, to the city council, or to any individual elected official or employee.

(4) Compensation.

The city attorney may receive compensation per an agreement for attorney services approved by the city council.

2.08.040 City Clerk.

(1) Position created

There is created and established the position of city clerk per RCW 35A.12.020.

(2) Duties and authority

The city clerk has all of the powers granted and duties imposed by authority of the laws of the state and ordinances of the city, now existing or hereinafter adopted, subject to the general supervision and control of the mayor.

2.08.060 Director of Finance

(1) Position created.

There is created and established the position of director of finance, which is also designed as city treasurer to perform in that capacity whenever the laws of the state or city make reference to such position.

(2) Duties and authority.

(a) The director of finance is responsible for management of the Finance Department and City Clerk.

(b) The director of finance may appoint a subordinate employee from the department to assist in the performance of the duties of city treasurer.

(c) The director of finance is appointed as the auditing officer to authenticate and certify that all claims against the city for materials furnished and services rendered are just, due, and unpaid obligations

against the city, upon such forms and in the manner prescribed by the Division of Municipal Corporations of the Washington State Auditor's Office.

(d) The director of finance is further authorized to issue payroll checks pursuant to the city budget.

(e) The director of finance is authorized to make investment of inactive funds of the city or other city funds, as authorized by RCW 39.59.040m in excess of current needs.

(f) The director of finance must make a quarterly report of all investment transactions to the city council.

2.08.080 Director of Community Development.

(1) Position created.

There is created and established the office of director of community development.

(2) Official designations.

The director of community development is designated as:

(a) The City's Shoreline Administrator under the State Shoreline Management Act;

(b) The City's SEPA Responsible Official under the State Environmental Policy Act;

(c) The City's Floodplain Manager.

(3) Duties and authority.

The director of community development is responsible for the following:

(a) Management of the Community Development Department;

(b) Administration of the comprehensive plan of the city, and implementation of activities related to the Growth Management Act;

(c) Provision of long-range planning for the city related to land use and development, housing, economic development, construction, and annexation;

(d) Coordination, development, and implementation of city policy related to land use planning and development, housing, economic development, and construction;

(e) Provision of staff support for the planning commission;

(f) Administration and operation of the city's design and development review processes including plan review, permit coordination and issuance, and inspection and enforcement related to codes administered by the department;

(g) Administration and revision of the city's development regulations, including the zoning code, the Uniform and International Building Codes, maintenance codes, fire codes, and plumbing and electrical codes, construction codes and subdivision codes;

(h) Environmental protection, coordination, and administration of the city's environmental procedures code including compliance with Chapter 43.21C RCW, the State Environmental Policy Act (SEPA);

(i) Provision of permit and zoning information services;

(j) Provision of services of office of building official and code enforcement officer;

(k) Administration of the city's shoreline master program under the Shoreline Management Act;

(l) Representation of the city in regional planning issues;

(m) Provision of such other services as may be directed by the mayor.

2.08.100 Director of Public Works.

(1) Position created.

There is created and established the position of director of public works.

(2) Duties and authority.

The director of public works is responsible for the following:

(a) Management of the Public Works Department.

(b) Supervision of the operation of the city street, park, sewer, water and stormwater divisions;

(c) Supervision and administration of the layout, construction and maintenance of all public buildings, improvements, streets, alleyways and sidewalks;

(d) Supervision of the safety program of the city;

(e) Supervision of the acquisition, maintenance, operation and disposition of city maintenance equipment;

(f) Approval of construction change orders as provided in Chapter Nine of the Stanwood financial Management Policy, prior to city council's approval;

(g) Planning and implementation of a comprehensive capital improvement program for the city;

(h) Perpetuating public works improvements and projects by initiating and/or assisting in the acquisition of grants;

(i) Supervision and review of design and development plans, estimates, and contract documents for public works projects;

(j) Preparation and administration of departmental budget;

(k) Administration of public works construction contracts;

(l) Assisting in the development of new or revisions to existing ordinances and resolutions that affect the public works department;

(m) Serving as the technical advisor to the mayor and city council and other departments on engineering proposals and other public works activities;

(n) Direction of research and compilation of required reports; and

(o) Provision of such other services as may be directed by the mayor.

2.08.140 Police Chief.

(1) Position created.

There is created and established the position of police chief to perform such duties as are prescribed by contract for law enforcement services with the Snohomish County sheriff's office.

(2) Appointment.

The Snohomish County Sheriff may appoint a Snohomish County Sheriff's deputy as police chief per the process described in the City's interlocal agreement with Snohomish County.

(3) Oath

Upon appointment, the police chief must take an oath of office to faithfully defend the Constitution of the United States of America, the State of Washington, and the laws thereunder, including all ordinances of the City of Stanwood.

(4) Duties and authority.

(a) The police chief must manage the city police department and supervise its employees.

(b) The police chief, or the police chief's designee, must attend each meeting of the city council, and perform the duties of sergeant-at-arms unless excused from attendance by the mayor.

Chapter 2.10 Default Rules for Boards, Commissions, and Committees

2.10.010 Applicability

(1) This chapter applies to each multi-member City board, commission, and committee (in this chapter, each is referred as a "board") established in this title.

(2) This chapter does not apply to the city council.

2.10.020 Effect of this chapter

This chapter sets forth default standards for City boards that apply unless more specific provisions of this code direct otherwise.

2.10.030 Eligibility

Eligibility to serve as a member of each board must be established in each chapter establishing the board.

2.10.040 Terms

Term length, and any limits on number of terms, for members of each board must be established in each chapter establishing the board.

2.10.050 Appointment

(1) Members of each board are appointed by the mayor.

(2) Appointments to each board require confirmation by the city council.

(3) When a vacancy occurs in the middle of a term, the mayor may appoint a replacement only for the remainder of the unexpired term.

2.10.060 Removal

(1) A member of a board may be removed by the mayor for neglect of duty or malfeasance in office.

(2) A member of a board who fails to attend three consecutive regular meetings of the board, without being excused by vote of the board, may be removed from the board by the Mayor.

2.10.070 Compensation and reimbursement

Appointed members of all city boards, commissions, or committees may not receive any salary, benefits, or compensation but may be reimbursed for their actual and necessary expenses incurred in the performance of the duties of their office consistent with city reimbursement policy.

2.10.080 Limitations on authority.

Boards do not have authority to set city policy or authorize expenditures.

2.10.090 Rules of procedure

(1) The rules contained in the current edition of "Roberts Rules of Order Newly Revised," utilizing its special rules for small boards, govern the proceedings of each board in all cases to which they are applicable and not inconsistent with any special rules of order each board adopts.

(2) Each board has the power to adopt its own special rules of procedure.

2.10.100 Rules for remote participation in meetings

(1) Meetings of the board must be held at a physical location, but board members may participate remotely by phone or other electronic system, subject to any limitations established in rules adopted by the Board to govern such participation.

(2) City staff must manage the electronic connection information for any meeting of the board. Staff must send by e-mail to every member of the board, at least 24 hours before each meeting, the time and location of the meeting and electronic link, or phone number and any access code, to participate remotely in the meeting.

(3) Arrival announcements. Members who participate in the meeting remotely must announce themselves at the first opportunity after joining the meeting, but may not interrupt a speaker to do so.

(4) Departure announcements. Members who leave the telephone conference call or the meeting room before adjournment must announce their departure, but may not interrupt a speaker to do so.

(5) Quorum. The presence of a quorum must be established by roll call at the beginning of the meeting and on the demand of any member. Such a demand may be made following the departure of any member or following the taking of any vote for which the announced totals add to less than a quorum.

(6) Obtaining the floor. To seek recognition by the chair, a member must address the chair and state his or her own name. If the remote meeting platform permits, a member should utilize any feature of the platform that allows for a person to seek to be recognized (e.g., the hand raise function).

(7) Voting methods. All votes must be taken by roll call. Unless the board orders a fully recorded roll-call vote, only the number of votes on each side and the number of members present but not voting (including members participating by phone) need be entered in the minutes. Business may also be conducted by unanimous consent.

(8) Loss of meeting-room connection. Any business transacted while the meeting-room speakerphone is disconnected from the telephone conference call is void, except that the members present in the meeting room at such a time may take those actions that are in order in the absence of a quorum.

(9) Other technical malfunctions and requirements. Each member is responsible for his or her connection to the telephone conference call; no action may be invalidated on the grounds that the loss of, or poor quality of, a member’s individual connection prevented participation in the meeting.

(10) Forced disconnections. The chair may order a disconnect or mute of a member’s connection if it is causing undue interference with the meeting. The chair’s decision to do so, which is subject to an undebatable appeal that can be made by any member, must be announced during the meeting and recorded in any minutes.

Chapter 2.12 Planning Commission

2.12.010 Established

There is hereby established a planning commission pursuant to Chapter 35A.63 RCW.

2.12.020 Members

(1) The planning commission consists of seven members.

(2) At least five members of the planning commission must reside within the corporate limits of the city of Stanwood.

(3) Two members of the commission may be residents of either the urban growth area, or individuals representing a Stanwood business or Stanwood-area community-based nonprofit organization that has a location in the city.

2.12.030 Appointment

Members of the planning commission are appointed by the mayor and confirmed by the city council.

2.12.040 Term of Office

Members of the commission serve a term of five years and may be reappointed for additional five-year terms.

2.12.050 Powers and Duties

The planning commission has the duty to:

(1) advise the mayor and city council in matters concerning amendment of the comprehensive plan, and the land use and development regulations, not including adoption of the international building and related codes;

(2) perform the functions directed by SMC Title 17;

(3) hold public meetings and hearings when called for by this code;

(4) provide the city council with copies of all minutes of each session of the planning commission;

(5) prepare and submit to the city council for adoption any additional plans and undertake any plans and studies assigned by the city council; and

(6) perform other duties as assigned by city council.

2.12.060 Organization

The commission may organize itself by electing a chairperson and vice-chairperson, and must be provided with a secretary hired by the city.

2.12.070 Meetings

The commission may designate the time and place for a regular monthly meeting. If there is no business to be transacted by the planning commission in any month, the meeting may be canceled.

2.12.080 Rules of Procedure.

(1) The planning commission may adopt any lawful rule of procedure.

(2) A quorum consists of a majority of the appointed members of the Planning Commission. In the absence of a quorum, the Planning Commission may only take action to adjourn, per RCW 42.30.090.

(3) The Planning Commission's rules of procedure may also provide for the formation of committees less than a quorum.

Chapter 2.14 Lodging Tax Advisory Committee

2.14.010 Creation.

Consistent with RCW 67.28.1817, a Lodging Tax Advisory Committee ("LTAC") is established to provide recommendations on the funds collected per SMC Chapter 3.36.

2.14.020 Membership.

(1) LTAC consists of five members including:

  (a) Two members who are representatives of businesses required to collect the tax under SMC Chapter 3.36; and

  (b) Two members who are persons involved in activities authorized to be funded by revenue received under SMC Chapter 3.36.

  (c) A City Councilmember or the mayor who, per RCW 67.28.1817(1), must serve as chair of LTAC;

(2) Per RCW 67.28.1817(1):

  (a) Persons who are eligible for appointment under subsection (1)(a) of this section are not eligible for appointment under subsection (1)(b) of this section.

  (b) Persons who are eligible for appointment under subsection (1)(b) of this section are not eligible for appointment under subsection (1)(a) of this section.

  (c) The number of members who are representatives of businesses required to collect tax under this chapter must equal the number of members who are involved in activities authorized to be funded by revenue received under this chapter.

  (d) Organizations representing businesses required to collect tax under this chapter, organizations involved in activities authorized to be funded by revenue received under this chapter, and local agencies involved in tourism promotion may submit recommendations for membership on the committee.

2.14.030 Appointment

(1) Each year, the City Council must appoint LTAC membership for the remainder of the calendar year by resolution.

(2) Appointments last for the remainder of the calendar year and terminate at the end of the year.

2.14.040 Duties and authority.

(1) LTAC has the authority to make recommendations to the City Council on lodging tax matters per RCW 67.28.1817(2) and this chapter, and on other subjects as the City Council may request.

(2) LTAC does not have authority to set City policy or authorize expenditures.

(3) LTAC meetings must comply with the Open Public Meetings Act, RCW Chapter 42.30.

(4) LTAC members must comply with the Open Government Trainings Act, RCW 42.30.205.

2.14.050 Recommendations on lodging tax funds

(1) Any proposals for the imposition or expenditure of hotel-motel/lodging tax funds, whether it involves the imposition of a tax, an increase in the rate of a tax, repeal of an exemption from a tax, or a change in the use of revenue received, must be submitted to LTAC for review and comment.

(2) The submission must occur at least 45 days before final action on or passage of the proposal by the City Council.

(3) LTAC must submit comments including an analysis of the extent to which the proposal will accommodate activities for tourists or increase tourism, and the extent to which the proposal will affect the long-term stability of the fund created under RCW 67.28.1815.

(4) Failure of LTAC to submit comments before final action on or passage of the proposal may not prevent the City Council from acting on the proposal. The City Council is not required to submit an amended proposal to an advisory committee under this section.

Chapter 2.16 Parks and Trail Advisory Committee

2.16.010 Creation.

(1) The City of Stanwood Parks and Trails Advisory Committee ("the Committee") is created to advise the mayor and city council on matters pertaining to park development, use, and maintenance.

(2) This chapter continues the Parks and Trails Advisory Committee created by Resolution 2019-14.

2.16.020 Membership

(1) The Committee consists of seven members.

(2) At least four members must be residents of the City of Stanwood.

(3) All members must be residents of the Stanwood-Camano School District.

2.16.030 Appointment

(1) The mayor must appoint the members of the Committee for four-year terms. Appointments must be confirmed by the City Council.

(2) To ensure term expirations are staggered, the initial terms of members of the board are as follows:

  (a) Four members must be appointed to initial four-year terms;

  (b) Three members must be appointed to initial two-year terms;

2.16.040 Duties and authority.

(1) The board has the authority to make recommendations to the mayor and city council.

(2) The board has the duty to:

  (a) Provide a communication link between the city and the Stanwood/Camano community on parks and trail issues;

  (b) Advise the city on implementation of the various parks and trails plans;

  (c) Review and make recommendations regarding park and trail facilities including land acquisition, development, financing, programming, and capital improvement needs;

  (d) Advise the city on park-related grant applications; and

  (e) Make recommendations on work programs, policy issues, and amendments to the Stanwood Municipal Code related to parks.

2.16.050 Meetings

The Committee must meet at least six times per year at a time and place established by the Committee.

2.16.060 Staffing

The Public Works Department must staff the Committee unless otherwise determined by the mayor.

Chapter 2.18 Economic Development Board

2.18.010 Creation

(1) The City of Stanwood Economic Development Board ("the board") is created to assist the City in implementation of the Economic Development Element of the city's Comprehensive Plan and the city's Economic Development Action Plan.

(2) This chapter continues the Economic Development Board created by Resolution 2014-04.

2.18.020 Membership

The Board consists of:

(1) seven voting members who must reside within the boundaries of the Stanwood-Camano School District;

(2) the mayor, who does not have a vote;

(3) the city administrator, who does not have a vote.

2.18.030 Appointment

(1) The mayor must appoint the seven voting members of the board for two-year terms.

(2) To ensure term expirations are staggered, the initial terms of members of the board are as follows:

  (a) Four members must be appointed to initial two-year terms;

  (b) Three members must be appointed to initial one-year terms.

2.18.040 Duties and authority

The board has the responsibility to:

(1) Provide a communication link between the city and the business community;

(2) Advise the City Council on implementation of the Economic Development Work Program;

(3) Advise the City Council on the business perspective on a range of policy issues such as capital planning, zoning amendments, and land use policy plans.

(4) Advise the Mayor on grant applications, consistent with the City's adopted Uniform Procurement Policies (Resolution 13-02 or later amended) for:

  (a) grants for special events that benefit Stanwood; and

  (b) grants for small capital projects benefiting Stanwood Downtown;

(5) Advise the City Council on other matters as requested by the City Council.

2.18.050 Meetings

(1) The board is intended to meet monthly.

(2) The board may set its own times for meetings.

2.18.060 Rules of Procedure

(1) The board may establish its own Rules of Procedure.

(2) Board members are encouraged to invite community stakeholders to meetings for the purpose of expanding the conversation and understanding of issues before the board. Stakeholders may participate in the meetings but are not eligible to vote on matters before the board. Stakeholders may include, but are not limited to, representatives of the following groups: chambers of commerce, downtown business associations, the Stanwood School District, clubs and organizations, and other community groups.

2.18.070 Staffing

The city must provide for staffing of the Board in amounts determined reasonable by the mayor.

Chapter 2.20 Salary Commission

2.20.010 Created

There is created a salary commission for the city.

2.20.020 Members

(1) The commission consist of five members, each of whom must be a resident of the city.

(2) A member may not be an officer, official, or employee of the city or an immediate family member of an officer, official, or employee of the city.

(3) For purposes of this section, “immediate family member” means the parents, spouse, siblings, children, or dependent relatives of an officer, official, or employee of the city, whether or not living in the household of the officer, official, or employee.

2.20.030 Appointment

(1) The mayor must appoint members for three-year terms. Appointments must be confirmed by the city council.

(2) The initial members must be appointed for staggered terms of one, two, or three years.

(3) No person may be appointed to the commission for more than two terms.

2.20.040 Duties and authority.

(1) The commission has the duty to annually review the salaries paid by the city to each elected city official.

(2) The commission must meet between May 1 and July 31 of each year to determine salary adjustments to become effective on January 1 of the following year.

(3) After review, if the commission determines that the salary paid to any elected city official should be increased or decreased, the commission must file a written salary schedule with the city clerk indicating the increase or decrease in salary.

2.20.050 Effect of review

(1) Any increase or decrease in salary established by the commission becomes effective and incorporated into the city budget for the year following commission review without further action of the city council or the commission.

(2) Salary increases established by the commission are effective for all city elected officials, regardless of their terms of office.

(3) Salary decreases established by the commission become effective as to incumbent city elected officials at the beginning of their next term of office.

Chapter 2.30 Hearing Examiner

2.30.010 Purpose

The purpose of this chapter is to establish a Hearing Examiner for quasi-judicial hearings that will ensure procedural due process and appearance of fairness in public hearings and will provide an efficient and effective hearing process for quasi-judicial matters.

2.30.020 Creation

Pursuant to RCW 35A.63.170 and Article XI, Section 11 of the Washington State Constitution, the office of the hearing examiner is hereby created to perform the duties and functions specified in this chapter and elsewhere in this code.

2.30.030 Appointment

(1) The mayor may appoint the hearing examiner, subject to confirmation by majority vote of the city council.

(2) The mayor may also appoint one or more hearing examiners pro tem, subject to confirmation by majority vote of the city council, who may serve in the event of absence or disqualification of the hearing examiner.

(3) The terms of service of the hearing examiner or hearing examiner pro tem must be specified by a professional service contract.

2.30.040 Qualifications

The hearing examiner must be appointed solely with regard to his or her qualifications to perform the duties of the office, and will have such training and experience as will qualify the hearing examiner to conduct administrative and quasi-judicial hearings on regulatory enactments and to discharge such other functions conferred upon the hearing examiner by the mayor or city council. The hearing examiner may hold no other elected or appointed office in the city government.

2.30.050 Removal

The hearing examiner may be removed from office for cause by the mayor, subject to a majority vote of the city council.

2.30.060 Freedom from improper influence

No person, including city officials, elected or appointed, may attempt to influence a hearing examiner, interfere in any matter pending before the examiner, or engage in any ex parte communications with the hearing examiner, except at a public hearing duly called for the purpose of hearing testimony. This section does not prohibit the city attorney from rendering legal service to the hearing examiner upon request.

2.30.070 Conflict of interest and appearance of fairness

(1) The hearing examiner (or hearing examiner pro tem) must fully disclose to the parties any direct or indirect personal, financial, or familial interest that may influence the hearing examiner or interfere with the decision-making process. Any actual or potential conflict of interest must be disclosed to the parties and the city immediately upon discovery. If a party objects after such disclosure, the hearing must then be conducted by a hearing examiner pro tem.

(2) The appearance of fairness doctrine, as specified in Chapter 42.36 RCW, applies to all land use proceedings conducted by the examiner, and may result in the examiner's disqualification when necessary.

2.30.080 Rules

The hearing examiner has the power to propose rules and regulations for the scheduling and conduct of hearings and other procedural matters related to the duties of the office, which must be adopted by the City Council by resolution pursuant to RCW 35A.63.170.

