

CITY ADMINISTRATOR
ROBERT OMANS

CITY CLERK
DEBBIE LEE

FINANCE DIRECTOR
ROBIN NEWCOMB

PUBLIC WORKS

POLICE CHIEF
RICH ALBO

FIRE CHIEF
ED MILLS

PLANNER

Public Safety & Health Committee

Agenda
August 20, 2024
1:00 PM



119 W FIRST STREET
CLE ELUM, WA 98922

MAYOR
MATTHEW LUNDH

MAYOR PRO TEM
STEVEN HARPER

PUBLIC SAFETY & HEALTH
COMMITTEE

JOHN GLONDO - CHAIR
KEN RATLIFF
BETH WILLIAMS

CITY ATTORNEY
ALEXANDRA KENYON

Join Virtually with Zoom: <https://zoom.us/j/7573184018?pwd=dERndjBJVC9GdVQ1d2ISRExwZFhXZz09>
Meeting ID: 757 318 4018 Passcode: 98922

Join by Phone: 1-(253)215-8782, Meeting ID: 757 318 4018, Passcode:98922

 Receive city text alert notifications: text CLEELUM to 91896

DISCLAIMER: The City does not guarantee that virtual or telephonic access to the City Council meeting will be available and the City does not warrant audio quality. Attendees are encouraged to attend in-person.

1. **Call to Order/Pledge of Allegiance**
2. **Unfinished Business**
 - a. Municipal Codes - Criminal
 - b. Municipal Code - Addressing (fire/police)
 - c. Camping Ordinance
3. **New Business**
 - a. Approve the Minutes Dated July 16, 2024
 - b. Flock Camera Policy
4. **Other Committee Comments**
5. **Adjourn**

Upcoming Meetings:

Public Safety & Health Committee Meeting: September 17, 2024 @ 1:00 p.m.

Regular Council Meeting: August 27, 2024 @ 6:00 p.m.

Planning Commission Meeting: August 20, 2024 @ 6:00 p.m.

General Government Committee Meeting: August 28, 2024 @ 8:30 a.m.

Lodging Tax & Events Committee Meeting: September 9, 2024 @ 8:30 a.m.

Public Works & Community Development Committee Meeting: September 5, 2024 @ 12:00 p.m.

Coal Mines Trail Commission Meeting: September 9, 2024 @ 6:00 p.m.

Title 9

PUBLIC PEACE, MORALS AND WELFARE - Re-Name "Criminal Code"

Chapters:

9.01	Substance Abuse	Remove
9.04	Assault and Battery	Remove
9.08	Houses of Ill Fame	Remove
9.12	Disorderly Conduct	Remove
9.16	Public Indecency	(Re-Number) Create a defined penalty
9.20	Theft	Remove
9.24	Trespass and Vehicle Prowling	
9.28	Minors	Remove
9.30	Curfew	Remove
9.32	Dangerous Weapons	Remove
9.36	Discharge of Guns	(Re-Number) Update definition of Gun
9.40	Carrying of Firearms - Exemption from State Prohibition	Remove
9.44	Violation of Domestic Violence Orders	Remove
9.48	Violation of No-Harassment Orders	Remove
9.52	Violation of Civil Anti-Harassment Protection Orders	Remove
9.56	Violation of No-Contact Orders	Remove
9.60	Interference with Reporting Domestic Violence	Remove
9.64	Possession of Marijuana	Remove
9.68	Possession of Drug Paraphernalia	Remove
9.72	Carrying Pistol without Permit	Remove
9.80	Reckless Endangerment	Remove
9.84	Minors in Possession of Liquor	Remove

Chapter 9.01

SUBSTANCE ABUSE

Sections:

9.01.010	Substance abuse - Violation - Penalty.
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9.01.010 Substance abuse – Violation – Penalty.

In any case arising out of violation of this code where an accused has been convicted of possession of marijuana or an offense relating to the use, possession or consumption of alcohol, there shall be, in addition to any fine levied pursuant to Section 1.16.010 of this code, a penalty in the amount of one hundred dollars per offense, which shall be non-suspendable, and which shall be paid into the police department's substance abuse prevention fund. The fact that this penalty is imposed in each case shall not in any way reduce the obligation of the accused to pay the fine prescribed by the court. In no case shall the fine pursuant to Section 1.16.010 of this code and the penalty enacted above exceed the total amount of five thousand dollars.

(Ord. 896 § 4, 1989)

Chapter 9.04 ASSAULT AND BATTERY

Sections:

9.04.010 Assault IV.

9.04.020 Domestic violence designation.

9.04.010 Assault IV.

RCW 9A.36.041 is hereby adopted by reference as currently enacted or as hereafter amended or recodified.

(Ord. 1648 § 1, 2023; Ord. 23 § 2, 1902)

9.04.020 Domestic violence designation.

Chapter 10.99 RCW is hereby adopted by reference as currently enacted or as hereafter amended or recodified.

(Ord. 1648 § 2, 2023; Ord. 436 § 1, 1949; Ord. 23 § 4, 1902)

Chapter 9.08 HOUSES OF ILL FAME

Sections:

9.08.010 Unlawful.

9.08.020 Violation – Penalty.

9.08.010 Unlawful.

It is unlawful for any person or persons to keep any house of ill fame, within the limits of the city, resorted to for the purpose of prostitution and lewdness, or to reside in such house for the purpose aforesaid.

(Ord. 17 § 1, 1912)

9.08.020 Violation – Penalty.

Any person violating any of the provisions of this chapter is deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not less than ten dollars and not more than one hundred dollars.

(Ord. 17 § 2, 1912)

Chapter 9.12 DISORDERLY CONDUCT

Sections:

- 9.12.010 Definition.**
- 9.12.020 Disorderly conduct.**
- 9.12.030 Penalty – Misdemeanor.**

9.12.010 Definition.

“Public place,” for purposes of this chapter, shall mean an area generally visible to public view, and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which serve food or drink to provide entertainment, and the doorways and entrances to those buildings or dwellings and the grounds enclosing them.

(Ord. 1612 § 1 (Exh. A), 2021)

9.12.020 Disorderly conduct.

A person is guilty of disorderly conduct if the person:

- A. Uses abusive language and thereby intentionally creates a risk of assault; or
- B. Intentionally disrupts any lawful assembly or meeting of persons without the lawful authority; or

- C. Intentionally obstructs vehicular or pedestrian traffic without lawful authority; or
- D. Is fighting another person or persons in a public place or in the public view.

(Ord. 1612 § 1 (Exh. A), 2021)

9.12.030 Penalty – Misdemeanor.

Disorderly conduct is a misdemeanor and may result in a sentence of up to ninety days in jail and fines up to one thousand dollars.

(Ord. 1612 § 1 (Exh. A), 2021)

Chapter 9.16 PUBLIC INDECENCY

Sections:

- 9.16.010 Definition.**
- 9.16.020 Urinating and/or defecating in public.**
- 9.16.030 Penalty.**

9.16.010 Definition.

“Public place,” for purposes of this chapter, shall mean an area generally visible to public view, and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which serve food or drink to provide entertainment, and the doorways and entrances to those buildings or dwellings and the grounds enclosing them.

(Ord. 1610 § 2 (Exh. A), 2021)

9.16.020 Urinating and/or defecating in public.

It is unlawful for any person to intentionally urinate or defecate in a public place, other than in a toilet, urinal, washroom, toilet room or portable toilet, where such act could be observed by any member of the public.

(Ord. 1610 § 2 (Exh. A), 2021)

9.16.030 Penalty.

It shall be a civil infraction for any person to violate the provisions of this chapter. Any person who violates any provision of this chapter shall be assessed a penalty and default amount not to exceed two hundred fifty dollars, not including statutory assessments; provided, that the penalty and default amount for a second violation within any twelve-month period of time shall not exceed five hundred dollars. Any person who violates this chapter and has been found to have committed two prior violations of this chapter shall be guilty of a misdemeanor.

(Ord. 1610 § 2 (Exh. A), 2021)

Chapter 9.20

THEFT

Sections:

- 9.20.010 Intent.**
- 9.20.020 Definitions.**
- 9.20.030 Definition – Defense.**
- 9.20.040 Offense.**
- 9.20.050 Knowledge.**
- 9.20.060 Complicity.**
- 9.20.070 Violation – Penalty.**

9.20.010 Intent.

A person acts with intent or intentionally when he acts with the objective or purpose to accomplish a result which constitutes a violation of this chapter.