2.30.090 Duties and authority

(1) The hearing examiner has the duty to:

   (a) Hold public hearings and render decisions as prescribed by Title 17 Zoning, Permit types;

   (b) Hear challenges to code interpretations made by the planning director;

   (c) Hear cases and appeals related to code enforcement;

   (d) Perform other regulatory, enforcement, or quasi-judicial functions as conferred upon the hearing examiner by the mayor or the city council or as required by ordinance.

(2) The hearing examiner has the authority to:

   (a) Receive and examine available information;

   (b) Conduct public hearings and prepare a record thereof;

   (c) Administer oaths and affirmations;

   (d) Examine witnesses;

   (e) Regulate the course of the hearing;

   (f) Make and enter decisions;

   (g) Hold, at the hearing examiner's discretion, conferences for the settlement of simplification of issues;

   (h) Dispose of procedural requests or similar matters; and

   (i) Take any other action authorized by or necessary to carry out this chapter.

2.30.100 Public hearings

Where public hearings are required by state statute or city code, the hearing examiner must hold at least one such hearing prior to rendering a decision on any matter. All testimony at any such hearing must be given under oath.

Chapter 2.32 Traffic Violations Bureau

2.32.010 Creation

Pursuant to RCW 3.30.090, there is hereby established a Traffic Violations Bureau for the City of Stanwood, Washington, to assist in processing traffic violations.

2.32.030 Appointment of clerk

The mayor must appoint a Traffic Violations Bureau clerk, approved by the Presiding Judge, who must perform all duties assigned to the Traffic Violations Bureau.

2.32.040 Operation

(1) The Traffic Violations Bureau must operate consistent with RCW 3.30.090 and RCW Chapter 46.63, under the supervision of the Cascade District Court to assist the court in processing traffic infractions.

(2) The court is authorized to allow any and all traffic infractions issued by the City of Stanwood to be processed through the Traffic Violations Bureau. Any traffic infraction in the City of Stanwood is designated a traffic infraction that may be processed through the Traffic Violations Bureau.

(3) The Traffic Violations Bureau must receive the posting of penalties for traffic infractions to the extent authorized by the Cascade District Court. The Traffic Violations Bureau must issue a receipt acknowledging the posting to the alleged violator.

(4) All penalties paid to the Traffic Violations Bureau must be placed in the city's General Fund.

SMC Titles 2 Amendment Descriptions

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Because RCW 35A.12.130 requires an ordinance to contain no more than one subject, each of Titles 1, 2, and 4 should be adopted as three separate ordinances. Because of the interactivity between Titles 1 and 2 and new Title 4, all three ordinances should be adopted simultaneously.

The following adopting language is proposed to handle codification instructions for adoption of the Title 2 ordinance.

Title 2 ordinance:

- SMC 2.32.060, Fee for Fire Inspections, is recodified to SMC 3.30.160.
- SMC Chapter 2.48, Public Services Fees, is recodified to SMC Chapter 3.31.
- SMC Chapter 3.25, Acceptance of Donations, is repealed.
- SMC 3.36.055, Lodging Tax Advisory Committee, is repealed.
- SMC 17.87.120, Report of department, is recodified as SMC 17.80.381.
- The remainder of SMC Chapter 17.87, Hearing Examiner, is repealed.

Resolution 2014-04 creating the Economic Development Board is repealed.

Resolution 2019-14 establishing the Parks and Trails Advisory Committee is repealed.

Title 2 Personnel

- Existing code names this title “Administration and Personnel,” but we’ve proposed to dedicate this title to personnel alone, and move administrative topics to a new Title 4. We’ve structured changes to existing Title 2 chapters to avoid unnecessary chapter renumbering.
- Note existing chapter 2.20 regarding the volunteer fire department has been deleted as it no longer exists. We've queued existing sections 2.20.170-210 prohibiting driving over fire hose, parking restrictions near fire hydrants, false alarms, etc., for insertion into appropriate chapters later on in this project.
- SMC 2.32.060, Fee for Fire Inspections, is moving to SMC Chapter 3.30, Fee Schedule.
- Existing Chapter 2.36 Civil Service System – Fire Department and Chapter 2.32 Fire Marshal are repealed because the City no longer maintains a fire department since annexation into the North County Regional Fire Authority.
- Existing Chapter 2.44 on Council, Boards, Commissions, Transaction of Business has already been repealed by other ordinances. Remaining sections in that chapter have been moved to Chapter 2.10.

Chapter 2.02 City Council

- This new chapter imports sections 2.08.260-270 regarding city councilmember compensation, adds sections describing Council’s duties and responsibilities per statute, and imports sections 2.44.010, .020, .025, .035, and .300 into this chapter, and adjusts to conform to the Style Guide.

2.02.020 Council positions.

- Based on existing SMC 2.44.020 which increased the number of positions from five to seven.

In accordance with RCW 35A.12.010, the city council has seven council member positions.

2.02.040 Mayor pro tempore

- This section is based on existing SMC 2.08.270.

Annually, at the first meeting of the city council, the members thereof must choose a councilmember for the position of mayor pro tempore. In addition to the powers conferred upon that councilmember as mayor pro tempore, that councilmember continues to have all the rights, privileges, and immunities of every other member of the council.

2.02.050 Meetings—Schedule

- This section is important for compliance with the Open Public Meetings Act, RCW 42.30.070.
- The first paragraph is based on existing SMC 2.44.010 while the exception is based on existing SMC 2.44.035.

(1) Per RCW 42.30.070, the city council's regular meeting schedule is the second and fourth Thursdays of each month at 7:00 p.m., except that when the date for any regular meeting of the city council falls upon a day

designated by law as a legal or national holiday, that meeting must be held at the same hour on the preceding Monday if it is not a holiday.

(2) Scheduled City Council meetings may be canceled consistent with the City Council's adopted rules of procedure.

ℹ The final paragraph is based on existing SMC 2.44.010.

(3) Special meetings of the City Council may be scheduled by the mayor or council according to the City Council rules of procedure and RCW 35A.12.110 and 42.30.080.

2.02.060 Meetings—Location.

ℹ Based on existing SMC 2.44.025.

(1) The city council must hold its meetings at the Stanwood Camano School District Administration Building, located at 26920 Pioneer Highway, Stanwood, Washington, unless:

(a) Notice has been given for a special meeting that states an alternate location; or

(b) The meeting is convened at the regular location and then moved to another location for review of city business, or for the convenience of the council.

(2) Remote participation in City Council meetings must be consistent with the City Council's rules of procedure. Consistent with RCW Chapter 42.30, the City Council must also offer a physical location for observation of its meetings.

2.02.070 Meetings—Notice of agenda

ℹ Based on existing SMC 1.08.040.

(1) The City Clerk must notify the public of the preliminary agenda for a forthcoming city council meeting by posting the agenda at least 24 hours before the meeting:

(a) to the City website, consistent with RCW 42.30.077; and

(b) in a prominent location at the following public places:

(i) Stanwood City Hall, 10220 270th St. NW, Stanwood, WA 98292;

(ii) Stanwood Police Station, 8727 271st NW, Stanwood WA 98292;

(iii) Stanwood City Library, 9701 271st St. NW, Stanwood, WA 98292;

(iv) Stanwood Post Office, 9229 271st St. NW, Stanwood, WA 98292.

(2) Nothing in this section prohibits subsequent modifications to agendas nor invalidates any otherwise legal action taken at a meeting where the agenda was not posted in accordance with this section.

2.02.080 Rules of procedure.

ℹ New section. Note that City Council rules of procedure were at one point adopted by ordinance and codified, but were repealed by ordinance 1134. We do not recommend codification of City Council rules of procedure, because that would require adoption of those rules by ordinance, which ordinarily requires the consent of a separate branch of government, i.e., the mayor. We think adoption of City Council rules of procedure by resolution is a best practice.

The City Council may adopt rules to govern the conduct of its meetings and affairs by resolution.

2.02.090 Compensation and reimbursement.

ℹ The following paragraph is from existing SMC 2.08.260.

(1) Default compensation. The compensation of councilmembers must be determined by the salary commission pursuant to SMC Chapter 2.20.

ℹ The following sentence is imported from existing SMC 2.08.270.

(2) Mayor pro tem. In the event of the absence of the mayor for a period of 30 days or longer, the mayor pro tempore is entitled to receive the mayor's compensation for the duration of said absence

ℹ The following paragraph is from existing SMC 2.08.260.

(3) Expenses. Each councilmember must be reimbursed for actual expenses incurred in the discharge of the councilmember's official duties upon presentation of a claim therefore, after allowance and approval by motion of the city council.

ℹ The following paragraphs are based on existing SMC 2.08.265. Deleted the ability for a councilmember to direct his or her salary to a particular city expense.

(4) Waiver and election not to receive compensation. A councilmember may waive all or any portion of that councilmember's salary during that councilmember's term of office.

(a) Notice of waiver must be:

(i) In writing and delivered to the finance director prior to the effective date of such waiver; and

(ii) Signed by the council member and their spouse, if married, as required by RCW 49.48.100. Signatures must be acknowledged by a notary public.

(b) A waiver is only effective for salary earned starting on the effective date of the waiver.

(c) A waiver continues in effect until withdrawn in writing, signed by the councilmember and the councilmember's spouse, and delivered to the finance director.

Chapter 2.04 Mayor

ℹ This new chapter moves section 2.08.240 regarding the mayor's compensation and benefits here, adds sections describing the mayor's duties and responsibilities per statute, adds sections describing mayor's eligibility for benefits, and adds a section describing procedures in the event of the mayor's absence.

2.04.020 Duties and authority

The mayor has all the duties and authority provided by state law, including those established in RCW 35A.12.100.

2.04.040 Compensation and benefits

ℹ The following sections are based on existing SMC 2.08.240.

(1) Salary.

(a) The mayor may receive, as compensation for services to the city of Stanwood and attendance at regular council meetings, a payment as determined by the salary commission pursuant to SMC Chapter 2.20.

ℹ The following paragraph is based on existing SMC 2.08.265.

(b) The mayor may voluntarily waive and elect not to be paid all or any portion of the mayor's salary during their term of office in the same manner available to councilmembers in SMC 2.02.090.

(2) Expenses. The mayor may receive reimbursement for the mayor's actual and necessary expenses incurred in the performance of the duties of his office, consistent with city policy on such reimbursements.

(3) Benefits.

ℹ The following paragraph is based on existing SMC 2.08.240(3). Based on the council's action in Resolution 2022-12, we have amended this paragraph and deleted the existing line that read "The city may pay 50 percent of the cost of the mayor's benefits but may not pay any of the benefit costs for the mayor's spouse or dependents."

(a) Health insurance. The mayor is entitled to receive the same health insurance benefits as are available to the city's exempt employees.

ℹ The next two paragraphs are new material and recommended to cover various benefit scenarios.

(b) Retirement. The mayor may be eligible for pension and retirement benefits available to other city employees, including those available through the State Public Employees Retirement System (PERS).

(c) Paid time-off. As an elected official with a fixed salary, the mayor does not accrue leave time and is not eligible for vacation, sick, or disability time.

Chapter 2.06 City Administrator

ℹ This chapter is based on existing SMC Chapter 2.06.

2.06.010 Position created.

ℹ This section is based on existing SMC 2.06.010, with appointment procedure split into new section .020.

There is created the office of city administrator with the authority, powers, and duties as described in this chapter.

2.06.020 Appointment.

ℹ This section is based on appointment provisions in existing SMC 2.06.010.

(1) The position of City Administrator may be filled at the pleasure of the mayor, subject to the confirmation of the city council.

(2) The city may specify additional terms and conditions of employment in a written agreement executed by the mayor and approved by the city council.

2.06.030 Scope of authority.

ℹ This section is existing SMC 2.06.020, unmodified except for application of the Style Guide.

Under the direction and authority of the mayor, the city administrator must supervise, administer, and coordinate the activities and functions of all city officers, departments, commissions, and boards to implement city ordinances and policies through the effective use of city employees, funds, grants, materials, facilities, and time, and control the overall operations of the city to ensure optimum service to the community.

2.06.050 Powers and duties.

ℹ This section is existing SMC 2.06.050, unmodified except for application of the Style Guide.

Under the direction and authority of the mayor the city administrator has the following powers and duties:

(1) Plan and direct all administrative activities of the city, develop and implement internal policies and procedures, evaluate city employees, and take necessary actions to improve operations;

(2) Provide information and advice to the mayor, city council, other public officials and the general public regarding city operations;

(3) Act as the city representative in such areas as labor relations, intergovernmental relations, conferences, conventions and seminars related to public management;

(4) Delegate responsibility as necessary to accomplish the desired objectives;

(5) Attend meetings of the city council, and other boards and commissions as necessary to coordinate and satisfy the administrative needs of the city;

(6) Act to resolve operational conflicts, decide and implement alternate courses of action, formulate administrative policies and otherwise make decisions in the best interest of the city's operation; and

(7) Coordinate and supervise the preparation of the preliminary budget for submittal to the mayor and administer the entire budget after its adoption.

Chapter 2.08 City Officers and Department Heads.

ℹ Existing chapter 2.08 is named "City Officers." This chapter adds a section for each officer describing the manner of officer (e.g., clerk, treasurer) and department head appointment, and reorganizes other sections to standardize the organization structure of the chapter and describe one officer per section with authority, duties, and qualifications of each (per RCW 35A.12.020).

ℹ Because Stanwood does not have its own fire department and contracts for fire service through the regional fire authority, it is not necessary to create the position of fire chief.

ℹ The interlocal agreement with the RFA specifies that the RFA fire chief appoints the Fire Code Official under the IFC. We will specify the Fire Code Official in the chapter where the international codes are adopted.

2.08.010 Default Provisions

(1) The provisions of this section apply to each of the city officers and department heads named in this chapter unless otherwise provided.

(2) The city officers and department heads named in this chapter are appointed by the mayor and do not require council confirmation.

(3) Each of the city officers and department heads named in this chapter may be removed by the mayor for any lawful reason.

ℹ The next paragraph is based on various existing SMC provisions (e.g., 2.40.120)

(4) Each of the officers and department heads named in this chapter must be paid the salary annually fixed by the city council.

ℹ The next paragraph is based on existing SMC 2.08.060.

(5) Each of the officers and department heads named in this chapter is responsible to the director of finance to authenticate and certify any claims for services rendered for performance of labor.

ℹ This is a new provision.

(6) Per RCW 35A.12.080, the clerk, treasurer, and chief of police must annually provide an official bond conditioned on the honest and faithful performance of their official duties. Compliance with the provisions of the bond is an essential qualification for the position.

2.08.020 City Attorney.

ℹ This section is based on existing SMC 2.08.210-230. An oath and bond is not required of city attorneys, and has been deleted.

(1) Position created

There is created and established the position of City Attorney.

(2) Qualifications.

(a) The city attorney must be a practicing attorney.

(b) The city attorney need not be a resident of the city.

(3) Duties.

(a) The city attorney must advise the mayor, city council, and city staff on all questions of law presented to them in the course of their administration of city affairs.

(b) The city attorney must attend all regular and special meetings of the city council, unless excused by the mayor.

(c) The city attorney must attend meetings, when requested by the chair thereof, of committees of the city council. The city attorney must also attend public hearings when requested by the city's hearing examiner, city council, or mayor.

(d) The city attorney must prosecute or defend any litigation in any court involving the city.

(e) The city attorney must, when directed by the mayor, represent the city before any county, state or federal agency in any proceeding involving the city.

(f) The city attorney must, when a conflict of interest occurs in any city matter coming to their attention, advise and request the mayor appoint a temporary substitute city attorney as to any such matter.

ℹ The next paragraph is new material.

(g) Consistent with the Rules for Professional Conduct, the city attorney owes a duty of representation to the city as an entity, not to the mayor, to the city council, or to any individual elected official or employee.

(4) Compensation.

The city attorney may receive compensation per an agreement for attorney services approved by the city council.

2.08.040 City Clerk.

ℹ This section is based on existing SMC 2.08.035-036.

(1) Position created

There is created and established the position of city clerk per RCW 35A.12.020.

(2) Duties and authority

The city clerk has all of the powers granted and duties imposed by authority of the laws of the state and ordinances of the city, now existing or hereinafter adopted, subject to the general supervision and control of the mayor.

2.08.060 Director of Finance

ℹ This section is based on existing SMC 2.08.038-090.

(1) Position created.

There is created and established the position of director of finance, which is also designed as city treasurer to perform in that capacity whenever the laws of the state or city make reference to such position.

(2) Duties and authority.

(a) The director of finance is responsible for management of the Finance Department and City Clerk.

(b) The director of finance may appoint a subordinate employee from the department to assist in the performance of the duties of city treasurer.

(c) The director of finance is appointed as the auditing officer to authenticate and certify that all claims against the city for materials furnished and services rendered are just, due, and unpaid obligations against the city, upon such forms and in the manner prescribed by the Division of Municipal Corporations of the Washington State Auditor's Office.

(d) The director of finance is further authorized to issue payroll checks pursuant to the city budget.

(e) The director of finance is authorized to invest inactive funds of the city or other city funds, as authorized by RCW 39.59.040, in excess of current needs.

(f) The director of finance must make a quarterly report of all investment transactions to the city council.

2.08.080 Director of Community Development.

ℹ This section is based on existing SMC 2.08.161-162.

(1) Position created.

There is created and established the office of director of community development.

(2) Official designations.

The director of community development is designated as:

(a) The City's Shoreline Administrator under the State Shoreline Management Act;

(b) The City's SEPA Responsible Official under the State Environmental Policy Act;

(c) The City's Floodplain Manager.

(3) Duties and authority.

The director of community development is responsible for the following:

(a) Management of the Community Development Department;

(b) Administration of the comprehensive plan of the city, and implementation of activities related to the Growth Management Act;

(c) Provision of long-range planning for the city related to land use and development, housing, economic development, construction, and annexation;

(d) Coordination, development, and implementation of city policy related to land use planning and development, housing, economic development, and construction;

(e) Provision of staff support for the planning commission;

(f) Administration and operation of the city's design and development review processes including plan review, permit coordination and issuance, and inspection and enforcement related to codes administered by the department;

(g) Administration and revision of the city's development regulations, including the zoning code, the Uniform and International Building Codes, maintenance codes, fire codes, and plumbing and electrical codes, construction codes and subdivision codes;

(h) Environmental protection, coordination, and administration of the city's environmental procedures code including compliance with Chapter 43.21C RCW, the State Environmental Policy Act (SEPA);

(i) Provision of permit and zoning information services;

(j) Provision of services of office of building official and code enforcement officer;

(k) Administration of the city's shoreline master program under the Shoreline Management Act;

(l) Representation of the city in regional planning issues;

(m) Provision of such other services as may be directed by the mayor.

2.08.100 Director of Public Works.

ℹ This section is based on existing SMC 2.08.100-130. Subsection (2)(f) was amended per Council action on December 8, 2022, to change the City's Financial Policy.

(1) Position created.

There is created and established the position of director of public works.

(2) Duties and authority.

The director of public works is responsible for the following:

(a) Management of the Public Works Department.

(b) Supervision of the operation of the city street, park, sewer, water and stormwater divisions;

(c) Supervision and administration of the layout, construction and maintenance of all public buildings, improvements, streets, alleyways and sidewalks;

(d) Supervision of the safety program of the city;

(e) Supervision of the acquisition, maintenance, operation and disposition of city maintenance equipment;

(f) Approval of construction change orders as provided in Chapter Nine of the Stanwood Financial Management Policy, prior to city council's approval;

(g) Planning and implementation of a comprehensive capital improvement program for the city;

(h) Perpetuating public works improvements and projects by initiating and/or assisting in the acquisition of grants;

(i) Supervision and review of design and development plans, estimates, and contract documents for public works projects;

(j) Preparation and administration of departmental budget;

(k) Administration of public works construction contracts;

(l) Assisting in the development of new or revisions to existing ordinances and resolutions that affect the public works department;

(m) Serving as the technical advisor to the mayor and city council and other departments on engineering proposals and other public works activities;

(n) Direction of research and compilation of required reports; and

(o) Provision of such other services as may be directed by the mayor.

2.08.140 Police Chief.

This section is based on existing SMC 2.08.190, 2.40.090, and 2.40.130.

(1) Position created.

There is created and established the position of police chief to perform such duties as are prescribed by contract for law enforcement services with the Snohomish County sheriff's office.

(2) Appointment.

The Snohomish County Sheriff may appoint a Snohomish County Sheriff's deputy as police chief per the process described in the City's interlocal agreement with Snohomish County.

(3) Oath

Upon appointment, the police chief must take an oath of office to faithfully defend the Constitution of the United States of America, the State of Washington, and the laws thereunder, including all ordinances of the City of Stanwood.

(4) Duties and authority.

(a) The police chief must manage the city police department and supervise its employees.

(b) The police chief, or the police chief's designee, must attend each meeting of the city council, and perform the duties of sergeant-at-arms unless excused from attendance by the mayor.

Chapter 2.10 Default Rules for Boards, Commissions, and Committees

This is a new chapter, preceding all other chapters establishing boards and commissions, establishes general rules for operation of such boards and commissions. The chapters establishing each board or commission may override these default provisions.

This would be an appropriate place to put any other rules that the City Council desires for management of appointments, confirmations, etc. Want to require all the meetings to be open? Want to require compliance with the OPMA, or specific provisions of the OPMA?

2.10.010 Applicability

(1) This chapter applies to each multi-member City board, commission, and committee (in this chapter, each is referred as a "board") established in this title.

(2) This chapter does not apply to the city council.

2.10.020 Effect of this chapter

This chapter sets forth default standards for City boards that apply unless more specific provisions of this code direct otherwise.

2.10.030 Eligibility

Eligibility to serve as a member of each board must be established in each chapter establishing the board.

2.10.040 Terms

Term length, and any limits on number of terms, for members of each board must be established in each chapter establishing the board.

2.10.050 Appointment

(1) Members of each board are appointed by the mayor.

(2) Appointments to each board require confirmation by the city council.

(3) When a vacancy occurs in the middle of a term, the mayor may appoint a replacement only for the remainder of the unexpired term.

2.10.060 Removal

(1) A member of a board may be removed by the mayor for neglect of duty or malfeasance in office.

(2) A member of a board who fails to attend three consecutive regular meetings of the board, without being excused by vote of the board, may be removed from the board by the Mayor.

2.10.070 Compensation and reimbursement

ℹ This section is based on existing SMC 2.08.440.

Appointed members of all city boards, commissions, or committees may not receive any salary, benefits, or compensation but may be reimbursed for their actual and necessary expenses incurred in the performance of the duties of their office consistent with city reimbursement policy.

2.10.080 Limitations on authority.

Boards do not have authority to set city policy or authorize expenditures.

2.10.090 Rules of procedure

ℹ Existing SMC 2.44.270 provided that the City Council rules of procedure govern each board by default, which may not make sense for all boards. Roberts Rules of Order is a generally recommended standard and is recommended by Jurassic Parliament, a firm that provides parliamentary procedure training to many Washington cities.

(1) The rules contained in the current edition of "Roberts Rules of Order Newly Revised," utilizing its special rules for small boards, govern the proceedings of each board in all cases to which they are applicable and not inconsistent with any special rules of order each board adopts.

(2) Each board has the power to adopt its own special rules of procedure.

2.10.100 Rules for remote participation in meetings

ℹ This is a new section based on the sample rules for electronic meetings found in the 12th Edition of Roberts Rules of Order Newly Revised.

(1) Meetings of the board must be held at a physical location, but board members may participate remotely by phone or other electronic system, subject to any limitations established in rules adopted by the Board to govern such participation.

(2) City staff must manage the electronic connection information for any meeting of the board. Staff must send by e-mail to every member of the board, at least 24 hours before each meeting, the time and location of the meeting and electronic link, or phone number and any access code, to participate remotely in the meeting.

(3) Arrival announcements. Members who participate in the meeting remotely must announce themselves at the first opportunity after joining the meeting, but may not interrupt a speaker to do so.

(4) Departure announcements. Members who leave the telephone conference call or the meeting room before adjournment must announce their departure, but may not interrupt a speaker to do so.

(5) Quorum. The presence of a quorum must be established by roll call at the beginning of the meeting and on the demand of any member. Such a demand may be made following the departure of any member or following the taking of any vote for which the announced totals add to less than a quorum.

(6) Obtaining the floor. To seek recognition by the chair, a member must address the chair and state his or her own name. If the remote meeting platform permits, a member should utilize any feature of the platform that allows for a person to seek to be recognized (e.g., the hand raise function).

(7) Voting methods. All votes must be taken by roll call. Unless the board orders a fully recorded roll-call vote, only the number of votes on each side and the number of members present but not voting (including members participating by phone) need be entered in the minutes. Business may also be conducted by unanimous consent.

(8) Loss of meeting-room connection. Any business transacted while the meeting-room speakerphone is disconnected from the telephone conference call is void, except that the members present in the meeting room at such a time may take those actions that are in order in the absence of a quorum.

(9) Other technical malfunctions and requirements. Each member is responsible for his or her connection to the telephone conference call; no action may be invalidated on the grounds that the loss of, or poor quality of, a member's individual connection prevented participation in the meeting.

(10) Forced disconnections. The chair may order a disconnect or mute of a member's connection if it is causing undue interference with the meeting. The chair's decision to do so, which is subject to an undebatable appeal that can be made by any member, must be announced during the meeting and recorded in any minutes.

Chapter 2.12 Planning Commission

ℹ This is a new chapter that mirrors existing section 2.12.010, modified to break up the existing code into multiple sections and for consistency with the Style Guide. Note that existing SMC 2.12.010(3) regarding conflict of interest was deleted because it is supplanted by the new Ethics chapter in title 4. The removal position was deleted because it is covered by the default rules in Chapter 2.10.

2.12.010 Established

There is hereby established a planning commission pursuant to Chapter 35A.63 RCW.

2.12.020 Members

(1) The planning commission consists of seven members.

(2) At least five members of the planning commission must reside within the corporate limits of the city of Stanwood.

(3) Two members of the commission may be residents of either the urban growth area, or individuals representing a Stanwood business or Stanwood-area community-based nonprofit organization that has a location in the city.

2.12.030 Appointment

Members of the planning commission are appointed by the mayor and confirmed by the city council.

2.12.040 Term of Office

Members of the commission serve a term of five years and may be reappointed for additional five-year terms.

2.12.050 Powers and Duties

The planning commission has the duty to:

(1) advise the mayor and city council in matters concerning amendment of the comprehensive plan, and the land use and development regulations, not including adoption of the international building and related codes;

(2) perform the functions directed by SMC Title 17;

(3) hold public meetings and hearings when called for by this code;

(4) provide the city council with copies of all minutes of each session of the planning commission;

(5) prepare and submit to the city council for adoption any additional plans and undertake any plans and studies assigned by the city council; and

(6) perform other duties as assigned by city council.

2.12.060 Organization

The commission may organize itself by electing a chairperson and vice-chairperson, and must be provided with a secretary hired by the city.

2.12.070 Meetings

The commission may designate the time and place for a regular monthly meeting. If there is no business to be transacted by the planning commission in any month, the meeting may be canceled.

2.12.080 Rules of Procedure.

(1) The planning commission may adopt any lawful rule of procedure.

ℹ The next paragraph is new, although the second half existed in the paragraph about meetings above.

(2) A quorum consists of a majority of the appointed members of the Planning Commission. In the absence of a quorum, the Planning Commission may only take action to adjourn, per RCW 42.30.090.

(3) The Planning Commission's rules of procedure may also provide for the formation of committees less than a quorum.

Chapter 2.14 Lodging Tax Advisory Committee

This is a recodification of existing SMC 3.36.055, with text broken into multiple sections consistent with other chapters of this type, and with cross-references to the lodging tax provisions in Title 3. New sections have been added describing the process for review and comment on lodging tax funding proposals, consistent with the statute. Default language such as "appointed by the legislative body of the municipality…" has been replaced with "appointed by the City Council."

Note that the statute requires at least five members, one of whom must be an elected official who must serve as chair. The statute also requires "at least two" of each qualifying group, below. The City could amend this code to appoint more.

The statute allows LTAC to include one nonvoting member who is an elected official of the county in which the city or town is located.

2.14.010 Creation.

Consistent with RCW 67.28.1817, a Lodging Tax Advisory Committee ("LTAC") is established to provide recommendations on the funds collected per SMC Chapter 3.36.

2.14.020 Membership.

This section is substantially reformatted and reorganized from existing SMC 36.36.055. The statute requires an elected official to serve as chair, which is not provided by existing code.

(1) LTAC consists of five members including:

(a) Two members who are representatives of businesses required to collect the tax under SMC Chapter 3.36; and

(b) Two members who are persons involved in activities authorized to be funded by revenue received under SMC Chapter 3.36.

(c) A City Councilmember or the mayor who, per RCW 67.28.1817(1), must serve as chair of LTAC;

The following subsection is drawn directly from the statute. Although clunky, we recommend not rewording it.

(2) Per RCW 67.28.1817(1):

(a) Persons who are eligible for appointment under subsection (1)(a) of this section are not eligible for appointment under subsection (1)(b) of this section.

(b) Persons who are eligible for appointment under subsection (1)(b) of this section are not eligible for appointment under subsection (1)(a) of this section.

(c) The number of members who are representatives of businesses required to collect tax under this chapter must equal the number of members who are involved in activities authorized to be funded by revenue received under this chapter.

(d) Organizations representing businesses required to collect tax under this chapter, organizations involved in activities authorized to be funded by revenue received under this chapter, and local agencies involved in tourism promotion may submit recommendations for membership on the committee.

2.14.030 Appointment

ℹ This is a new section. Term was not prescribed. RCW 67.28.1817(1) requires the City Council to "review" LTAC membership annually.

(1) Each year, the City Council must appoint LTAC membership for the remainder of the calendar year by resolution.

(2) Appointments last for the remainder of the calendar year and terminate at the end of the year.

2.14.040 Duties and authority.

ℹ The following is new material.

(1) LTAC has the authority to make recommendations to the City Council on lodging tax matters per RCW 67.28.1817(2) and this chapter, and on other subjects as the City Council may request.

(2) LTAC does not have authority to set City policy or authorize expenditures.

ℹ It's well established that LTAC is subject to the OPMA.

(3) LTAC meetings must comply with the Open Public Meetings Act, RCW Chapter 42.30.

(4) LTAC members must comply with the Open Government Trainings Act, RCW 42.30.205.

2.14.050 Recommendations on lodging tax funds

ℹ The remainder of this section is based on existing SMC 3.36.055(1)(b) and RCW 67.28.1817(2).

(1) Any proposals for the imposition or expenditure of hotel-motel/lodging tax funds, whether it involves the imposition of a tax, an increase in the rate of a tax, repeal of an exemption from a tax, or a change in the use of revenue received, must be submitted to LTAC for review and comment.

(2) The submission must occur at least 45 days before final action on or passage of the proposal by the City Council.

(3) LTAC must submit comments including an analysis of the extent to which the proposal will accommodate activities for tourists or increase tourism, and the extent to which the proposal will affect the long-term stability of the fund created under RCW 67.28.1815.

(4) Failure of LTAC to submit comments before final action on or passage of the proposal may not prevent the City Council from acting on the proposal. The City Council is not required to submit an amended proposal to an advisory committee under this section.

Chapter 2.16 Parks and Trail Advisory Committee

ℹ Prior chapter 2.16, Board of Park Commissioners, was repealed by Ordinance 976. This chapter reuses the old chapter number to codify the Parks and Trail Advisory Committee, created by Resolution 2019-14.

2.16.010 Creation.

(1) The City of Stanwood Parks and Trails Advisory Committee ("the Committee") is created to advise the mayor and city council on matters pertaining to park development, use, and maintenance.

(2) This chapter continues the Parks and Trails Advisory Committee created by Resolution 2019-14.

2.16.020 Membership

(1) The Committee consists of seven members.

(2) At least four members must be residents of the City of Stanwood.

(3) All members must be residents of the Stanwood-Camano School District.

2.16.030 Appointment

(1) The mayor must appoint the members of the Committee for four-year terms. Appointments must be confirmed by the City Council.

(2) To ensure term expirations are staggered, the initial terms of members of the board are as follows:

   (a) Four members must be appointed to initial four-year terms;

   (b) Three members must be appointed to initial two-year terms;

2.16.040 Duties and authority.

(1) The board has the authority to make recommendations to the mayor and city council.

(2) The board has the duty to:

   (a) Provide a communication link between the city and the Stanwood/Camano community on parks and trail issues;

   (b) Advise the city on implementation of the various parks and trails plans;

   (c) Review and make recommendations regarding park and trail facilities including land acquisition, development, financing, programming, and capital improvement needs;

   (d) Advise the city on park-related grant applications; and

   (e) Make recommendations on work programs, policy issues, and amendments to the Stanwood Municipal Code related to parks.

2.16.050 Meetings

The Committee must meet at least six times per year at a time and place established by the Committee.

2.16.060 Staffing

The Public Works Department must staff the Committee unless otherwise determined by the mayor.

Chapter 2.18 Economic Development Board

ℹ This new chapter codifies the Economic Development Board as established by Resolution 2014-04, consistent with other chapters regarding city boards and committees. Language adopting this ordinance will repeal Resolution 2014-04 to avoid duplication.

2.18.010 Creation

(1) The City of Stanwood Economic Development Board ("the board") is created to assist the City in implementation of the Economic Development Element of the city's Comprehensive Plan and the city's Economic Development Action Plan.

(2) This chapter continues the Economic Development Board created by Resolution 2014-04.

2.18.020 Membership

The Board consists of:

(1) seven voting members who must reside within the boundaries of the Stanwood-Camano School District;

(2) the mayor, who does not have a vote;

(3) the city administrator, who does not have a vote.

2.18.030 Appointment

(1) The mayor must appoint the seven voting members of the board for two-year terms.

(2) To ensure term expirations are staggered, the initial terms of members of the board are as follows:

  (a) Four members must be appointed to initial two-year terms;

  (b) Three members must be appointed to initial one-year terms.

2.18.040 Duties and authority

ℹ This section integrates the "authority" section of the resolution into the duty section.

The board has the responsibility to:

(1) Provide a communication link between the city and the business community;

(2) Advise the City Council on implementation of the Economic Development Work Program;

(3) Advise the City Council on the business perspective on a range of policy issues such as capital planning, zoning amendments, and land use policy plans.

(4) Advise the Mayor on grant applications, consistent with the City's adopted Uniform Procurement Policies (Resolution 13-02 or later amended) for:

  (a) grants for special events that benefit Stanwood; and

  (b) grants for small capital projects benefiting Stanwood Downtown;

(5) Advise the City Council on other matters as requested by the City Council.

2.18.050 Meetings

(1) The board is intended to meet monthly.

(2) The board may set its own times for meetings.

2.18.060 Rules of Procedure

(1) The board may establish its own Rules of Procedure.

(2) Board members are encouraged to invite community stakeholders to meetings for the purpose of expanding the conversation and understanding of issues before the board. Stakeholders may participate in the meetings but are not eligible to vote on matters before the board. Stakeholders may include, but are not limited to, representatives of the following groups: chambers of commerce, downtown business associations, the Stanwood School District, clubs and organizations, and other community groups.

2.18.070 Staffing

The city must provide for staffing of the Board in amounts determined reasonable by the mayor.

Chapter 2.20 Salary Commission

ℹ This chapter is moved from existing Chapter 2.10, adjusted for consistency with the Style Guide. Note that existing section 2.10.050 regarding referendum has been deleted, as referendum is addressed by the new initiative and referendum chapter in Title 1; although note that a binding referendum is not possible for resolutions.

2.20.010 Created

There is created a salary commission for the city.

2.20.020 Members

(1) The commission consist of five members, each of whom must be a resident of the city.

(2) A member may not be an officer, official, or employee of the city or an immediate family member of an officer, official, or employee of the city.

(3) For purposes of this section, “immediate family member” means the parents, spouse, siblings, children, or dependent relatives of an officer, official, or employee of the city, whether or not living in the household of the officer, official, or employee.

2.20.030 Appointment

(1) The mayor must appoint members for three-year terms. Appointments must be confirmed by the city council.

(2) The initial members must be appointed for staggered terms of one, two, or three years.

(3) No person may be appointed to the commission for more than two terms.

2.20.040 Duties and authority.

(1) The commission has the duty to annually review the salaries paid by the city to each elected city official.

(2) The commission must meet between May 1 and July 31 of each year to determine salary adjustments to become effective on January 1 of the following year.

(3) After review, if the commission determines that the salary paid to any elected city official should be increased or decreased, the commission must file a written salary schedule with the city clerk indicating the increase or decrease in salary.

2.20.050 Effect of review

(1) Any increase or decrease in salary established by the commission becomes effective and incorporated into the city budget for the year following commission review without further action of the city council or the commission.

(2) Salary increases established by the commission are effective for all city elected officials, regardless of their terms of office.

(3) Salary decreases established by the commission become effective as to incumbent city elected officials at the beginning of their next term of office.

Chapter 2.30 Hearing Examiner

ℹ This chapter is a recodification of existing SMC Chapter 17.87 creating the office of the Hearing Examiner. All such offices should be organized in Title 2, particularly since the Hearing Examiner is charged with hearing cases other than land use cases. This chapter has been updated for compatibility with the Style Guide, but with no other modifications unless noted.

ℹ An instruction in the ordinance text will recodify the land use procedural components of this chapter (SMC 17.87.120 Report of department, SMC 17.87.130 Decision, SMC 17.87.140 Notice of decision, and SMC 17.87.150 Appeals) to SMC 17.80.381-384.

2.30.010 Purpose

The purpose of this chapter is to establish a Hearing Examiner for quasi-judicial hearings that will ensure procedural due process and appearance of fairness in public hearings and will provide an efficient and effective hearing process for quasi-judicial matters.

2.30.020 Creation

ℹ Note incorporating "hearing examiner pro tem" into the term hearing examiner has been moved to Chapter 1.04 Definitions. Deleted other redundancies in this section.

Pursuant to RCW 35A.63.170 and Article XI, Section 11 of the Washington State Constitution, the office of the hearing examiner is hereby created to perform the duties and functions specified in this chapter and elsewhere in this code.

2.30.030 Appointment

(1) The mayor may appoint the hearing examiner, subject to confirmation by majority vote of the city council.

(2) The mayor may also appoint one or more hearing examiners pro tem, subject to confirmation by majority vote of the city council, who may serve in the event of absence or disqualification of the hearing examiner.

(3) The terms of service of the hearing examiner or hearing examiner pro tem must be specified by a professional service contract.

2.30.040 Qualifications

The hearing examiner must be appointed solely with regard to his or her qualifications to perform the duties of the office, and will have such training and experience as will qualify the hearing examiner to conduct administrative and quasi-judicial hearings on regulatory enactments and to discharge such other functions conferred upon the hearing examiner by the mayor or city council. The hearing examiner may hold no other elected or appointed office in the city government.

2.30.050 Removal

The hearing examiner may be removed from office for cause by the mayor, subject to a majority vote of the city council.

2.30.060 Freedom from improper influence

No person, including city officials, elected or appointed, may attempt to influence a hearing examiner, interfere in any matter pending before the examiner, or engage in any ex parte communications with the hearing examiner, except at a public hearing duly called for the purpose of hearing testimony. This section does not prohibit the city attorney from rendering legal service to the hearing examiner upon request.

2.30.070 Conflict of interest and appearance of fairness

(1) The hearing examiner (or hearing examiner pro tem) must fully disclose to the parties any direct or indirect personal, financial, or familial interest that may influence the hearing examiner or interfere with the decision-making process. Any actual or potential conflict of interest must be disclosed to the parties and the city immediately upon discovery. If a party objects after such disclosure, the hearing must then be conducted by a hearing examiner pro tem.

ℹ The following paragraph narrows application of the appearance of fairness doctrine to land use proceedings.

(2) The appearance of fairness doctrine, as specified in Chapter 42.36 RCW, applies to all land use proceedings conducted by the examiner, and may result in the examiner's disqualification when necessary.

2.30.080 Rules

ℹ RCW 35A.63.170(1) provides that "the legislative body shall prescribe procedures to be followed by a hearing examiner." This is a change from existing code.

The hearing examiner has the power to propose rules and regulations for the scheduling and conduct of hearings and other procedural matters related to the duties of the office, which must be adopted by the City Council by resolution pursuant to RCW 35A.63.170.

2.30.090 Duties and authority

(1) The hearing examiner has the duty to:

  (a) Hold public hearings and render decisions as prescribed by SMC 17.80.230, Permit types;

  (b) Hear challenges to code interpretations made by the planning director;

  (c) Hear cases and appeals related to code enforcement;

  (d) Perform other regulatory, enforcement, or quasi-judicial functions as conferred upon the hearing examiner by the mayor or the city council or as required by ordinance.

(2) The hearing examiner has the authority to:

(a) Receive and examine available information;

(b) Conduct public hearings and prepare a record thereof;

(c) Administer oaths and affirmations;

(d) Examine witnesses;

(e) Regulate the course of the hearing;

(f) Make and enter decisions;

(g) Hold, at the hearing examiner's discretion, conferences for the settlement of simplification of issues;

(h) Dispose of procedural requests or similar matters; and

(i) Take any other action authorized by or necessary to carry out this chapter.