(Ord. 731 § 1, 1978)

9.20.020 Definitions.

The following definitions are applicable unless the context otherwise requires:

- A. “Appropriate lost or misdelivered property or services” means obtaining or exerting control over the property or services of another which the actor knows to have been lost or mislaid, or to have been delivered under a mistake as to identity of the recipient or as to the nature or amount of the property.
- B. “By color or aid of deception” means that the deception operated to bring about the obtaining of the property or services; it is not necessary that deception be the sole means of obtaining the property or services.

- C. "Credit card" means any instrument or device, whether incomplete, revoked, or expired, whether known as a credit card, credit plate, charge plate, courtesy card, or by any other name, issued with or without fee for the use of the cardholder in obtaining money, goods, services, or anything else of value, including satisfaction of a debt or the payment of a check drawn by a cardholder, either on credit or in consideration of an undertaking or guarantee by the issuer.
- D. "Deception" occurs when an actor knowingly:
1. Creates or confirms another's false impression which the actor knows to be false; or
 2. Fails to correct another's impression which the actor previously has created or confirmed; or
 3. Prevents another from acquiring information material to the disposition of the property involved; or
 4. Transfers or encumbers property without disclosing a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether that impediment is or is not valid, or is or is not a matter of official records; or
 5. Promises performance which the actor does not intend to perform or knows will not be performed.
- E. "Deprive" means to make unauthorized use of an unauthorized copy of records, information, data, trade secrets, or computer programs; provided, that the aforementioned are of a private proprietary nature.
- F. "Obtain control over" means:
1. In relation to property, to bring about a transfer or purported transfer to the obtainer or another of a legally recognized interest in the property; or
 2. In relation to labor or service, to secure performance thereof for the benefits of the obtainer or another.
- G. "Wrongfully obtains" or "exerts unauthorized control," means:
1. To take the property or services of another; or
 2. Having any property or services in one's possession, custody or control as bailee, factor, pledgee, servant, attorney, agent, employee, trustee, executor, administration, guardian, or officer of any person, estate, association, or corporation, or as a public officer, or person authorized by agreement or competent authority to take or hold such possession, custody, or control, to secrete, withhold, or appropriate the same to his own use or to the use of any person other than the true owner or person entitled thereto.
- H. "Owner" means a person, other than the actor, who has possession of or any other interest in the property or services involved, and without whose consent the actor has no authority to exert control over the property or services.
- I. "Receive" includes, but is not limited to, acquiring title, possession, control, or a security interest, or any other interest in the property.

- J. "Services" includes, but is not limited to, labor, professional services, transportation services, electronic computer services, the supplying of hotel accommodations, restaurant services, entertainment, the use of equipment for use, and the use supplying of commodities of a public utility nature such as gas, electricity, steam, and water.
- K. Value:
1. "Value" means the market value of the property or services at the time and in the approximate area of the criminal act.
 2. Whether or not they have been issued or delivered, written instruments, except those having a readily ascertained market value, shall be evaluated as follows:
 - a. The value of an instrument constituting an evidence of debt, such as a check, draft, or promissory note, shall be deemed the amount due or collectible thereon or thereby, that figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied.
 - b. The value of a ticket or equivalent instrument which evidences a right to receive transportation, entertainment, or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon, the value shall be deemed the price of the ticket or equivalent instrument which the issuer charged the general public.
 - c. The value of any other instrument that creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.
 3. Property or services having value that cannot be ascertained pursuant to the standards set forth above shall be deemed to be of a value not exceeding two hundred fifty dollars.

(Ord. 731 § 4, 1978)

9.20.030 Definition – Defense.

- A. "Theft" means:
1. To wrongfully obtain or exert unauthorized control over the property or services of another or the value thereof, with intent to deprive him of such property or services; or
 2. By color or aid of deception to obtain control over the property or services of another or the value thereof, with intent to deprive him of such property or services; or
 3. To appropriate lost or misdelivered property or services of another, or the value thereof, with intent to deprive him of such property or services.