2.30.100 Public hearings

Where public hearings are required by state statute or city code, the hearing examiner must hold at least one such hearing prior to rendering a decision on any matter. All testimony at any such hearing must be given under oath.

Chapter 2.32 Traffic Violations Bureau

ℹ At the request of the police chief, we've adjusted this existing chapter to more closely conform to the City of Snohomish's Municipal Code section 11.04.015 for ease of reading and administration.

ℹ Because this Bureau is not a multimember "board or commission" and is predominantly about traffic violations not personnel, it doesn't fit into this title as well as other chapters. We may propose to recodify it to Title 10, Vehicles and Traffic, when we get to that title in our code update project.

2.32.010 Creation

Pursuant to RCW 3.30.090, there is hereby established a Traffic Violations Bureau for the City of Stanwood, Washington, to assist in processing traffic violations.

2.32.030 Appointment of clerk

The mayor must appoint a Traffic Violations Bureau clerk, approved by the Presiding Judge, who must perform all duties assigned to the Traffic Violations Bureau.

2.32.040 Operation

(1) The Traffic Violations Bureau must operate consistent with RCW 3.30.090 and RCW Chapter 46.63, under the supervision of the Cascade District Court to assist the court in processing traffic infractions.

(2) The court is authorized to allow any and all traffic infractions issued by the City of Stanwood to be processed through the Traffic Violations Bureau. Any traffic infraction in the City of Stanwood is designated a traffic infraction that may be processed through the Traffic Violations Bureau.

(3) The Traffic Violations Bureau must receive the posting of penalties for traffic infractions to the extent authorized by the Cascade District Court. The Traffic Violations Bureau must issue a receipt acknowledging the posting to the alleged violator.

(4) All penalties paid to the Traffic Violations Bureau must be placed in the city's General Fund.

ATTACHMENT D



Stanwood Municipal Code Project
Change Request Tracking Form

Applicable Amendments: Title 2 – Personnel

Requestor	Title / Chapter / Section	Change	Action Taken
Jason Toner, Police Chief	Chapter 2.24 Traffic Violation Bureau 2.24.040 Operation	Sections 1 and 3: Should be Cascade District Court, not Evergreen District Court	Fixed
Patricia Love, Community Development	Chapter 2.24 Traffic Violation Bureau	Renumber Chapter; 2 Sections have the same numbering 2.24.040	Fixed
John Galt City Hearing Examiner	Chapter 2.22 Hearing Examiner	Concur with the first two "i" paragraphs. Concur with the SMC 2.22.020 "i" paragraph. SMC 2.22.030. Different jurisdictions handle pro tem appointments differently. Some have it the way you have drafted it. Some require council confirmation. A few actually let the Examiner appoint a pro tem without anyone's oversight. Personally, I don't like that last option as I think it potentially puts the Examiner in the position of choosing a work style or approach that the City might not agree with. Since the Examiner serves to implement Council adopted regulations and policies and serves in the stead of the Council as a decision maker, ideally, I think Council confirmation is	SMC 2.22.030, adjusted to require council confirmation of pro tem, consistent with Planning Commission request.

Requestor	Title / Chapter / Section	Change	Action Taken
		best. But I fully understand that if a situation arises more or less as an emergency, requiring Council confirmation might be procedurally awkward. Bothell is currently in the process of appointing a pro tem who will have a contract as such for a term (which I am not privy to). They have decided they want a pro tem under contract just in case they need one in the future. You might consider that option. SMC 2.22.040. I am glad that you are leaving the option open to appoint someone who is not a member of the bar. I realize that non-attorney examiners are few and far between these days, but I think my career indicates that the right person may not always be an attorney. SMC 2.22.070(1). Once a potential conflict of interest has been disclosed, I think the parties should have the opportunity to decide that they do not object to the Examiner continuing to hear the case. I have found it appropriate to disclose potential conflict situations out of an abundance of caution which I didn't feel would be a conflict. For example, we are having a new garage with loft above built at our home. I had an appeal where I saw the contractor's wife listed as a member of an interest group. I had met her only once in passing, but I disclosed those facts, stating that I did not believe that	SMC 2.22.040. No change. An HE to hear appeals of decisions applying sections of the IBC needs to be qualified with respect to the IBC, and it may be difficult to find a qualified attorney for those purposes. SMC 2.22.070(1). Noted and implemented.

Requestor	Title / Chapter / Section	Change	Action Taken
		situation would affect my impartiality. Nobody objected and I went on to hear the case. SMC 2.22.080. Instead of "adopted," how about "ratified"? That would let the Rules be in use while the Council goes through its review process.	SMC 2.22.080. The statute says the council must prescribe the rules. No change. The council-adopted HE rules could provide for the HE to modify the rules as necessary to accommodate the specific circumstances of a hearing.
City Attorney	Title 2, Personnel	2.02.020 – Agree with [Staff Comments]. Capitalize City Council? 2.02.060 – Since we are required to have a physical location, I think it's ok to leave it without reference to the remote options. I suspect that'll be changing in the future and we can amend as necessary. 2.04 – Mayor's compensation/benefits. I'd clarify the retirement/PERS to include "if determined to be eligible by DRS". Electeds are eligible if they work over a certain number of hours and make over a certain salary. Since that salary and the nature of the work could change, I think you want flexibility. I would also consider whether you want more substance to this chapter. Chapter 2.02 MAYOR	Capitalization of City Council should be prescribed by the Code Publishing style guide; they will adjust capitalization consistent with that style guide. 2.02.060. No change. 2.04.040(b). Changed "is" to "may be" and deleted second instance of "may be."

Requestor	Title / Chapter / Section	Change	Action Taken
		(codepublishing.com). This is an example of work done in Sedro recently.	
		2.08 – The oath of office and bond for city attorney is not typical, from my experience?	2.08. As noted, we deleted the existing oath and bond requirement in current code because it's not required by state law.
		City Clerk typically answers to CA or finance director.	City clerk reporting structure: no change. The mayor may prescribe the reporting structure.
		2.08.140 (2)– The Code is inconsistent with the ILA with SCSO. What if Council doesn't confirm? The ILA gives SCSO the right to appoint, not the City.	2.08.140(2). Adjusted.
		2.12.050 – Planning commission member removal is not a State provision.	2.12.050. Per existing code, the PC is created in Stanwood pursuant to the RCW 35A.63, not by RCW 35.63. RCW 35.63.030 provides for removal; RCW 35A.63.020 provides broad authority for the city council to create any rules it wants for its "planning agency."
		2.12.080 – I have concern re: saying no action requiring a vote can be taken without a quorum. PCs are subject to OPMA. They can't have a	2.12.080. Reworded from current code to match RCW 42.30.090. Less than a quorum

Requestor	Title / Chapter / Section	Change	Action Taken
		meeting at all without a quorum. Taking public comment is action. Aren't we opening a door here to permitting that in violation of the OPMA? 2.22.080 – I would ask the HE for his/her SOPs and adopt by resolution. This one is an overstep by the legislature. HE's run their processes like a judge. This is not an area that Council really should have much input. 2.22.090 – The HE hearing anything involving police activities does not seem consistent with the ILA.	could otherwise meet (e.g., as a committee) while complying with the OPMA. 2.22.080. No change. The statute requires Council to prescribe the HE's procedures. 2.22.090. "Police activities" is existing code. Deleted.
Advisory Group	SMC 2.08.140(2), Police Chief Appointment	This language reflects an outdated process. Per the City's ILA with Snohomish County: After considering the advice and recommendation of the City of Stanwood's Mayor and/or City Administrator, the Snohomish County Sheriff's Office will designate a sheriff lieutenant to act as the Stanwood Chief of Police.	Fixed and shortened to refer to the ILA.
Advisory Group	SMC 2.04.040(b), Eligibility of Mayor to Receive Benefits	Determine if a part time mayor (or Council) is eligible for PERS benefits by state labor laws or if this this a city policy. Cross reference with City Attorney's comments	Part-time elected officials are eligible for PERS benefits by state law, however, per WAC 415-108-570, an elected must be paid at least 90 times the state minimum wage in order to qualify.
Advisory Group / Planning Commission	SMC 2.10.030, Board and Commission Eligibility	Select option 3 in the list: Board eligibility shall be established in each associated chapter.	Implemented. However, this section contains default rules which may be overridden by

Requestor	Title / Chapter / Section	Change	Action Taken
			each chapter, and each chapter does not currently specify eligibility requirements.
Planning Commission	SMC 2.22.030, HE Appointment	Hearing Examiner Pro-Tem should be subject to Council confirmation.	Implemented.

CITY OF STANWOOD
COUNCIL AGENDA STAFF REPORT

ITEM NUMBER:	**9c**
DATE:	March 9, 2023
SUBJECT:	Stanwood Municipal Code Title 4 – Administration
CONTACT PERSON:	Patricia Love, Community Development Director
ATTACHMENTS:	A – Ordinance 1514 Adoption of Title 4 Amendments B – Ordinance 1514 Attachment A – Code Amendment C – Title 4 Code Amendment Descriptive Notations D – Edit Tracking Form

PURPOSE

The purpose of this agenda item is for Council review and acceptance of the second and final reading of Ordinance 1514, adoption of updated Title 4 – Administration of the Stanwood Municipal Code.

SUMMARY

New Title 4, Administration, groups city governmental functions and processes into a single title. This creates a logical placeholder for future amendments that address general regulations or policies that apply citywide. New or relocated chapters include:

- City Government Operations - moved from Title 2
- Contracts - moved from Title 1
- Donations - moved From Title 3
- Defense and Indemnification of City Officers, Employees and Volunteers – new chapter and follows best practices
- Public Notices – moved from Title 1 and removes the Everett Herald as the City's newspaper of record
- Emergency Management – moved from Title 2
- Ethics – new chapter following the City of Kirkland's regulations

BACKGROUND

The last comprehensive update to the Stanwood Municipal Code occurred in the late 1960's. As the City has grown and development increased, so has the need for updated regulations. Fifty years of amendments has resulted in inconsistencies, conflicts and outdated regulations.

The City initiated the Municipal Code Update project in 2022 to modernize the code reflecting best practices with respect to content and administration of the code. The update is intended to be user friendly for staff, property owners and developers by 1) removing legalese and jargon unfamiliar to the lay person, 2) improving clarity and overall functionality, and 3) reflect regulatory best practices. The amendments will also be consistent with current case, state and federal laws.

Changes to the code use a "Style Guide" that applies a consistent approach to organization and drafting of the municipal code. This approach emphasizes plain language legal writing, modularity in the code organization, and avoidance of repetition to improve readability, predictability, and ease of administration. In general, titles and chapters have been reorganized for better flow and readability with similar topics being grouped together. Long, difficult paragraphs have been broken up into subsections and the "legalese" language removed.

To help guide the review of the amendments, two types of informational banners are included in the descriptive versions of each amendment. These blue- and yellow-colored bars highlight changes, recommendations and questions; it notes where new sections have been added or where moved.

Blue banner describes actions taken or issue descriptions.

Yellow banners highlight important policy issues.

Due to the sheer size of amending an entire municipal code, work has been broken into manageable pieces with similar titles, or titles that interact with each other, being processed together. The first batch of amendments will begin with the general governmental structure of the city:

Title 1 - General Provisions,
Title 2 - Personnel, and
New Title 4 – Administration.

Titles 1, 2 and 4 will be adopted as three separate ordinances, but because of the interconnectivity between the Titles, they should be adopted simultaneously.

ANALYSIS

Following the style guide mentioned above, Title 4 – Administration is a new proposed Title. However, the Chapters within this Title are not new, just relocated for better logical flow and organization of the Municipal Code.

Chapter 4.02 City Governmental Operations

Code sections regarding city hall office hours, holidays, and participation in the public employee's retirement system have been moved from Title 2 to this new Title 4, Administration, with RCW citations updated.

Chapter 4.04 Contracts

This is a new chapter describing the City Council's delegation of contract authority to the mayor. Per RCW 35A.11.010, all contract authority is vested in the City Council until so delegated. This chapter also integrates content from existing SMC Chapter 1.10 regarding Public Works Contracts.

This chapter allows for the continuation of City Procurement Policy Section 9.11 authorizing the Mayor to delegate contract authority to the City Administrator and Department Heads.

Chapter 4.06 Donations

This chapter is a recodification of existing SMC Chapter 3.25, Acceptance of Donations, adopted by ordinance 1502 in 2022, unmodified except for consistency with the style guide. Note that "mayor or designee" was shortened to "mayor," because the new definition of "mayor" in proposed Chapter 1.04 includes the mayor's designee.

Chapter 4.08 Defense and Indemnification of City Officers, Employees, and volunteers

This is a new chapter with new content based on common code chapters on this topic, including Mount Vernon Municipal Code Chapter 2.78 and Mukilteo Municipal Code Chapter 2.26. This chapter describes the circumstances under which the City will provide legal representation to defend a lawsuit filed against a city official from their conduct in the scope of their work for the city.

A defense and indemnification provision is a standard section in Municipal Codes. It allows staff to do their jobs in good faith without fear of being sued for claims, injuries, damages, or losses resulting from project decisions.

Chapter 4.10 Public Notices

This Chapter is based on existing code chapter 1.08 and has been moved to this administrative chapter. The publishing time period noted in the existing code has been removed from this chapter as it conflicted with other time periods listed in the Municipal Code. .Existing SMC 4.08.050 regarding notices for calls of bids has also been deleted, as it is more appropriate as a purchasing policy.

Chapter 4.12 Emergency Management

Emergency Management was moved from Title 2 to new Title 4, Administration, as it designates existing officials to various roles and lists procedural processes. This chapter has been reviewed by the Fire Chief and City Administrator for comparison against existing practices. Based on their recommendations the following organization structure has been identified:

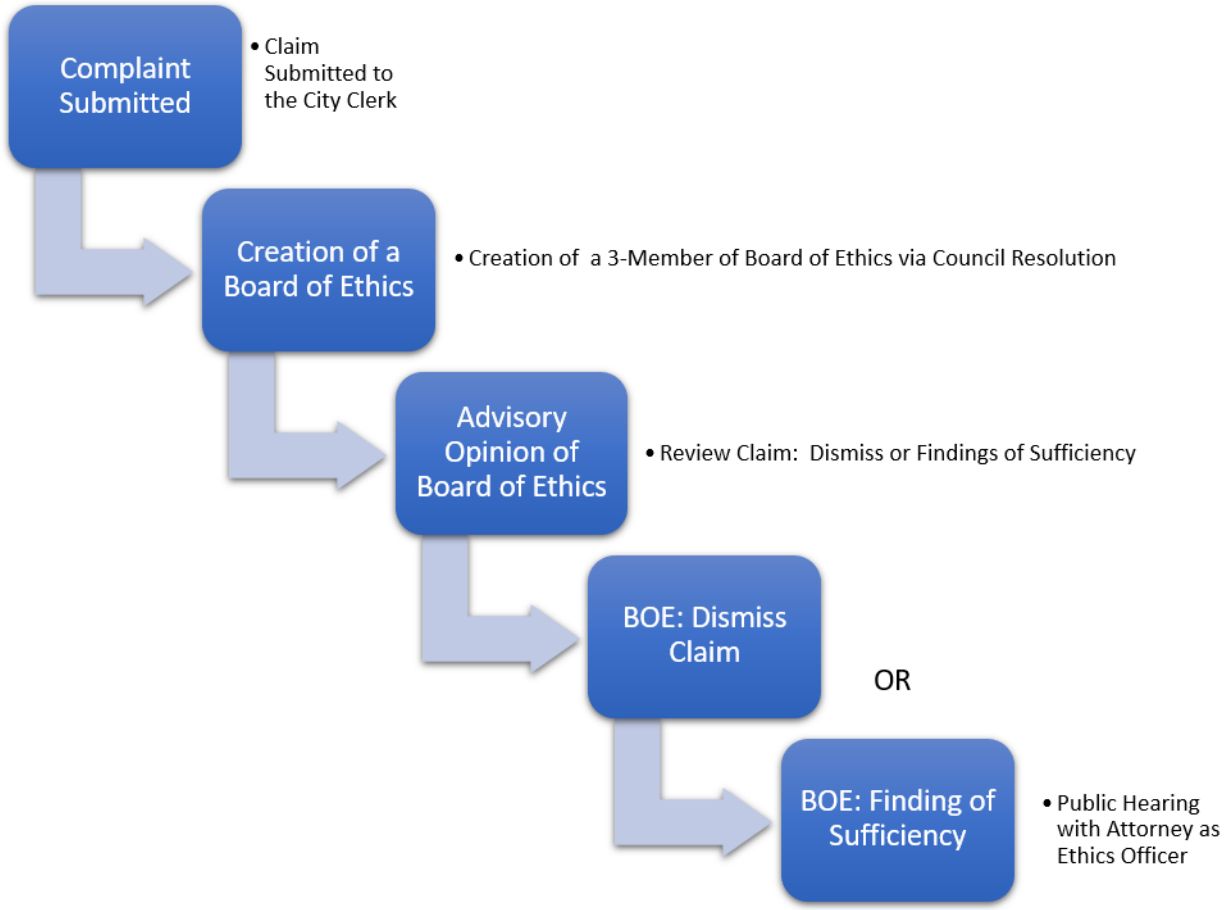
- Director of Emergency Services: The Mayor or designee.

- Emergency Operations Manager: City Administrator or Police Chief in the absence of the City Administrator. This person has the authority to authorize expenditures and personnel in response to an emergency.
- Emergency Operations Center Manger: Fire Chief services as the manager of the Emergency Operations Center.
- Emergency Management Coordinator: Appointed by the Fire Chief with consultation with the Mayor and is responsible for the Emergency Management Plan.

Chapter 4.14 Ethics

This is an optional new chapter requested by a few Councilmembers. This chapter prescribes standard ethics, acceptance of gifts, and conflict of interest rules for city elected officials, city officers, department heads, other staff, and members of city boards and commissions. The majority of the chapter was based off of the City of Kirkland's ethics code.

Enforcement of this chapter is through a multistep process:



If the Ethics Officer finds that a violation has been committed, the Mayor, Council or both may take the following actions:

- Dismiss the complaint without penalties;

- Refer the complaint to another agency with jurisdiction;
- Issue a verbal admonishment to the violator;
- Issue a written reprimand to the violator;
- Censure the violator; or
- Remove the violator from office or seat.

Council Policy Decision Issue:
There is one significant policy issue in Title 4 that will need to be decided before the final reading:

- Adopt ethic provisions or not

Fiscal Impact			
No direct financial impact. Code work was already budgeted and approved through the Municipal Code Update Project contract and scope of work.			
Fund(s):	Staff Time		
Amount:	$	**Project Estimate:**	$ -
Budget Authorized	**[ ] Yes [ ] No**	**Amendment Required**	**[ ] Yes [ ] No [ ] Monitor**

RECOMMENDATIONS

Staff Recommendation:
Staff recommends that the Council accept the second reading of the proposed amendments and proceed with adoption.

Committee/Board Recommendation:
The Advisory Group, Planning Commission and City Council Community Development Committee have all reviewed the proposed amendments to Title 4 and have forwarded their recommendation to adopt the amendments.

CITY COUNCIL OPTIONS

1. Accept the second reading of Ordinance 1514 adopting new Title 4 – Administration, relating to the governmental functions and procedures of the City.

2. Request changes to Ordinance 1514 and direct staff to prepare a third reading of the ordinance.

PROPOSED MOTION

Motion 1:

I MOVE TO INCLUDE [OR NOT INCLUDE] THE ETHICS CHAPTER IN DRAFT TITLE 4, ADMINISTRATION OF THE STANWOOD MUNICIPAL CODE.

and

Motion2:
I MOVE TO APPROVE THE SECOND AND FINAL READING OF ORDINANCE 1514 AS SET FORTH IN ATTACHMENT "A" AMENDING TITLE 4 – ADMINISTRATION OF THE STANWOOD MUNICIPAL CODE.

OR

I MOVE TO APPROVE THE SECOND READING OF ORDINANCE 1514 WITH EDITS TO ATTACHMENT "A" AMENDING TITLE 4 – ADMINISTRATION OF THE STANWOOD MUNICIPAL CODE, AND TO PROCEED WITH THE THIRD AND FINAL READING OF THE ORDINANCE ON MARCH 23, 2023.

ATTACHMENT A

CITY OF STANWOOD
WASHINGTON

ORDINANCE NO. 1514

AN ORDINANCE OF THE CITY OF STANWOOD, WASHINGTON, AMENDING STANWOOD MUNICIPAL CODE (SMC) TITLE 3- REVENUE AND FINANCE, ADOPTING A NEW TITLE 4 - ADMINISTRATION, AND ESTABLISHING SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Stanwood has begun a process to comprehensively update its municipal code to conform to current law and practice; and

WHEREAS, the purpose of this code amendment is to eliminate conflicts, improve clarity and overall function of the municipal code, and reflect current city and best practices;

WHEREAS, new Title 4 – Administration, has been created to consolidate citywide governmental functions and processes into a single title including: City Government Operations, Contracts, Donations, Defense and Indemnification, Emergency Management and Ethics; and

WHEREAS, the City of Stanwood SEPA Responsible Official has reviewed the proposed amendments to the Stanwood Municipal Code, determined that the amendments are categorically exempt from SEPA, and memorialized those conclusions under file number 220164; and

WHEREAS, the Stanwood Advisory Group reviewed the draft ordinance at their November 30, 2022, regular meeting and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the Stanwood Planning Commission and Community Development Committee reviewed the draft ordinance at a November 14, 2022, joint meeting and has recommended that the City Council adopt the ordinance as presented; and

WHEREAS, the City Council held a public meeting and first reading of the draft code amendment on February 9, 2023 and their second and final reading on March 9, 2023 and accepted public comment; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF STANWOOD, WASHINGTON, DOES ORDAIN AS FOLLOWS:

Section 1. Code Revisions.

A. SMC Chapter 3.25, Acceptance of Donations, is repealed.

B. New Stanwood Municipal Code Title 4, Administration, is hereby adopted to read as set forth in Attachment "A", attached to this ordinance and incorporated herein by reference as if set forth in full.

Section 2. Severability. The various parts, sections and clauses of this ordinance are hereby declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected thereby.

Section 3. Authority to Make Necessary Corrections. The City Clerk and the codifiers of this Ordinance are authorized to make necessary corrections to this Ordinance including, but not limited to, the correction of scrivener's clerical errors, references, ordinance numbers, section/subsection numbers and any references thereto.

Section 4. Effective Date. This Ordinance shall take effect five days after its passage and publication as required by law.

PASSED AND APPROVED by the Stanwood City Council this ____ day of _____ 2023.

CITY OF STANWOOD

_____
Sid Roberts, Mayor

ATTEST:

By: _____
Lisa Sokolik, City Clerk

APPROVED AS TO FORM:

By: _____
Nikki Thompson, City Attorney

Date of Publication: _____
Effective Date: _____

DRAFT

Attachment A

Title 4 Administration

Chapter 4.02 City Government Operations 1
Chapter 4.04 Contracts 1
Chapter 4.06 Donations 2
Chapter 4.08 Defense and Indemnification of City Officers, Employees, and Volunteers ... 4
Chapter 4.10 Public Notices 6
Chapter 4.12 Emergency Management 6
Chapter 4.14 Ethics 8

Chapter 4.02 City Government Operations

4.02.010 City Hall office hours

City Hall must be kept open for the transaction of business from 9:00 a.m. to 5:00 p.m., every business day, excepting Saturdays, Sundays, and legal holidays, and except as authorized by the mayor.

4.02.020 Holidays

RCW 1.16.050 establishing the state holiday schedule is hereby adopted by reference as the legal holidays of the City of Stanwood.

4.02.040 Participation in the Public Employees' Retirement System.

The City authorizes and approves the membership and participation of its eligible employees in the Washington Public Employees' Retirement System pursuant to RCW Chapter 41.40, and authorizes the expenditure of the necessary funds to cover its proportionate share for participation in the system.

Chapter 4.04 Contracts

4.04.010 Applicability

This chapter applies to all contracts between the City of Stanwood and any person or entity, and any amendments to such contracts.

4.04.020 Definitions

"Contract" means any agreement, written or spoken, between two or more parties that is intended to be enforceable by law, and includes, but is not limited to public works agreements, personal services agreements, employment contracts, grant agreements, agreements pursuant to the Interlocal Cooperation Act (RCW Chapter 39.34 RCW), and leases of real property where the City is either the lessor or the lessee.

4.04.030 Authority to contract

(1) Per RCW 35A.11.010, the City's authority to contract, and be contracted with, is vested in the City Council.

(2) The City Council has delegated by resolution some of its authority to contract to the mayor, who may further delegate that authority, and may amend or rescind that authority at any time.

(3) All other contracts may only be authorized by the City Council.

4.04.040 Standards for contracts

(1) Contracts must be in writing.

(2) Contracts must be written in the name of the City of Stanwood and not any particular city official or department.

(3) Contracts for services must include a detailed scope of work.

(4) The City Attorney must develop form contracts to implement these requirements for the regular purchase of goods and services.

4.04.050 Review

All contracts must be reviewed by the following city staff members for consistency with the following criteria prior to approval:

(1) The Finance Director must determine the contract is consistent with budget provisions and city finance policies and procedures.

(2) The City Attorney must determine the contract is consistent with state, local, federal, and common law.

(3) The department head responsible for the agreement must determine the contract is consistent with the department's budget, capital plan, and department objectives. If the contract is not consistent with one of the above, the department head must demonstrate the contract is necessary.

(4) The department head must determine the contract is consistent with city procurement and contracting policies and procedures.

Chapter 4.06 Donations

4.06.010 Delegation.

Consistent with RCW 35.21.100, which provides that the city council may accept donations of money or property by ordinance, this chapter delegates city council authority to the mayor to accept such donations in circumstances with minimal risk and long-term obligation and reserves the city council's authority in all other circumstances.

4.06.020 Definitions.

As used in this chapter, the term "donation" refers to any money or property, real or personal, donated, devised, or bequeathed, with or without restriction, to the City of Stanwood. As used in this chapter, the term "donation" does not refer to any money or property, real or personal, that may be reasonably classified as a grant.

4.06.030 Acceptance of donations.

(1) Limitation on Acceptance of Donations.

(a) The City may accept and use donations only for purposes related to those powers granted to the City by law.

(b) Any donation to the City that is accompanied with any contingency, term, or condition on the use by the City of such donation that is inconsistent with this chapter or contrary to law must be declined by the City.

(c) The City may decline to accept any donation that is inconsistent with the policies, plans, goals, or any other ordinance of the City.

(2) Donation Thresholds.

(a) Monetary Donations under $5,000. The mayor is authorized to accept any monetary donation under $5,000 to the city, and to carry out the terms or conditions of the donation if such terms and conditions are within the powers granted to the city by law and this chapter. If no terms or conditions are attached to the donation, or such terms or conditions cannot be fulfilled or performed by the city, the city may expend or use the same for any public purpose consistent with this chapter.

(b) Monetary Donations of $5,000 or Greater. Acceptance of any monetary donation of $5,000 or greater must be approved by adoption of an ordinance by the city council. After approval by the city council, the mayor is authorized to accept such monetary donation to the city, and to carry out the terms or conditions of the donation if such terms and conditions are within the powers granted to the city by law and this chapter. If no terms or conditions are attached to the donation, or such terms or conditions cannot be fulfilled or performed by the city, the city may expend or use the same for any public purpose consistent with this chapter.

(c) Nonmonetary Donations Directly Supporting City Events or Community Activities. The mayor is authorized to accept nonmonetary donations that support specific city events and other community activities.

(d) Other Nonmonetary Donations. The mayor must assess the utility to the city and value of nonmonetary donations offered to the city (other than in subsection (1)(c) of this section).

(i) If the estimated value of the donation is less than $10,000, the mayor is authorized to accept such donations.

(ii) If the estimated value of the donation is $10,000 or greater, the mayor is authorized to accept such nonmonetary donation upon approval of an ordinance adopted by city council.

4.06.040 Procedure for acceptance of donation

All donations must be offered in writing to the city and directed to the mayor. If a donation is not approved or accepted by the city, such donation must be immediately returned to the private citizen, business group, or private organization attempting to make such donation in a manner that properly documents the return of such donation by the city.

4.06.050 Funds and accounting.

The finance director is directed to establish accounting procedures as may be necessary to carry out the terms of this chapter, in accordance with all applicable laws of the state of Washington and requirements of the office of the State Auditor.

Chapter 4.08 Defense and Indemnification of City Officers, Employees, and Volunteers

4.08.010 Definitions.

Unless the context indicates otherwise, the words and phrases used in this chapter have the following meanings:

"Employee" means any person who is or has been employed by the city.

"Official" means any person who is serving or has served as an elected city official, and any person who is serving or has served as an appointed member of any city board, commission, committee, or other appointed position with the city.

4.08.020 Legal representation.

(1) As a condition of service or employment the city must provide to an official or employee, subject to the conditions and requirements of this chapter, and notwithstanding the fact that such official or employee may have concluded service or employment with the city, such legal representations as may be reasonably necessary to defend a claim or law suit filed against such official or employee including coroner's inquests for police officers resulting from any conduct, act or omission of such official or employee performed or omitted on behalf of the city in their capacity as a city official or employee, which act or omission is within the scope of their service or employment with the city. This chapter is subject to repeal or modification at the sole discretion of the city, unless such discretion is limited with respect to any employee or class of employees due to collective bargaining obligations.

(2) The legal services must be provided by the office of the city attorney unless:

  (a) Any provision of an applicable policy of insurance provides otherwise; or

  (b) A conflict of interest or ethical bar exists with respect to said representation.

(3) In the event that outside counsel is retained under subsection (2)(b) of this section, the city must indemnify the employee the reasonable costs of defense provided that in no event may the officer or employee be indemnified for attorneys' fees in excess of the hourly rates established by the city's contract with its city attorney. The officer or employee is liable for all hourly changes in excess of the rate.

4.08.030 Exclusions.

(1) Protection must not be offered under this chapter by the city to:

  (a) Any dishonest, fraudulent, criminal, willful, intentional or malicious act or course of conduct of an official or employee;

  (b) Any act or course of conduct of an official or employee which is not performed on behalf of the city;

  (c) Any act or course of conduct which is outside the scope of an official's or employee's service or employment with the city; and/or

  (d) Any lawsuit or administrative action brought against an official or employee by or on behalf of the city. Nothing herein may be construed to waive or impair the right of the city council to institute suit or counterclaim against any official or employee nor to limit its ability to discipline or terminate an employee.

(2) The provisions of this chapter have no force or effect with respect to any accident, occurrence, or circumstance for which the city or the official or employee is insured against loss or damages under the terms of any valid insurance policy, provided that this chapter provides protection, subject to its terms and limitations, above any loss limit of such policy. The provisions of this chapter are intended to be secondary

to any contract or policy of insurance owned by or applicable to any official or employee. The city has the right to require an employee to utilize any such policy protection prior to requesting the protection afforded by this chapter.

4.08.040 Determination of exclusion.

The determination of whether an official or employee may be afforded a defense by the city under the terms of this chapter may be finally determined by the city council on the recommendation of the mayor. The decision of the city council is final as a legislative determination of the city. Nothing herein precludes the city from undertaking an officer or employee's defense under a reservation of rights.

4.08.050 Representation and payment of claims—Conditions.

The provisions of this chapter apply only when the following conditions are met:

(1) In the event of any incident or course of conduct potentially giving rise to a claim for damage, or the commencement of a suit, the official or employee involved may, as soon as practicable, give the city attorney written notice thereof, identifying the official or employee involved, all information known to the official or employee involved, all information known to official or employee with respect to the date, time, place and circumstances surrounding the incident or conduct giving rise to the claim or law suit, as well as the names and addresses of all persons allegedly injured or otherwise damaged thereby, and the names and addresses of all witnesses.

(2) Upon receipt thereof, the official or employee must forthwith deliver any claim, demand, notice or summons or other process relating to any such incident or conduct to the city attorney, and must cooperate with the city attorney or an attorney designated by the city attorney, and, upon request, assist in making settlement of any suit and enforcing any claim for any right of subrogation against any persons or organizations that may be liable to the city because of any damage or claim of loss arising from said incident or course of conduct, including but not limited to rights of recovery for costs and attorneys' fees arising out of state or federal statute upon a determination that the suit brought is frivolous in nature.

(3) Such official or employee must attend interviews, depositions, hearings, and trials and must assist in securing and giving evidence and obtaining attendance of witnesses all without any additional compensation to the official or employee and, in the event that an employee has left the employ of the city, no fee or compensation may be provided; and

(4) Such official or employee may not accept nor voluntarily make any payment, assume any obligation, or incur any expense relating to said claim or suit, other than for first aid to others at the time of any incident or course of conduct giving rise to any such claim, loss, or damage.

4.08.060 Effect of compliance with conditions.

If legal representation of an official or employee is undertaken by the city attorney, all the conditions of representation are met, and a judgment is entered against the official or employee, or a settlement made, the city must pay such judgment or settlement, provided, that the city may, at its discretion appeal as necessary such judgment.

4.08.070 Failure to comply with conditions.

If any official or employee fails or refuses to comply with any of the conditions of SMC 4.08.050, or elects to provide his/her own representation with respect to any such claim or litigation, then all of the provisions of this chapter are inapplicable, and have no force or effect with respect to any such claim or litigation.

4.08.080 Reimbursement of incurred expenses.

(1) If the city determines that an official or employee does not come within the provisions of this chapter, and a court of competent jurisdiction later determines that such claim does come within the provisions of this chapter, then the city must pay any judgment rendered against the official or employee and reasonable attorneys' fees incurred in defending against the claim. The city must pay any attorneys' fees incurred in obtaining the determination that such claim is covered by the provisions of this chapter.

(2) If the city determines that a claim against a city official or employee does come within the provisions of this chapter, and a court of competent jurisdiction later finds that such claim does not come within the provisions of this chapter, then the city must be reimbursed for costs or expenses incurred in obtaining the determination that such claim is not covered by the provisions of this chapter.

4.08.090 Conflict with provisions of insurance policies.

Nothing contained in this chapter may be construed to modify or amend any provision of any policy of insurance where any city official or employee thereof is the named insured. In the event of any conflict between this chapter and the provisions of any such policy of insurance, the policy provisions are controlling; provided, however, that nothing contained in this section may be deemed to limit or restrict any employee's or official's right to full coverage pursuant to this chapter, it being the intent of this chapter and section to provide the coverage detailed in this chapter outside and beyond insurance policies which may be in effect, while not compromising the terms and conditions of such policies by any conflicting provision contained in this chapter.

4.08.100 Pending claims.

The provisions of this chapter apply to any pending claim or lawsuit against an official or employee, or any such claim or lawsuit hereafter filed, irrespective of the date of the events or circumstances which are the basis of such claim or lawsuit.

Chapter 4.10 Public Notices

4.10.010 Official newspaper designated.

Per RCW 35A.21.230, the Stanwood/Camano News is designated as the official newspaper of the city. All ordinances and notices published for the period and in the manner provided by law constitute due and legal notice.

4.10.020 Requirement to publish ordinances.

Every ordinance passed by the city council must be published once in the official newspaper of the city by summary or in its entirety. If the ordinance is published by summary, a statement must be included that the City will mail the full text of the ordinance upon request and will be available in the city clerk's office for inspection.

4.10.030 Costs of publication.

When publication of an official notice is required as a result of action initiated by a private party (including, but not limited to, a permit application), that party must pay the costs of publication.

Chapter 4.12 Emergency Management

4.12.020 Definitions

For the purposes of this chapter:

"Civil emergency" means any natural or human-caused disaster, including fire, flood, storm, explosion, chemical or biological hazard, earthquake, volcanic disturbance or other human or natural cause.

"Disaster" means the actual or threatened existence of conditions that place life, property or the environment in danger and potentially impact the provision of essential city services requiring an immediate response to protect life or property.

4.12.040 Proclamation of civil emergency

(1) Whenever a civil emergency, or the imminent threat thereof, occurs in the city and results in or threatens to result in the death or injury of persons or the destruction of or damage to property to such extent as to require, in the judgment of the mayor, extraordinary measures to protect the public peace, safety and welfare, the mayor must forthwith proclaim in writing the existence of a civil emergency.

(2) In the absence of the mayor, such a civil emergency may be declared by the mayor pro tem, and in the absence of the mayor pro tem, by the city administrator.

(3) The City Council shall ratify the proclamation by resolution at its next City Council meeting.

4.12.060 Emergency management organization—Created

Pursuant to Chapter 38.52 RCW, there is created in the city an emergency management organization for the purpose of performing local emergency management functions.

4.12.080 Emergency management organization—Powers

(1) The emergency management organization must operate under the policy guidance of the most current approved Stanwood comprehensive emergency management plan.

(2) The emergency management organization has all powers granted under Chapters 35A.33 and 38.52 RCW as now or hereafter amended and as may otherwise be provided by law.

4.12.100 Emergency management officials – Roles and responsibilities

The primary city emergency services officials are as follows:

(1) Director of Emergency Services.

(a) The mayor or designee serves as the director of emergency services.

(b) The director is directly responsible for the organization, administration, and operation of the emergency management organization.

(c) The director has the authority to approve the emergency operations plan and any amendments to it.

(2) Emergency Operations Manager.

(a) The City Administrator or designee serves as the emergency operations manager and may be an outside contracted position. At the direction of the director of emergency services, this role could be filled by the police chief or could be an outside contracted position.

(b) In a declared emergency, the Emergency Operations Manager has the authority to direct all human or material resources within the city to combat the effects of a threatened or any actual emergency as well as the authority to request assistance from other governmental entities.

(3) Emergency Operations Center (EOC) Manager.

(a) The fire chief or designee serves as the EOC Manager. At the direction of the Director of Emergency Services, this role could also be filled by the Police Chief or an outside contracted position.

(b) In a declared emergency, the EOC Manager manages the Emergency Operations Center (EOC), regardless of the EOC activation level.

(c) The EOC Manager will work closely with the Emergency Operations Manager and the Planning Section Chief to effectively run the EOC and assist with resource requirements.

(4) Emergency Management Coordinator.

(a) The emergency management coordinator must be appointed by the emergency operations manager in consultation with the director of emergency services, and may be an outside contracted position.

(b) The emergency management coordinator must coordinate development, implementation, and maintenance of the comprehensive emergency management plan.

(c) As part of this planning process, the emergency management coordinator must:

(i) coordinate with outside agencies and organizations involved in emergency planning;

(ii) provide for public education and information;

(iii) perform duties as assigned in the EOC, when activated; and

(iv) perform such other functions as the emergency operations manager may designate.

4.12.120 Emergency management response team

(1) There is created an emergency management response team to:

(a) oversee and provide policy recommendations to the mayor and city council during emergency and recovery periods;

(b) be responsible for development and maintenance of the emergency operations plan; and

(c) support emergency response operations.

(2) The emergency management response team consists of the following members:

(a) director of emergency services, who must serve as the chairperson;

(b) emergency operations manager;

(c) Emergency management coordinator;

(d) All city department heads;

(e) Any other persons appointed by the director of emergency services, including but not limited to other city personnel assigned emergency responsibilities, consultants, representatives from emergency support agencies such as the Red Cross, and representatives from neighboring governments and agencies.

Chapter 4.14 Ethics

4.14.010 Applicability

This chapter applies to:

(1) all city elected officials, including the mayor and city councilmembers;

(2) the city administrator and all city officers and department heads listed in SMC Chapter 2.08;

(3) all city employees;

(4) all members of city boards, commission, and committees.

4.14.020 Definitions

(1) "Gift" means anything of economic value for which no consideration is given. “Gift” does not include:

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

(b) Items related to the outside business of the recipient that are customary and not related to the recipient’s performance of official duties;

(c) Items exchanged among officials and employees or a social event hosted or sponsored by a city officer or city employee for co-workers;

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

(e) Items an official or employee is authorized by law to accept;

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

(g) Items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt;

(h) Campaign contributions reported under Chapter 42.17 RCW;

(i) Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group;

(j) Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.

(2) “Official” means any person to whom this chapter applies.

(3) “Relative” means spouse or domestic partner, child, step-child, parent, step-parent, parent-in-law, grandparent, grandchild, sibling, aunt, uncle, niece, nephew, son- or daughter-in-law, brother- or sister-in-law.

4.14.030 Ethical standards

(1) Compliance with Other Laws. Officials must comply with federal, state, and city laws in the performance of their public duties. These laws include, but are not limited to: the United States and Washington Constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures and open processes of government; and city ordinances and policies.

(a) As required by RCW 42.17.750, no official may knowingly solicit or encourage, directly or indirectly, any political contribution from any city employee.

(b) Except under limited circumstances described in RCW 42.17.130, no official may use or authorize the use of the facilities of the city for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition in a manner not available to the general public on the same terms.

(2) Personal Integrity.