B. In any prosecution for theft, it is a sufficient defense that the property or service was appropriated openly and avowedly under a claim of title preferred in good faith, even though the claim be untenable.

(Ord. 731 § 5, 1978)

9.20.040 Offense.

A person is guilty of theft if he commits theft of property or services which does not exceed two hundred fifty dollars in value or which does not amount to a felony theft.

(Ord. 731 § 6, 1978)

9.20.050 Knowledge.

A person knows or acts knowingly or with knowledge when:

- A. He is aware of a fact, facts, or circumstances or result described by this chapter; or
- B. He has information which would lead a reasonable man in the same situation to believe that facts exist which facts are described in this chapter.

(Ord. 731 § 2, 1978)

9.20.060 Complicity.

- A. A person is guilty of violation of this chapter if the acts which constitute the violation are committed by the conduct of another person for which said person is legally accountable.
- B. A person is legally accountable for the conduct of another person when:
 - 1. Acting with the kind of culpability that is sufficient for the commission of the offense described in this chapter, he causes an innocent or irresponsible person to engage in such conduct; or
 - 2. He is an accomplice of such other person in the commission of the violation of this chapter.
- C. A person is an accomplice of another person in the violation of this chapter if, with knowledge that it will promote or facilitate the commission of the violation of this chapter, he:
 - 1. Solicits, commands, encourages, or requests such other person to commit it; or
 - 2. Aids or agrees to aid such other person in planning or committing it.

D. Unless otherwise provided, a person is not an accomplice in the violation of this chapter committed by another person if:

1. He is a victim of the violation; or
2. He terminates the complicity prior to the commission of the violation of this chapter, and either gives timely warning to the law enforcement authorities or otherwise makes a good faith effort to prevent the commission of the violation of this chapter.

E. A person legally accountable for the conduct of another person may be convicted on proof of the commission of the violation of this chapter and of his complicity therein, though the person claimed to have committed the violation of this chapter has not been prosecuted or convicted or has been convicted of a violation of a different ordinance or has an immunity to prosecution or conviction or has been acquitted.

(Ord. 731 § 3, 1978)

9.20.070 Violation – Penalty.

Any person found guilty of theft as defined in this chapter shall be fined in an amount not to exceed five hundred dollars.

(Ord. 731 § 7, 1978)

Chapter 9.24 TRESPASS AND VEHICLE PROWLING

Sections:

- 9.24.010 Intent.**
- 9.24.020 Definitions.**
- 9.24.030 Trespass – Designated.**
- 9.24.040 Trespass – Defenses.**
- 9.24.050 Vehicle prowling – Defined.**
- 9.24.060 Knowledge.**
- 9.24.070 Complicity.**
- 9.24.080 Violation – Penalty.**

9.24.010 Intent.

A person acts with intent or intentionally when he acts with the objective or purpose to accomplish a result which constitutes a violation of this chapter.

(Ord. 738 § 1, 1978)

9.24.020 Definitions.

A. *Enter.* The word "enter," when constituting an element or part of a crime, includes the entrance of the person, or the insertion of any part of his body, or any instrument or weapon held in his hand and used or intended to be used to threaten or intimidate a person or to detach or remove property.

B. *Enters or remains unlawfully.* A person "enters or remains unlawfully" in or upon premises when he is not then licensed, invited, or otherwise privileged to so enter or remain. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of a building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person, or unless notice is given by posting in a conspicuous manner.

D. "Premises" means and includes any building, dwelling, or any real property.

(Ord. 738 § 4, 1978)

9.24.030 Trespass – Designated.

A person is guilty of trespass if he knowingly enters or remains unlawfully in or upon premises of another.

(Ord. 738 § 5, 1978)

9.24.040 Trespass – Defenses.

In any prosecution under this chapter it is a defense that:

A. A building involved was abandoned; or

B. The premises were at the time open to members of the public and the actor complied with all lawful conditions imposed on access to or remaining in the premises; or

C. The actor reasonably believed that the owner of the premises, or other person empowered to license access thereto, would have licensed him to enter or remain.

(Ord. 738 § 6, 1978)

9.24.050 Vehicle prowling – Defined.

A person is guilty of vehicle prowling, if, with intent to commit a crime against a person or property therein, he enters or remains unlawfully in a vehicle.

(Ord. 738 § 7, 1978)

9.24.060 Knowledge.

A person knows or acts knowingly or with knowledge when:

- A. He is aware of a fact, facts, or circumstances or result described by this chapter; or
- B. He has information which would lead a reasonable man in the same situation to believe that facts exist which facts are described by this chapter.

(Ord. 738 § 2, 1978)

9.24.070 Complicity.

A. A person is guilty of violation of this chapter if the acts which constitute the violation are committed by the conduct of another person for which the person is legally accountable.

B. A person is legally accountable for the conduct of another person when:

- 1. Acting with the kind of culpability that is sufficient for the commission of the offense described in this chapter, he causes an innocent or irresponsible person to engage in such conduct; or
- 2. He is an accomplice of such other person in the commission of the violation of this chapter.

C. A person is an accomplice of another person in the violation of this chapter if, with knowledge that it will promote or facilitate the commission of the violation of this chapter, he:

- 1. Solicits, commands, encourages, or requests such other person to commit it; and
- 2. Aids or agrees to aid such other person in planning or committing it.

D. Unless otherwise provided a person is not an accomplice in the violation of this chapter committed by another person if:

1. He is a victim of the violation; or
2. He terminates the complicity prior to the commission of the violation of this chapter, and either gives timely warning to the law enforcement authorities or otherwise makes a good faith effort to prevent the commission of the violation of this chapter.

E. A person legally accountable for the conduct of a another person may be convicted on proof of the commission of the violation of this chapter and of his complicity therein, though the person claimed to have committed the violation of this chapter has not been prosecuted or convicted or has been convicted of a violation of a different ordinance or has an immunity to prosecution or conviction or has been acquitted.

(Ord. 738 § 3, 1978)

9.24.080 Violation – Penalty.

Any person found guilty of trespass or vehicle prowling as defined in this chapter shall be fined in an amount not to exceed five hundred dollars.

(Ord. 738 § 8, 1978)

Chapter 9.28 MINORS

Sections:

- 9.28.010 Definitions.**
- 9.28.020 Consumption of liquor by minors.**
- 9.28.030 Sale to minors – Prohibited.**
- 9.28.040 Violation – Penalty.**

9.28.010 Definitions.

The terms “liquor” or “intoxicating liquor” mean alcohol, spirits, wine and beer, and all fermented, spirituous, vinous, or malt liquor, or combinations thereof, and mixed liquor, a part of which is fermented, spirituous, vinous or malt liquor, or otherwise intoxicating; and every liquor or solid or semisolid or other substance, patented or not, containing alcohol, spirits, wine or beer, and all drinks or drinkable liquids and all preparations or mixtures

capable of human consumption, and any liquid, semisolid, solid or other substance, which contain more than one percent of alcohol by weight, shall be conclusively deemed to be intoxicating.

(Ord. 484 § 1, 1952)

9.28.020 Consumption of liquor by minors.

It is unlawful for any person under the age of twenty-one years to acquire in any manner, consume, or have in his possession any intoxicating liquor; provided, that the foregoing shall not apply in the case of liquor given or permitted to be given to such person under the age of twenty-one years by his parents or guardian for medicinal purposes pursuant to the written prescription of his physician or dentist, or administered to him by his physician or dentist for medicinal purposes.

(Ord. 484 § 2, 1952)

9.28.030 Sale to minors – Prohibited.

Except as provided in Section 9.36.020, it is unlawful for any person to sell, give or otherwise supply intoxicating liquor to any person under the age of twenty-one years, or to any person apparently under the influence of liquor, or to any interdicted person (habitual drunkard), in the city; or to permit any such person to consume intoxicating liquor on his premises or on any premises under his control in the city.

(Ord. 484 § 3, 1952)

9.28.040 Violation – Penalty.

Any person violating any of the provisions of this chapter shall be guilty of a misdemeanor and upon conviction thereof shall be subject to a fine of not less than ten dollars nor more than two hundred dollars or to imprisonment in the city jail for not more than sixty days, or by both such fine and imprisonment.