(a) The professional and personal conduct of officials must be above reproach and avoid even the appearance of impropriety.

(b) Officials must refrain from abusive conduct, threats of official action, personal accusations or verbal attacks upon the character or motives of other members of council, boards and commissions, the staff or public.

(c) Officials must be truthful and honest and not compromise themselves for advancement, honor, or personal gain.

(d) Officials must not directly or indirectly induce, encourage, or aid anyone to violate these standards and it is incumbent upon officials to make a good faith effort to address apparent violations of this code of ethics.

(3) Working for the Common Good. Recognizing that stewardship of the public interest must be their primary concern, officials will work for the common good of the people of the city and not for any private or personal interest, and they will ensure fair and equal treatment of all persons, claims and transactions coming before the city council, boards and commissions. Officials need to be mindful that making special requests of staff—even when the response does not benefit the official personally—puts staff in an awkward position.

(4) Respect for Process. Officials must perform their duties in accordance with the processes and rules of order established by the city council and board and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the city council by city staff.

(5) Commitment to Transparency. Transparency, openness, and accountability are fundamental values of the city—and are also required by the laws of the state of Washington. The public has a right to inspect and copy public records unless exempt by law from disclosure. All materials relating to the conduct of city government that are prepared, possessed, used or retained by any official, including email and other electronic records, are subject to requirements for retention, protection, and disclosure. Officials may assume that all copies of materials received from city staff have already been archived and do not need to be retained. Officials must not discard, damage, or destroy the original copy of any public record unless directed by the city public records officer (the city clerk), who has responsibility to ensure that the city complies with the record retention schedules established under Chapter 40.14 RCW. Officials must promptly provide any records requested by the public records officer in response to a disclosure request under the Public Records Act, Chapter 42.56 RCW. It is the responsibility of the public records officer, together with the city attorney, to decide which records meet the definition of "public record" and whether or not they are exempt from disclosure; officials must not take it upon themselves to decide whether a record meets the definition of a public record, that a record is exempt from disclosure, or to otherwise conceal a record.

(6) Conduct of Public Meetings. Officials must prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. Officials must refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

(7) Decisions Based on Merit. Officials must base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

(8) Ex Parte Communications. In quasi-judicial matters, officials must publicly disclose substantive information that is relevant to a matter under consideration by the council or boards and commissions, which they may have received from sources outside of the public decision-making process.

(9) Attendance. As provided in RCW 35A.12.060, a councilmember forfeits his or her office by failing to attend three consecutive regular meetings of the council without being excused by the council. Unless excused, members of boards and commissions are expected to attend all meetings.

(10)Nepotism. Officials should not appoint relatives to boards or commissions or other appointed positions unless no similarly qualified candidates are available.

(11)Advocacy. When acting in an official capacity as a city official representing the city, officials must represent the official policies or positions of the city council, board, or commission to the best of their ability when the city council, board or commission has taken a position or given an instruction. When presenting their individual opinions and positions, members must explicitly state they do not represent their body or the city, nor will they allow the inference that they do.

(12)Policy Role of Officials. Officials must respect and adhere to the mayor-council structure of city government as described by Chapter 35A.12 RCW. In this structure, the city council determines the policies of the city with the advice, information and analysis provided by the public, boards and commissions, and city staff; the mayor and staff administer that policy.

4.14.040 Elected Officials

Any elected official to whom this chapter applies must comply with Public Disclosure Commission rules and regulations, including the obligation to annually file an F-1 Personal Financial Affairs Statement.

4.14.050 Prohibited conduct.

(1) Conflicts of Interest.

(a) In order to ensure their independence and impartiality on behalf of the common good, officials must not participate in government decisions in which any of the following has a financial interest:

(i) the official;

(ii) a relative;

(iii) an individual with whom the official resides; or

(iv) an entity that the official serves as an officer, director, trustee, partner, or employee.

(b) Officials must abstain from participating in deliberations and decision-making where conflicts exist. This section does not apply:

(i) to decisions regarding taxes or fees;

(ii) if the financial interest is shared with more than ten percent of the city's population; or

(iii) if the financial interest exists solely because of the official's ownership of less than one percent of the outstanding shares of a publicly traded corporation.

(2) Appearance of Conflict. If it could appear to a reasonable person, having knowledge of the relevant circumstances, that the official's judgment is impaired because of either (a) a personal or business relationship not covered under the foregoing subsection, or (b) a transaction or activity engaged in by the official, the official must make a public, written disclosure of the facts giving rise to the appearance of a conflict before participating in the matter.

(3) Misuse of Public Position or Resources. Except for infrequent use at little or no cost to the city, officials must not use public resources that are not available to the public in general, such as city staff time, equipment, supplies or facilities, for other than a city purpose.

(4) Representation of Third Parties. Except in the course of official duties, officials must not appear on behalf of the financial interests of third parties before the bodies on which the officials serve or in interaction with assigned staff. However, the members of the city council must not appear on behalf of the financial interest of third parties before the council or any board, commission or proceeding of the city, or in interaction with staff.

(5) Solicitations of Charitable Contributions. No official may make direct personal solicitations for charitable contributions from city employees.

(6) Confidential Information. Officials must not disclose or use any confidential information gained by reason of their official position for other than a city purpose. “Confidential information” means (1) specific information, rather than generalized knowledge, that is not available to a person who files a public records request, and (2) information made confidential by law.

(7) Gifts and Favors.

(a) Officials must not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They may not solicit or receive any thing of monetary value from any person or entity where the thing of monetary value has been solicited, or received or given or, to a reasonable person, would appear to have been solicited, received or given with intent to give or obtain special consideration or influence as to any action by the official in his or her official capacity. Nothing in this section prohibits campaign contributions which are solicited or received and reported in accordance with applicable law.

(b) No official may accept gifts, other than those specified in paragraph (e) below, with an aggregate value in excess of $50 from a single source in a calendar year or a single gift from multiple sources with a value in excess of $50 in accordance with RCW 42.52.150(1). If the $50 limit in RCW 42.52.150(1) is amended, this section must be deemed to reflect the amended amount.

(c) For purposes of this section, “single source” means any person, corporation, or entity, whether acting directly or through any agent or other intermediary, and “single gift” includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift in this chapter.

(d) The value of gifts given to an official's family member or guest must be attributed to the official for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

(e) The following items are presumed not to influence the vote, action, or judgment of the official, or be considered as part of a reward for action or inaction, and may be accepted without regard to the limit established by paragraph (a) of this subsection:

(i) Unsolicited flowers, plants, and floral arrangements;

(ii) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(iii) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(iv) Unsolicited items received by a city officer or city employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item;

(v) Informational material, publications, or subscriptions related to the recipient’s performance of official duties;

(vi) Food and beverages consumed at hosted receptions where attendance is related to the city officer’s or city employee’s official duties;

(vii) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization;

(viii) Unsolicited gifts from dignitaries from another state or a foreign country which are intended to be personal in nature; and

(ix) Food and beverages on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties.

(f) The presumption in paragraph (e) of this subsection is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

4.14.060 Board of Ethics

(1) The City Council may create a Board of Ethics by resolution. If the complaint involves a City Councilmember or the Mayor, that person(s) shall not participate in the process to establish a Board of Ethics.

(2) The resolution must specify the terms of the board members, and may provide for a board to perform its duties in regard to a specific matter or may appoint a board for a set term during which it will discharge its duties.

(3) The Board of Ethics must consist of three members: one to be appointed by the mayor; one to be appointed by two-thirds vote of the city council; and the third, who will serve as chair, to be appointed by the other two members of the Board.

(4) Any member of the Board of Ethics may be removed for just cause by a two-thirds vote of the city council, after written charges have been served on such member and a public hearing has been held by the city council.

4.14.070 Advisory opinions

(1) Upon request of any city elected official, city officer, or department head, the Board of Ethics must render written advisory opinions concerning the applicability of this chapter to either hypothetical circumstances, policies or situations of citywide interest, or circumstances solely related to the person making the request.

(2) All advisory opinions issued by the Board of Ethics must be maintained for public view on the city's website.

(3) The Board of Ethics may reconsider the questions and issues raised in an advisory opinion and, where the public interest requires, rescind, modify, or terminate the opinion, but a modified or terminated advisory opinion will not form the basis of a retroactive enforcement action against the original requestor.

(4) The Board of Ethics must endeavor to respond to requests for advisory opinions within 45 days of submission of the request, or more rapidly if the requester expresses urgency in the request.

(5) The Board of Ethics may not render opinions on matters that are the purview of other government agencies or officials, e.g., the public disclosure commission.

(6) A person’s conduct based in reasonable reliance on an advisory opinion rendered by the Board of Ethics may not be found to violate this code of ethics, as long as all material facts have been fully, completely, accurately presented in a written request for an advisory opinion, the Board of Ethics issues an advisory opinion that the described conduct would not violate the code of ethics, and the person’s conduct is consistent with the advisory opinion.

4.14.080 Complaints—Filing—Contents

(1) Any person may file a complaint with the City Clerk against a specific person covered by this chapter.

(2) The complaint must:

(a) allege a violation of SMC 4.14.050 that occurred within the past two years and after the adoption of this chapter;

(b) set forth specific facts with enough precision and detail for the Board of Ethics to make a determination of sufficiency; and

(c) be signed under penalty of perjury by the person submitting it in a manner consistent with Chapter 9A.72 RCW.

(3) The City Clerk must transmit the complaint to the Board of Ethics.

4.14.090 Complaints—Initial review

(1) The Board of Ethics must review the complaint and make a determination as to the sufficiency of the complaint within 30 days of the city's receipt of the complaint.

(2) If the Board of Ethics determines the complaint is not sufficient, the Board of Ethics must dismiss the complaint. A complaint is sufficient if the allegations, if established, would violate SMC 4.14.050.

(3) If the Board of Ethics determines the complaint is sufficient, the Board of Ethics must dismiss the complaint if the Board of Ethics determines that:

(a) the violation was inadvertent or minor; or

(b) that a violation occurred, but actions have been taken to fully address the unethical conduct; or

(c) the compliant is not timely filed.

(4) Within seven days of the Board of Ethics making a decision under this section, the city clerk must send notice to the person who made the complaint and the person complained against.

(5) The determination of the Board of Ethics under this section is not reviewable.

4.14.100 Complaints—Hearing.

(1) Upon report of sufficiency from the Board of Ethics, the city clerk must schedule a public hearing to determine if a violation has occurred. Notice must be provided at least thirty days prior to the date of the hearing.

(2) The City Council must designate an attorney with experience in ethics matters as an Ethics Officer to conduct a hearing on the complaint.

(3) Conduct of Hearings.

(a) The Ethics Officer must conduct an informal hearing that affords the person complained against the opportunity the right to file a written answer to the charge and to appear at the hearing with or without legal counsel, submit testimony, be fully heard, and to examine and cross examine witnesses.

(b) The Ethics Officer is not bound by the strict rules of evidence prevailing in courts of law or equity. The Ethics Officer may call witnesses on his or her own motion and compel the production of books, records, papers, or other evidence as needed. To that end, the Ethics Officer may issue subpoenas and subpoenas duces tecum. All testimony must be under oath administered by the Ethics Officer. The Ethics Officer may adjourn the hearing from time to time to allow for the orderly presentation of evidence. The Ethics Officer must prepare an official record of the hearing, including all testimony, which must be recorded by mechanical device, and exhibits. The Ethics Officer is not required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.

(4) Within 30 days after the conclusion of the hearing, the Ethics Officer must, based upon a preponderance of the evidence, issue a decision including findings of fact, conclusions of law, and his or her recommended disposition. A copy of the findings, conclusions, and recommended disposition must be sent to:

(a) the person who made the complaint;

(b) the person complained against;

(c) the Board of Ethics.

4.14.110 Stipulated settlement.

At any time after a complaint has been filed with the Board of Ethics, the Board of Ethics may propose that the city council enter into a stipulation with the person complained against. The recommended stipulation must include the nature of the complaint, relevant facts, the reasons the Board of Ethics thinks a stipulation is appropriate, an admission of the violation by the person complained against, a promise by the person complained against not to repeat the violation, and if appropriate, a recommended remedy or penalty. The recommended stipulation must be sent to the person who made the complaint and the person complained against and forwarded to the city council for action. Approval by the city council will resolve the complaint and any violation.

4.14.120 Punishment of violation.

(1) If the Ethics Officer determines a violation has been committed, the Ethics Officer must transmit its recommendation as follows:

   (a) For a violation committed by an elected official, to the city council and mayor;

   (b) For a violation committed by a city officer or department head, to the city council and mayor;

   (c) For a violation committed by any other employee, to the mayor;

   (d) For a violation committed by a member of a city board, commission, or committee, to the city council and mayor.

(2) The mayor or city council, or both, may take one or more of the following actions against the person who committed the violation:

   (a) Dismissal of the complaint without penalties.

   (b) Referral of the complaint to another agency with jurisdiction over the violation, such as the Public Disclosure Commission. Final city action on the complaint may be stayed pending resolution of the matter by the agency to which it was referred.

   (c) Admonition: a verbal nonpublic statement made by the mayor to the violator.

   (d) Reprimand: a formal letter to the violator, signed by the mayor.

   (e) Censure: a written statement read personally to the violator by the city council in a public meeting. The violator must be instructed to appear at a time and place directed by the city council to receive the censure. Notice must be given at least 10 days before the scheduled appearance at which time a copy of the proposed censure must be provided to the individual. Within five days of receipt of the notice, the individual may file a request for review of the content of the censure. The city council must review the proposed censure in light of the request for review, and may take whatever action appears appropriate under the circumstances. If no such request is received, the censure must be administered at the time and place set. The violator may not be afforded the opportunity to make any statement about the censure. A censure is deemed administered at the time it is scheduled whether or not the individual appears as required. This is the highest form of disapproval available under this chapter for an elected official who has violated the code.

   (f) Removal. In the event the individual against whom the complaint has been filed is a member of a city board, commission, or committee appointed by the mayor with the approval of the city council, the city council may, by a majority vote, remove the individual from such board, commission, or committee.

4.14.130 Protection Against Retaliation

No official may take or threaten to take, directly or indirectly, official or personal action, including but not limited to discharge, discipline, personal attack, harassment, intimidation, or change in job, salary, or responsibilities, against any person because that person files a complaint under this chapter.

SMC Title 4 Amendment Description

This table of contents is included here for illustration of the code structure, but will not be included in the adopting ordinances. Tables of contents will be created and maintained by the code reviser.

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Because RCW 35A.12.130 requires an ordinance to contain no more than one subject, each of Titles 1, 2, and 4 should be adopted as three separate ordinances. Because of the interactivity between Titles 1 and 2 and new Title 4, all three ordinances should be adopted simultaneously.

The following adopting language is proposed to handle codification instructions for adoption of the Title 2 ordinance.

Title 2 ordinance:

- SMC 2.32.060, Fee for Fire Inspections, is recodified to SMC 3.30.160.
- SMC Chapter 2.48, Public Services Fees, is recodified to SMC Chapter 3.31.
- SMC Chapter 3.25, Acceptance of Donations, is repealed.
- SMC 3.36.055, Lodging Tax Advisory Committee, is repealed.
- SMC 17.87.120, Report of department, is recodified as SMC 17.80.381.
- The remainder of SMC Chapter 17.87, Hearing Examiner, is repealed.

Title 4 Administration

ℹ We propose this new title to logically segregate material about government administration into its own title, separate from the Personnel title and the Revenue and Finance title. Title 4 is “reserved” in the existing code.

Chapter 4.02 City Government Operations

ℹ This is a new chapter containing existing Title 2 provisions.

4.02.010 City Hall office hours

ℹ Existing SMC 2.08.070.

City Hall must be kept open for the transaction of business from 9:00 a.m. to 5:00 p.m., every business day, excepting Saturdays, Sundays, and legal holidays, and except as authorized by the mayor.

4.02.020 Holidays

ℹ Existing SMC 2.08.375.

RCW 1.16.050 establishing the state holiday schedule is hereby adopted by reference as the legal holidays of the City of Stanwood.

4.02.040 Participation in the Public Employees’ Retirement System.

ℹ This section is based on existing SMC 2.08.450 with statutory reference updated.

The city authorizes and approves the membership and participation of its eligible employees in the Washington Public Employees’ Retirement System pursuant to RCW Chapter 41.40, and authorizes the expenditure of the necessary funds to cover its proportionate share for participation in the system.

Chapter 4.04 Contracts

ℹ This is a new chapter to describe the City Council’s delegation of contract authority to the mayor. Per RCW 35A.11.010, all contract authority is vested in the City Council until delegated. Note that Council could opt to continue its delegation of its authority via resolution; the only downside to that approach is ease of tracking that regulation, as resolutions are not codified. This chapter also integrates content from existing SMC Chapter 1.10 regarding Public Works Contracts.

4.04.010 Applicability

This chapter applies to all contracts between the City of Stanwood and any person or entity, and any amendments to such contracts.

4.04.020 Definitions

"Contract" means any agreement, written or spoken, between two or more parties that is intended to be enforceable by law, and includes, but is not limited to public works agreements, personal services agreements, employment contracts, grant agreements, agreements pursuant to the Interlocal Cooperation Act (RCW Chapter 39.34 RCW), and leases of real property where the City is either the lessor or the lessee.

4.04.030 Authority to contract

(1) Per RCW 35A.11.010, the city's authority to contract, and be contracted with, is vested in the City Council.

(2) The City Council has delegated by resolution some of its authority to contract to the mayor, and may amend or rescind that authority at any time.

(3) All other contracts may only be authorized by the City Council.

4.04.040 Standards for contracts

ℹ New section articulating best practices for contracts.

(1) Contracts must be in writing.

(2) Contracts must be written in the name of the city of Stanwood and not any particular city official or department.

(3) Contracts for services must include a detailed scope of work.

(4) The City Attorney must develop form contracts to implement these requirements for the regular purchase of goods and services.

4.04.050 Review

All contracts must be reviewed by the following city staff members for consistency with the following criteria prior to approval:

(1) The Finance Director must determine the contract is consistent with budget provisions and city finance policies and procedures.

(2) The City Attorney must determine the contract is consistent with state, local, federal, and common law.

(3) The department head responsible for the agreement must determine the contract is consistent with the department's budget, capital plan, and department objectives. If the contract is not consistent with one of the above, the department head must demonstrate the contract is necessary.

(4) The department head must determine the contract is consistent with city procurement and contracting policies and procedures.

Chapter 4.06 Donations

ℹ This chapter is a recodification of existing SMC Chapter 3.25, Acceptance of Donations, adopted by ordinance 1502 in 2022, unmodified except for consistency with the Style Guide. Note that "mayor or designee" was shortened to "mayor," because the new definition of "mayor" in proposed Chapter 1.04 includes the mayor's designee.

3.25.010 Delegation.

Consistent with RCW 35.21.100, which provides that the city council may accept donations of money or property by ordinance, this chapter delegates city council authority to the mayor to accept such donations in circumstances with minimal risk and long-term obligation and reserves the city council's authority in all other circumstances.

3.25.020 Definitions.

As used in this chapter, the term "donation" refers to any money or property, real or personal, donated, devised, or bequeathed, with or without restriction, to the city of Stanwood. As used in this chapter, the term "donation" does not refer to any money or property, real or personal, that may be reasonably classified as a grant.

3.25.030 Acceptance of donations.

(1) Limitation on Acceptance of Donations.

  (a) The city may accept and use donations only for purposes related to those powers granted to the city by law.

  (b) Any donation to the city that is accompanied with any contingency, term, or condition on the use by the city of such donation that is inconsistent with this chapter or contrary to law must be declined by the city.

  (c) The city may decline to accept any donation that is inconsistent with the policies, plans, goals, or any other ordinance of the city.

(2) Donation Thresholds.

  (a) Monetary Donations under $5,000. The mayor is authorized to accept any monetary donation under $5,000 to the city, and to carry out the terms or conditions of the donation if such terms and conditions are within the powers granted to the city by law and this chapter. If no terms or conditions are attached to the donation, or such terms or conditions cannot be fulfilled or performed by the city, the city may expend or use the same for any public purpose consistent with this chapter.

  (b) Monetary Donations of $5,000 or Greater. Any monetary donation of $5,000 or greater must be approved by the city council before acceptance. After approval by the city council, the mayor is authorized to accept such monetary donation to the city, and to carry out the terms or conditions of the donation if such terms and conditions are within the powers granted to the city by law and this chapter. If no terms or conditions are attached to the donation, or such terms or conditions cannot be fulfilled or performed by the city, the city may expend or use the same for any public purpose consistent with this chapter.

  (c) Nonmonetary Donations Directly Supporting City Events or Community Activities. The mayor is authorized to accept nonmonetary donations that support specific city events and other community activities.

(d) Other Nonmonetary Donations. The mayor must assess the utility to the city and value of nonmonetary donations offered to the city (other than in subsection (1)(c) of this section).

(i) If the estimated value of the donation is less than $10,000, the mayor is authorized to accept such donations.

(ii) If the estimated value of the donation is $10,000 or greater, the mayor is authorized to accept such nonmonetary donation upon approval by the city council.

3.25.040 Procedure for acceptance of donation

All donations must be offered in writing to the city and directed to the mayor. If a donation is not approved or accepted by the city, such donation must be immediately returned to the private citizen, business group, or private organization attempting to make such donation in a manner that properly documents the return of such donation by the city.

3.25.050 Funds and accounting.

The finance director is directed to establish accounting procedures as may be necessary to carry out the terms of this chapter, in accordance with all applicable laws of the state of Washington and requirements of the office of the State Auditor.

Chapter 4.08 Defense and Indemnification of City Officers, Employees, and Volunteers

ℹ This is a new chapter with new content based on common code chapters on this topic, including MVMC Chapter 2.78 and MMC Chapter 2.26 (Mukilteo). This chapter describes the circumstances under which the City will provide legal representation to defend a lawsuit filed against a city official from their conduct in the scope of their work for the city

4.08.010 Definitions.

Unless the context indicates otherwise, the words and phrases used in this chapter have the following meanings:

“Employee” means any person who is or has been employed by the city.

“Official” means any person who is serving or has served as an elected city official, and any person who is serving or has served as an appointed member of any city board, commission, committee, or other appointed position with the city.

4.08.020 Legal representation.

(1) As a condition of service or employment the city must provide to an official or employee, subject to the conditions and requirements of this chapter, and notwithstanding the fact that such official or employee may have concluded service or employment with the city, such legal representations as may be reasonably necessary to defend a claim or law suit filed against such official or employee including coroner’s inquests for police officers resulting from any conduct, act or omission of such official or employee performed or omitted on behalf of the city in their capacity as a city official or employee, which act or omission is within the scope of their service or employment with the city. This chapter is subject to repeal or modification at the sole discretion of the city, unless such discretion is limited with respect to any employee or class of employees due to collective bargaining obligations.

(2) The legal services must be provided by the office of the city attorney unless:

(a) Any provision of an applicable policy of insurance provides otherwise; or

(b) A conflict of interest or ethical bar exists with respect to said representation.

(3) In the event that outside counsel is retained under subsection (2)(b) of this section, the city must indemnify the employee the reasonable costs of defense provided that in no event may the officer or employee be indemnified for attorneys' fees in excess of the hourly rates established by the city's contract with its city attorney. The officer or employee is liable for all hourly changes in excess of the rate.

4.08.030 Exclusions.

(1) Protection must not be offered under this chapter by the city to:

(a) Any dishonest, fraudulent, criminal, willful, intentional or malicious act or course of conduct of an official or employee;

(b) Any act or course of conduct of an official or employee which is not performed on behalf of the city;

(c) Any act or course of conduct which is outside the scope of an official's or employee's service or employment with the city; and/or

(d) Any lawsuit or administrative action brought against an official or employee by or on behalf of the city. Nothing herein may be construed to waive or impair the right of the city council to institute suit or counterclaim against any official or employee nor to limit its ability to discipline or terminate an employee.

(2) The provisions of this chapter have no force or effect with respect to any accident, occurrence, or circumstance for which the city or the official or employee is insured against loss or damages under the terms of any valid insurance policy, provided that this chapter provides protection, subject to its terms and limitations, above any loss limit of such policy. The provisions of this chapter are intended to be secondary to any contract or policy of insurance owned by or applicable to any official or employee. The city has the right to require an employee to utilize any such policy protection prior to requesting the protection afforded by this chapter.

4.08.040 Determination of exclusion.

The determination of whether an official or employee may be afforded a defense by the city under the terms of this chapter may be finally determined by the city council on the recommendation of the mayor. The decision of the city council is final as a legislative determination of the city. Nothing herein precludes the city from undertaking an officer or employee's defense under a reservation of rights.

4.08.050 Representation and payment of claims—Conditions.

The provisions of this chapter apply only when the following conditions are met:

(1) In the event of any incident or course of conduct potentially giving rise to a claim for damage, or the commencement of a suit, the official or employee involved may, as soon as practicable, give the city attorney written notice thereof, identifying the official or employee involved, all information known to the official or employee involved, all information known to official or employee with respect to the date, time, place and circumstances surrounding the incident or conduct giving rise to the claim or law suit, as well as the names and addresses of all persons allegedly injured or otherwise damaged thereby, and the names and addresses of all witnesses.

(2) Upon receipt thereof, the official or employee must forthwith deliver any claim, demand, notice or summons or other process relating to any such incident or conduct to the city attorney, and must cooperate with the city attorney or an attorney designated by the city attorney, and, upon request, assist in making settlement of any suit and enforcing any claim for any right of subrogation against any persons or

organizations that may be liable to the city because of any damage or claim of loss arising from said incident or course of conduct, including but not limited to rights of recovery for costs and attorneys' fees arising out of state or federal statute upon a determination that the suit brought is frivolous in nature.

(3) Such official or employee must attend interviews, depositions, hearings, and trials and must assist in securing and giving evidence and obtaining attendance of witnesses all without any additional compensation to the official or employee and, in the event that an employee has left the employ of the city, no fee or compensation may be provided; and

(4) Such official or employee may not accept nor voluntarily make any payment, assume any obligation, or incur any expense relating to said claim or suit, other than for first aid to others at the time of any incident or course of conduct giving rise to any such claim, loss, or damage.

4.08.060 Effect of compliance with conditions.

If legal representation of an official or employee is undertaken by the city attorney, all the conditions of representation are met, and a judgment is entered against the official or employee, or a settlement made, the city must pay such judgment or settlement, provided, that the city may, at its discretion appeal as necessary such judgment.

4.08.070 Failure to comply with conditions.

If any official or employee fails or refuses to comply with any of the conditions of SMC 4.08.050, or elects to provide his/her own representation with respect to any such claim or litigation, then all of the provisions of this chapter are inapplicable, and have no force or effect with respect to any such claim or litigation.

4.08.080 Reimbursement of incurred expenses.

(1) If the city determines that an official or employee does not come within the provisions of this chapter, and a court of competent jurisdiction later determines that such claim does come within the provisions of this chapter, then the city must pay any judgment rendered against the official or employee and reasonable attorneys' fees incurred in defending against the claim. The city must pay any attorneys' fees incurred in obtaining the determination that such claim is covered by the provisions of this chapter.

(2) If the city determines that a claim against a city official or employee does come within the provisions of this chapter, and a court of competent jurisdiction later finds that such claim does not come within the provisions of this chapter, then the city must be reimbursed for costs or expenses incurred in obtaining the determination that such claim is not covered by the provisions of this chapter.

4.08.090 Conflict with provisions of insurance policies.

Nothing contained in this chapter may be construed to modify or amend any provision of any policy of insurance where any city official or employee thereof is the named insured. In the event of any conflict between this chapter and the provisions of any such policy of insurance, the policy provisions are controlling; provided, however, that nothing contained in this section may be deemed to limit or restrict any employee's or official's right to full coverage pursuant to this chapter, it being the intent of this chapter and section to provide the coverage detailed in this chapter outside and beyond insurance policies which may be in effect, while not compromising the terms and conditions of such policies by any conflicting provision contained in this chapter.

4.08.100 Pending claims.

The provisions of this chapter apply to any pending claim or lawsuit against an official or employee, or any such claim or lawsuit hereafter filed, irrespective of the date of the events or circumstances which are the basis of such claim or lawsuit.

Chapter 4.10 Public Notices

ℹ This is based on existing code chapter 1.08. Existing SMC 1.08.035 setting a 7-day advance period for notice of a public hearing has been deleted, as it conflicts with greater time periods for development permit applications required by statute. Existing SMC 4.08.050 regarding notices for calls of bids is deleted, as it is more appropriate in a purchasing policy.

4.10.010 Official newspaper designated.

Per RCW 35A.21.230, the Stanwood/Camano News is designated as the official newspaper of the city. All ordinances and notices published for the period and in the manner provided by law constitute due and legal notice.

4.10.020 Requirement to publish ordinances.

ℹ Based on existing SMC 1.08.020, retitled. Reference to clerk/treasurer changed to city clerk.

Every ordinance passed by the city council must be published once in the official newspaper of the city by summary or in its entirety. If the ordinance is published by summary, a statement must be included that the City will mail the full text of the ordinance upon request and will be available in the city clerk's office for inspection.

4.10.030 Costs of publication.

ℹ Based on existing SMC 1.08.025.

When publication of an official notice is required as a result of action initiated by a private party (including, but not limited to, a permit application), that party must pay the costs of publication.

Chapter 4.12 Emergency Management

ℹ This is a recodification of existing SMC 2.80, with several modifications as described below.

4.12.020 Definitions

ℹ This section is based on the latter half of existing SMC 2.80.010.

For the purposes of this chapter:

"Civil emergency" means any natural or human-caused disaster, including fire, flood, storm, explosion, chemical or biological hazard, earthquake, volcanic disturbance or other human or natural cause.

"Disaster" means the actual or threatened existence of conditions that place life, property or the environment in danger and potentially impact the provision of essential city services requiring an immediate response to protect life or property.

4.12.040 Proclamation of civil emergency

ℹ This section is based on existing SMC 2.80.010.

(1) Whenever a civil emergency, or the imminent threat thereof, occurs in the city and results in or threatens to result in the death or injury of persons or the destruction of or damage to property to such extent as to require, in the judgment of the mayor, extraordinary measures to protect the public peace, safety and welfare, the mayor must forthwith proclaim in writing the existence of a civil emergency.

(2) In the absence of the mayor, such a civil emergency may be declared by the mayor pro tem, and in the absence of the mayor pro tem, by the city administrator.

4.12.060 Emergency management organization—Created

ℹ This section is based on existing SMC 2.80.020.

Pursuant to Chapter 38.52 RCW, there is created in the city an emergency management organization for the purpose of performing local emergency management functions.

4.12.080 Emergency management organization—Powers

ℹ This section is based on existing SMC 2.80.030.

(1) The emergency management organization must operate under the policy guidance of the most current approved Stanwood comprehensive emergency management plan.

(2) The emergency management organization has all powers granted under Chapters 35A.33 and 38.52 RCW as now or hereafter amended and as may otherwise be provided by law.

4.12.100 Emergency management officials – Roles and responsibilities

ℹ This section is based on existing SMC 2.80.040.

The primary city emergency services officials are as follows:

(1) Director of Emergency Services.

(a) The mayor or designee serves as the director of emergency services.

(b) The director is directly responsible for the organization, administration, and operation of the emergency management organization.

(c) The director has the authority to approve the emergency operations plan and any amendments to it.

(2) Emergency Operations Manager.

(a) The City Administrator or designee serves as the emergency operations manager and may be an outside contracted position. At the direction of the director of emergency services, this role could be filled by the police chief or could be an outside contracted position.

(b) In a declared emergency, the Emergency Operations Manager has the authority to direct all human or material resources within the city to combat the effects of a threatened or any actual emergency as well as the authority to request assistance from other governmental entities.

(3) Emergency Operations Center (EOC) Manager.

(a) The fire chief or designee serves as the EOC Manager. At the direction of the Director of Emergency Services, this role could also be filled by the Police Chief or an outside contracted position.

(b) In a declared emergency, the EOC Manager manages the Emergency Operations Center (EOC), regardless of the EOC activation level.

(c) The EOC Manager will work closely with the Emergency Operations Manager and the Planning Section Chief to effectively run the EOC and assist with resource requirements.

(4) Emergency Management Coordinator.

(a) The emergency management coordinator must be appointed by the emergency operations manager in consultation with the director of emergency services, and may be an outside contracted position.

(b) The emergency management coordinator must coordinate development, implementation, and maintenance of the comprehensive emergency management plan.

(c) As part of this planning process, the emergency management coordinator must:

(i) coordinate with outside agencies and organizations involved in emergency planning;

(ii) provide for public education and information;

(iii) perform duties as assigned in the EOC, when activated; and

(iv) perform such other functions as the emergency operations manager may designate.

4.12.120 Emergency management response team

ℹ This section is based on existing SMC 2.80.050.

(1) There is created an emergency management response team to:

(a) oversee and provide policy recommendations to the mayor and city council during emergency and recovery periods;

(b) be responsible for development and maintenance of the emergency operations plan; and

(c) support emergency response operations.

(2) The emergency management response team consists of the following members:

(a) director of emergency services, who must serve as the chairperson;

(b) emergency operations manager;

(c) Emergency management coordinator;

(d) All city department heads;

(e) Any other persons appointed by the director of emergency services, including but not limited to other city personnel assigned emergency responsibilities, consultants, representatives from emergency support agencies such as the Red Cross, and representatives from neighboring governments and agencies.

Chapter 4.14 Ethics

ℹ This is a new chapter prescribing standard ethics, acceptance of gifts, and conflict of interest rules for city elected officials, city officers, department heads, other staff, and members of city boards and commissions.

4.14.010 Applicability

This chapter applies to:

(1) all city elected officials, including the mayor and city councilmembers;

(2) the city administrator and all city officers and department heads listed in SMC Chapter 2.08;

(3) all city employees;

(4) all members of city boards, commission, and committees.

4.14.020 Definitions

(1) "Gift" means anything of economic value for which no consideration is given. “Gift” does not include:

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

(b) Items related to the outside business of the recipient that are customary and not related to the recipient’s performance of official duties;

(c) Items exchanged among officials and employees or a social event hosted or sponsored by a city officer or city employee for co-workers;

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

(e) Items an official or employee is authorized by law to accept;

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

(g) Items returned by the recipient to the donor within thirty days of receipt or donated to a charitable organization within thirty days of receipt;

(h) Campaign contributions reported under Chapter 42.17 RCW;

(i) Discounts available to an individual as a member of an employee group, occupation, or similar broad-based group;

(j) Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement.

(2) “Official” means any person to whom this chapter applies.

(3) "Relative" means spouse or domestic partner, child, step-child, parent, step-parent, parent-in-law, grandparent, grandchild, sibling, aunt, uncle, niece, nephew, son- or daughter-in-law, brother- or sister-in-law.

4.14.030 Ethical standards

ℹ This section is based on Kirkland Municipal Code 3.14.050.

ℹ As this chapter is currently written, these are general expectations, but one cannot be disciplined or removed for violation of this section.

(1) Compliance with Other Laws. Officials must comply with federal, state, and city laws in the performance of their public duties. These laws include, but are not limited to: the United States and Washington Constitutions; laws pertaining to conflicts of interest, election campaigns, financial disclosures and open processes of government; and city ordinances and policies.

  (a) As required by RCW 42.17.750, no official may knowingly solicit or encourage, directly or indirectly, any political contribution from any city employee.

  (b) Except under limited circumstances described in RCW 42.17.130, no official may use or authorize the use of the facilities of the city for the purpose of assisting a campaign for the election of any person to any office, or for the promotion of or opposition to any ballot proposition in a manner not available to the general public on the same terms.

(2) Personal Integrity.

  (a) The professional and personal conduct of officials must be above reproach and avoid even the appearance of impropriety.

  (b) Officials must refrain from abusive conduct, threats of official action, personal accusations or verbal attacks upon the character or motives of other members of council, boards and commissions, the staff or public.

  (c) Officials must be truthful and honest and not compromise themselves for advancement, honor, or personal gain.

  (d) Officials must not directly or indirectly induce, encourage, or aid anyone to violate these standards and it is incumbent upon officials to make a good faith effort to address apparent violations of this code of ethics.

(3) Working for the Common Good. Recognizing that stewardship of the public interest must be their primary concern, officials will work for the common good of the people of the city and not for any private or personal interest, and they will ensure fair and equal treatment of all persons, claims and transactions coming before the city council, boards and commissions. Officials need to be mindful that making special requests of staff—even when the response does not benefit the official personally—puts staff in an awkward position.

(4) Respect for Process. Officials must perform their duties in accordance with the processes and rules of order established by the city council and board and commissions governing the deliberation of public policy issues, meaningful involvement of the public, and implementation of policy decisions of the city council by city staff.

(5) Commitment to Transparency. Transparency, openness, and accountability are fundamental values of the city—and are also required by the laws of the state of Washington. The public has a right to inspect and copy public records unless exempt by law from disclosure. All materials relating to the conduct of city government that are prepared, possessed, used or retained by any official, including email and other

electronic records, are subject to requirements for retention, protection, and disclosure. Officials may assume that all copies of materials received from city staff have already been archived and do not need to be retained. Officials must not discard, damage, or destroy the original copy of any public record unless directed by the city public records officer (the city clerk), who has responsibility to ensure that the city complies with the record retention schedules established under Chapter 40.14 RCW. Officials must promptly provide any records requested by the public records officer in response to a disclosure request under the Public Records Act, Chapter 42.56 RCW. It is the responsibility of the public records officer, together with the city attorney, to decide which records meet the definition of "public record" and whether or not they are exempt from disclosure; officials must not take it upon themselves to decide whether a record meets the definition of a public record, that a record is exempt from disclosure, or to otherwise conceal a record.

(6) Conduct of Public Meetings. Officials must prepare themselves for public issues; listen courteously and attentively to all public discussions before the body; and focus on the business at hand. Officials must refrain from interrupting other speakers; making personal comments not germane to the business of the body; or otherwise interfering with the orderly conduct of meetings.

(7) Decisions Based on Merit. Officials must base their decisions on the merits and substance of the matter at hand, rather than on unrelated considerations.

(8) Ex Parte Communications. In quasi-judicial matters, officials must publicly disclose substantive information that is relevant to a matter under consideration by the council or boards and commissions, which they may have received from sources outside of the public decision-making process.

(9) Attendance. As provided in RCW 35A.12.060, a councilmember forfeits his or her office by failing to attend three consecutive regular meetings of the council without being excused by the council. Unless excused, members of boards and commissions are expected to attend all meetings.

(10) Nepotism. Officials should not appoint relatives to boards or commissions or other appointed positions unless no similarly qualified candidates are available.

(11) Advocacy. When acting in an official capacity as a city official representing the city, officials must represent the official policies or positions of the city council, board, or commission to the best of their ability when the city council, board or commission has taken a position or given an instruction. When presenting their individual opinions and positions, members must explicitly state they do not represent their body or the city, nor will they allow the inference that they do.

(12) Policy Role of Officials. Officials must respect and adhere to the mayor-council structure of city government as described by Chapter 35A.12 RCW. In this structure, the city council determines the policies of the city with the advice, information and analysis provided by the public, boards and commissions, and city staff; the mayor and staff administer that policy.

4.14.040 Elected Officials

ℹ As this chapter is currently written, an elected cannot be disciplined or removed for violation of this section under this chapter. The State PDC may enforce its rules.

Any elected official to whom this chapter applies must comply with Public Disclosure Commission rules and regulations, including the obligation to annually file an F-1 Personal Financial Affairs Statement.

4.14.050 Prohibited conduct.

ℹ This section is based on Kirkland Municipal Code 3.14.030.

ℹ As this chapter is currently written, you can be disciplined or removed for violations of this section but not .030-040.

(1) Conflicts of Interest.

(a) In order to ensure their independence and impartiality on behalf of the common good, officials must not participate in government decisions in which any of the following has a financial interest:

(i) the official;

(ii) a relative;

(iii) an individual with whom the official resides; or

(iv) an entity that the official serves as an officer, director, trustee, partner, or employee.

(b) Officials must abstain from participating in deliberations and decision-making where conflicts exist. This section does not apply:

(i) to decisions regarding taxes or fees;

(ii) if the financial interest is shared with more than ten percent of the city's population; or

(iii) if the financial interest exists solely because of the official's ownership of less than one percent of the outstanding shares of a publicly traded corporation.

(2) Appearance of Conflict. If it could appear to a reasonable person, having knowledge of the relevant circumstances, that the official's judgment is impaired because of either (a) a personal or business relationship not covered under the foregoing subsection, or (b) a transaction or activity engaged in by the official, the official must make a public, written disclosure of the facts giving rise to the appearance of a conflict before participating in the matter.

(3) Misuse of Public Position or Resources. Except for infrequent use at little or no cost to the city, officials must not use public resources that are not available to the public in general, such as city staff time, equipment, supplies or facilities, for other than a city purpose.

(4) Representation of Third Parties. Except in the course of official duties, officials must not appear on behalf of the financial interests of third parties before the bodies on which the officials serve or in interaction with assigned staff. However, the members of the city council must not appear on behalf of the financial interest of third parties before the council or any board, commission or proceeding of the city, or in interaction with staff.

(5) Solicitations of Charitable Contributions. No official may make direct personal solicitations for charitable contributions from city employees.

(6) Confidential Information. Officials must not disclose or use any confidential information gained by reason of their official position for other than a city purpose. "Confidential information" means (1) specific information, rather than generalized knowledge, that is not available to a person who files a public records request, and (2) information made confidential by law.

ℹ The following is based on Kirkland Municipal Code 3.80.140.

(7) Gifts and Favors.

(a) Officials must not take any special advantage of services or opportunities for personal gain, by virtue of their public office, which are not available to the public in general. They may not solicit or receive any thing of monetary value from any person or entity where the thing of monetary value has been solicited, or received or given or, to a reasonable person, would appear to have been solicited, received or given with intent to give or obtain special consideration or influence as to any action by the official in his or her official capacity. Nothing in this section prohibits campaign contributions which are solicited or received and reported in accordance with applicable law.

(b) No official may accept gifts, other than those specified in paragraph (e) below, with an aggregate value in excess of $50 from a single source in a calendar year or a single gift from multiple sources with a value in excess of $50 in accordance with RCW 42.52.150(1). If the $50 limit in RCW 42.52.150(1) is amended, this section must be deemed to reflect the amended amount.

(c) For purposes of this section, “single source” means any person, corporation, or entity, whether acting directly or through any agent or other intermediary, and “single gift” includes any event, item, or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of gift in this chapter.

(d) The value of gifts given to an official's family member or guest must be attributed to the official for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

(e) The following items are presumed not to influence the vote, action, or judgment of the official, or be considered as part of a reward for action or inaction, and may be accepted without regard to the limit established by paragraph (a) of this subsection:

(i) Unsolicited flowers, plants, and floral arrangements;

(ii) Unsolicited advertising or promotional items of nominal value, such as pens and note pads;

(iii) Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(iv) Unsolicited items received by a city officer or city employee for the purpose of evaluation or review, if the officer or employee has no personal beneficial interest in the eventual use or acquisition of the item;

(v) Informational material, publications, or subscriptions related to the recipient’s performance of official duties;

(vi) Food and beverages consumed at hosted receptions where attendance is related to the city officer’s or city employee’s official duties;

(vii) Admission to, and the cost of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization;

(viii) Unsolicited gifts from dignitaries from another state or a foreign country which are intended to be personal in nature; and

(ix) Food and beverages on infrequent occasions in the ordinary course of meals where attendance by the officer or employee is related to the performance of official duties.

(f) The presumption in paragraph (e) of this subsection is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the item.

4.14.060 Board of Ethics

(1) The City Council may create a Board of Ethics by resolution.

(2) The resolution must specify the terms of the board members, and may provide for a board to perform its duties in regard to a specific matter or may appoint a board for a set term during which it will discharge its duties.

(3) The Board of Ethics must consist of three members: one to be appointed by the mayor; one to be appointed by two-thirds vote of the city council; and the third, who will serve as chair, to be appointed by the other two members of the Board.

(4) Any member of the Board of Ethics may be removed for just cause by a two-thirds vote of the city council, after written charges have been served on such member and a public hearing has been held by the city council.

4.14.070 Advisory opinions

ℹ This section is based on Kirkland Municipal Code 3.14.070.

(1) Upon request of any city elected official, city officer, or department head, the Board of Ethics must render written advisory opinions concerning the applicability of this chapter to either hypothetical circumstances, policies or situations of citywide interest, or circumstances solely related to the person making the request.

(2) All advisory opinions issued by the Board of Ethics must be maintained for public view on the city's website.

(3) The Board of Ethics may reconsider the questions and issues raised in an advisory opinion and, where the public interest requires, rescind, modify, or terminate the opinion, but a modified or terminated advisory opinion will not form the basis of a retroactive enforcement action against the original requestor.

(4) The Board of Ethics must endeavor to respond to requests for advisory opinions within 45 days of submission of the request, or more rapidly if the requester expresses urgency in the request.

(5) The Board of Ethics may not render opinions on matters that are the purview of other government agencies or officials, e.g., the public disclosure commission.

(6) A person's conduct based in reasonable reliance on an advisory opinion rendered by the Board of Ethics may not be found to violate this code of ethics, as long as all material facts have been fully, completely, accurately presented in a written request for an advisory opinion, the Board of Ethics issues an advisory opinion that the described conduct would not violate the code of ethics, and the person's conduct is consistent with the advisory opinion.

4.14.080 Complaints—Filing—Contents

(1) Any person may file a complaint with the City Clerk against a specific person covered by this chapter.

(2) The complaint must:

(a) allege a violation of SMC 4.14.050 that occurred within the past two years and after the adoption of this chapter;

(b) set forth specific facts with enough precision and detail for the Board of Ethics to make a determination of sufficiency; and

(c) be signed under penalty of perjury by the person submitting it in a manner consistent with Chapter 9A.72 RCW.

(3) The City Clerk must transmit the complaint to the Board of Ethics.

4.14.090 Complaints—Initial review

(1) The Board of Ethics must review the complaint and make a determination as to the sufficiency of the complaint within 30 days of the city's receipt of the complaint.

(2) If the Board of Ethics determines the complaint is not sufficient, the Board of Ethics must dismiss the complaint. A complaint is sufficient if the allegations, if established, would violate SMC 4.14.050.

(3) If the Board of Ethics determines the complaint is sufficient, the Board of Ethics must dismiss the complaint if the Board of Ethics determines that:

  (a) the violation was inadvertent or minor; or

  (b) that a violation occurred, but actions have been taken to fully address the unethical conduct; or

  (c) the compliant is not timely filed.

(4) Within seven days of the Board of Ethics making a decision under this section, the city clerk must send notice to the person who made the complaint and the person complained against.

(5) The determination of the Board of Ethics under this section is not reviewable.

4.14.100 Complaints—Hearing.

(1) Upon report of sufficiency from the Board of Ethics, the city clerk must schedule a public hearing to determine if a violation has occurred. Notice must be provided at least thirty days prior to the date of the hearing.

(2) The City Council must designate an attorney with experience in ethics matters as an Ethics Officer to conduct a hearing on the complaint.

(3) Conduct of Hearings.

  (a) The Ethics Officer must conduct an informal hearing that affords the person complained against the opportunity the right to file a written answer to the charge and to appear at the hearing with or without legal counsel, submit testimony, be fully heard, and to examine and cross examine witnesses.

  (b) The Ethics Officer is not bound by the strict rules of evidence prevailing in courts of law or equity. The Ethics Officer may call witnesses on his or her own motion and compel the production of books, records, papers, or other evidence as needed. To that end, the Ethics Officer may issue subpoenas and subpoenas duces tecum. All testimony must be under oath administered by the Ethics Officer. The Ethics Officer may adjourn the hearing from time to time to allow for the orderly presentation of evidence. The Ethics Officer must prepare an official record of the hearing, including all testimony, which must be recorded by mechanical device, and exhibits. The Ethics Officer is not required to transcribe such records unless presented with a request accompanied by payment of the cost of transcription.

(4) Within 30 days after the conclusion of the hearing, the Ethics Officer must, based upon a preponderance of the evidence, issue a decision including findings of fact, conclusions of law, and his or her recommended disposition. A copy of the findings, conclusions, and recommended disposition must be sent to:

  (a) the person who made the complaint;

  (b) the person complained against;

  (c) the Board of Ethics.

4.14.110 Stipulated settlement.

At any time after a complaint has been filed with the Board of Ethics, the Board of Ethics may propose that the city council enter into a stipulation with the person complained against. The recommended stipulation must

include the nature of the complaint, relevant facts, the reasons the Board of Ethics thinks a stipulation is appropriate, an admission of the violation by the person complained against, a promise by the person complained against not to repeat the violation, and if appropriate, a recommended remedy or penalty. The recommended stipulation must be sent to the person who made the complaint and the person complained against and forwarded to the city council for action. Approval by the city council will resolve the complaint and any violation.

4.14.120 Punishment of violation.

(1) If the Ethics Officer determines a violation has been committed, the Ethics Officer must transmit its recommendation as follows:

   (a) For a violation committed by an elected official, to the city council and mayor;

   (b) For a violation committed by a city officer or department head, to the city council and mayor;

   (c) For a violation committed by any other employee, to the mayor;

   (d) For a violation committed by a member of a city board, commission, or committee, to the city council and mayor.

(2) The mayor or city council, or both, may take one or more of the following actions against the person who committed the violation:

ℹ The following is based on Kirkland Municipal Code 3.14.080 and Concrete Municipal Code 2.56.060.

   (a) Dismissal of the complaint without penalties.

   (b) Referral of the complaint to another agency with jurisdiction over the violation, such as the Public Disclosure Commission. Final city action on the complaint may be stayed pending resolution of the matter by the agency to which it was referred.

   (c) Admonition: a verbal nonpublic statement made by the mayor to the violator.

   (d) Reprimand: a formal letter to the violator, signed by the mayor.

   (e) Censure: a written statement read personally to the violator by the city council in a public meeting. The violator must be instructed to appear at a time and place directed by the city council to receive the censure. Notice must be given at least 10 days before the scheduled appearance at which time a copy of the proposed censure must be provided to the individual. Within five days of receipt of the notice, the individual may file a request for review of the content of the censure. The city council must review the proposed censure in light of the request for review, and may take whatever action appears appropriate under the circumstances. If no such request is received, the censure must be administered at the time and place set. The violator may not be afforded the opportunity to make any statement about the censure. A censure is deemed administered at the time it is scheduled whether or not the individual appears as required. This is the highest form of disapproval available under this chapter for an elected official who has violated the code.

   (f) Removal. In the event the individual against whom the complaint has been filed is a member of a city board, commission, or committee appointed by the mayor with the approval of the city council, the city council may, by a majority vote, remove the individual from such board, commission, or committee.

4.14.130 Protection Against Retaliation

No official may take or threaten to take, directly or indirectly, official or personal action, including but not limited to discharge, discipline, personal attack, harassment, intimidation, or change in job, salary, or responsibilities, against any person because that person files a complaint under this chapter.



Stanwood Municipal Code Project
Change Request Tracking Form

Applicable Amendments: Title 4 – Administration

Requestor	Title / Chapter / Section	Change	Action Taken
Tim Schmitt, Council Member	Chapter 4.14 Ethics 4.14.030 Ethical Standards 4.14.030(10) Ethical Standards	Nepotism, I can imagine corner cases where a relative could have a rare and specific specialty that is needed. While I agree it should be avoided, this may not be possible for all cases? Maybe more nuanced code here?	Adjusted this section to a "should" statement. Note that 4.14.030(10) is not enforced by this chapter.
Tim Schmitt, Councilmember	Chapter 4.14 Ethics 4.14.050 Prohibited Conduct 4.14.050(1) Conflict of Interest	Conflict of Interest, where exempted, I notice section three applies to public companies. Maybe add a section if a councilmember has ownership in a private company. For instance, if the council member owns 10% or less of a private company, the council member is exempted.	No change. The City is prohibited from doing business with a company owned (even at the 10% level) by a councilmember. See RCW 42.23.030. There are some exceptions in .030(6)(a) that apply while the city has a population less than 10,000. The 1% exemption for a public company is found in RCW 42.23.040.
Doug TenHoppen Assistant Fire Chief North County Regional Fire Authority	Chapter 4.12 Emergency Management	**4.12.040 – Proclamation of Civil Emergency**. This is fine as written. My recommendation is to ensure you have access to an Emergency Proclamation ***template*** that the Mayor and City Administrator are happy/satisfied with, so that when a Proclamation is	

Requestor	Title / Chapter / Section	Change	Action Taken
		needed to be made, no one is re-inventing the wheel and it could be drafted, signed, and proclaimed in short order by just filling in the disaster/emergency-specific information. **4.12.100 – Emergency Management Officials**. I recommend creating a new position in this section entitled **Emergency Operations Center Manager** and put that position in-line ***below*** the Emergency Operations Manager. Here's why: as currently written the Emergency Operations Manager has "the authority to direct all human or material resources within the City to combat the effects of the emergency…" and this is something a non-City employee (like the Fire Chief or Police Chief (or their designees)) would not feel comfortable doing. Therefore I recommend tweaking Section 4.12.100 to read something like this: **(2) Emergency Operations Manager.** The City Administrator will serves as the Emergency Operations Manager for the City, and has the authority to direct all human or material resources within the city to combat the effects of a threatened or any actual emergency as well as the authority to request assistance from other governmental entities. (This verbiage is from sub-paragraph (c) in that section). Then ***add*** this position: **(3) Emergency Operations Center (EOC) Manager.**	4.12.100 Adjusted and added.

Requestor	Title / Chapter / Section	Change	Action Taken
		a. The Fire Chief (or his/her designee) serves as the EOC Manager. 1. At the direction of the Director of Emergency Services, this role could also be filled by the Police Chief or an outside contracted position. b. In a declared emergency, the EOC Manager must manage the Emergency Operations Center (EOC), regardless of the EOC activation level. c. The EOC Manager will work closely with the Emergency Operations Manager and the Planning Section Chief to effectively run the EOC and assist with resource requirements. And then list the existing **Emergency Management Coordinator** position (as currently written) as a **new sub-paragraph (4).** **4.12.120 Emergency Management Response Team.** This is fine as currently written.	
John Galt City Hearing Examiner	Chapter 4.14 Ethics	Section 4.14.030 SMC. I see that there is currently no Title 4 in the SMC. What are Title 4 and Chapter 4.14 SMC about? What are the sections which precede SMC 4.14.030? I have no context in which to review this. Section 4.14.090(1). I think there's a missing word in this sentence: Shouldn't "make a	HE was evidently not sent Title 4 at the time of this comment. 4.14.090(1). Fixed.

Requestor	Title / Chapter / Section	Change	Action Taken
		determination as the sufficiency" instead be "make a determination as to the sufficiency"? Section 4.14..090(2). Is the incomplete code citation SMC 4.14.040? SMC 4.14.090(3). Wouldn't another appropriate ground for dismissal be untimely filing? SMC 4.14.080(2)(a) sets a 2-year statute of limitations. If the alleged infraction(s) occurred more than two prior to the filing, shouldn't the ethics official be required to dismiss the complaint? SMC 4.14.090(4). Where are the requirements for an ethics investigation set forth? I don't see them, so the partial code citation doesn't make sense to me. Also, minor, picky point: I personally don't like to use "per" as a shorthand for "pursuant to". If it were up to me, I'd say "conduct an investigation pursuant to" whatever. SMC 4.14.100. Your choice in SMC 4.14.100(2) to have the hearing held by the Hearing Examiner directly conflicts with SMC 4.14.060(1) which provides that a law firm "experienced with ethical matters" is to "adjudicate complaints". Personally, I would prefer that you went with 4.14.060 and left me out of it. I have never looked forward to	4.14.090(2). Section 4.14.050 are the enforceable provisions. Fixed. SMC 4.14.090(3). Very true. Fixed. SMC 4.14.090(4). Fixed by deletion. The Board of Ethics doesn't perform the investigation. SMC 4.14.100. Changed the body that determines sufficiency of the complaint to a Council-appointed three-member Board of Ethics. Changed the hearing examiner to an Ethics Officer (an outside attorney appointed by the council).

Requestor	Title / Chapter / Section	Change	Action Taken
		hearing an ethics complaint and would not be offended if I never heard one in my career! My remaining comments will not repeat the examiner vs. someone else as decision maker again. If you decide to go with someone other than the Examiner, there will be multiple references to be tweaked.	
		SMC 4.14.100(2)(a). The wording of this subsection is weird. I think it would be better if it read "The [hearing examiner or retained counsel, whatever you decide on] shall conduct an informal hearing that affords the person complained against the right to file a written answer …".	SMC 4.14.100(2)(a). Fixed.
		SMC 4.14.100(3). The notion that the hearing record is a part of the decision maker's "permanent records" seems misplaced to me. The record and the decision should be part of the City's permanent records, not the decision maker's.	SMC 4.14.100(3). Fixed.
		SMC 4.14.120(1). I would suggest changing the concluding part of this to "must transmit a copy of the recommendation as follows:".	SMC 4.14.120(1). Fixed.

Requestor	Title / Chapter / Section	Change	Action Taken
City Attorney	Title 4, Administration	4.02.040 – I think this belongs in Employee Policy Manual, not Code. 4.04 – because the definition added includes verbal contracts, need to make clear that verbal agreements are not enforceable. Only written contracts are allowed. 4.14.030(12) – This is not a council manager city. 4.14.050(7)(c) references a Kirkland code re: definition of gifts.	4.02.040. Existing code. No harm in keeping it... No change. 4.04. Clarified writing requirement with new subsection in 4.04.040. 4.14.030(12). Fixed in prior draft. 4.14.050(7)(c). Fixed; added definition of "gift."
Advisory Group	SMC 4.14.060, Ethics Official	Changed from a hired law firm to a Board of Ethics similar to the City of Marysville: MMC 2.80.060: The city council may create a board of ethics by resolution. Such resolution may provide for a board to perform its duties in regard to a specific matter or may appoint a board for a set term during which it will discharge its duties. Any board so created will be composed of three members, one to be appointed by the mayor, one to be appointed by two-thirds vote of the city council, and the third, who shall be chairman, to be appointed by the other two members. The terms of the board members shall be as determined by the city council. Any member of the board of ethics may be removed for just cause by a two-thirds vote of the city council, after written charges have been served on such member and a public hearing has been held by the city council. (Ord. 3023 § 1 (Exh. A), 2016; Ord. 929 § 2, 1977).	Implemented.

Requestor	Title / Chapter / Section	Change	Action Taken
Advisory Group	SMC 4.12, Emergency Management	Add clarifying / introductory language that emergency management is contracted with North County Fire via the city's adopted ILA and is operated out of Fire Station 99. Tell residents who to contact/where to go	Current language is agnostic as to contract and flexible enough to handle emergency management whether contracted or not.

CITY OF STANWOOD
COUNCIL AGENDA STAFF REPORT

ITEM NUMBER:	**11**
DATE:	March 9, 2023
SUBJECT:	Confirm Mayor's Appointment to the Planning Commission
CONTACT PERSON:	Mayor Sid Roberts
ATTACHMENTS:	A – Robert Hicks Letter of Interest

PURPOSE

The purpose of this agenda item is for Council consideration of and confirmation of the Mayor's appointment of Robert Hicks to the Stanwood Planning Commission, to fill position two (2) which was recently vacated by Commissioner Monae Birkhofer.

BACKGROUND

The Planning Commission currently has one vacant position. The vacancy was created due to the term expiring on December 31, 2022.

ANALYSIS

The Stanwood Mayor is responsible for recommending appointments to the various City ad hoc boards and commissions when terms expire or a vacancy occurs. The city advertised for the vacancy and requested that interested individuals submit applications and letters of interest. The Mayor reviewed the information submitted and discussed the overall committee appointment and responsibilities with Robert Hicks.

RECOMMENDATIONS

Staff Recommendation: Mayor Roberts recommends the appointment of Robert Hicks to the Planning Commission, to fill position two (2), for the term ending December 31, 2027

Committee/Board Recommendation: N/A

CITY COUNCIL OPTIONS

1. Approve appointment
2. Do not approve the appointment and provide feedback to Mayor

PROPOSED MOTION

MOTION TO APPOINT ROBERT HICKS TO THE STANWOOD PLANNING COMMISSION, POSITION TWO (2), FOR A TERM ENDING DECEMBER 31, 2027.

Planning Commission Application - Robert Hicks

Robert Hicks
7122 287th Place NW Stanwood, WA 98292

Dear Mayor Roberts,

I am requesting consideration for the vacant Planning Commission position. The Navy brought my young family to Washington state in 1998 and my wife and I chose Stanwood to raise our 3 girls because of the great community and spirit. Over the last 20 years I have served the community in a number of ways. I coached girls basketball many years in the Stanwood Camano Junior Athletic Association and now coach basketball with the YMCA program. I served as the American Legion Post 92 Adjutant and Legion Riders Director for many years, Stanwood Salary Commission Chair for a tour and served on the YMCA Board of Directors for 2 years. My wife and daughter have operate a successful small business in town for a decade and we are involved in a number of year round events.

My service on the Planning Commission allows me to be more involved in the future Stanwood. I have no answers to the many questions that face our communities growth but I do have a desire to collaborate with other like minded citizens to address the city's needs.

Thank you in advance for your consideration.

Sincerely Yours,
Robert Chili' HIcks