(Ord. 484 § 4, 1952)

Chapter 9.30 CURFEW

Sections:

- 9.30.010 Purpose.**
- 9.30.020 Definitions.**

- 9.30.030 General prohibition.**
- 9.30.040 Exemptions.**
- 9.30.050 Authority to enforce.**
- 9.30.060 Violation – Penalty.**

9.30.010 Purpose.

- A. The city council of the city has determined that it is generally contrary to the well-being of juveniles to be outside their residences in the late night and early morning hours unsupervised and with no specific purpose.
- B. In order to protect those juveniles who are not subject to adequate parental control from harm to themselves or others or the property of others and to foster better parental responsibility among the parents and guardians of juveniles found with the city, some regulation of parental control of juvenile children is appropriate.
- C. Control of parents and guardians of juveniles who are in danger of harm to themselves and others based on certain proscribed conduct is to be accomplished to achieve better protection of the community and the juveniles.
- D. The city council has received information from the police department that juveniles who are not adequately supervised by their parents and/or guardians have become engaged in criminal activity at certain times and within certain areas of the city. It is the intent of this chapter to impose control upon the parents and/or guardians of juveniles who are present at certain times and certain places within the city to protect those juveniles and the community.

(Ord. 1022 § 1, 1995)

9.30.020 Definitions.

For the purpose of this chapter, the following words shall have the following meanings:

“Allow” includes those situations where the parent has failed to monitor or account for the child’s location between the hours of ten p.m. to five a.m. on school nights and between twelve a.m. and five a.m. other nights.

“Child” or “juvenile” means any unemancipated person, male or female, under the age of eighteen years.

“Parent” means the mother, father or both (both being referred to in singular as “parent”), guardian or other adult person having the legal care, custody or control of a child.

“Returning home” means traveling, walking, biking or otherwise moving from the point of departure to a child’s home or the residence of the person having the care, custody or control of said child for that evening. Said movement shall be directly from the point of departure to the destination to be accomplished within a reasonable period of time.

“School nights” means any night or early morning hours immediately preceding a regular school day as scheduled by the Cle Elum-Roslyn School District.

(Ord. 1022 § 1, 1995)

9.30.030 General prohibition.

No parent or custodian shall allow or permit any child he or she is responsible for to remain in or upon the public streets, roadways, alleys, parks, playgrounds or cemeteries, or in or upon private property, other than the child’s usual place of residence, which is unoccupied, vacant, abandoned, or is not otherwise supervised by a reasonable adult between the hours of ten p.m. to five a.m. on school nights and between eleven p.m. and five a.m. on nonschool nights, except as otherwise permitted under the provisions of this chapter.

(Ord. 1046 § 1, 1996; Ord. 1022 § 1, 1995)

9.30.040 Exemptions.

A parent or guardian of the following juveniles shall be exempt from the enforcement provision of this chapter:

- A. Juvenile accompanied by his or her parent or guardian;
- B. A juvenile engaged in lawful employment;
- C. A juvenile on an errand or on legitimate business pursuant to instructions for his or her parent or guardian;
- D. A juvenile involved in an emergency concerning the person or property of himself, herself or another;
- E. A juvenile returning home from school or church sponsored activities or from other activities supervised by an adult. The term “returning home” means immediately and directly after participation in such activity, without a broken chain of sequences and time between the end of such event and the time such juvenile returns to his or her residence or such other place as shall be authorized by his or her parent.

(Ord. 1022 § 1, 1995)

9.30.050 Authority to enforce.

Law enforcement officers of the city shall have authority to reasonably stop and momentarily detain a juvenile to obtain his or her name, age and address, as well as the name and address of his or her parent or guardian whenever said law enforcement officer shall reasonably suspect that the parent of such juvenile is in violation of this chapter. Upon determination that the parent or guardian of such juvenile is in fact in violation of this chapter, the law enforcement officer shall direct or deliver the juvenile to the residence of his or her parent or guardian.

(Ord. 1022 § 1, 1995)

9.30.060 Violation – Penalty.

A. Upon a parent or guardian's first violation per child, notice thereof shall be given to the parent or guardian and a record of the violation shall be recorded with the police department. Upon the second violation involving the same child, a notice of infraction shall be served on the parent or guardian requiring the parent or guardian to appear for a hearing to be held in the municipal court, at which time the parent shall appear and answer to the charge of violating this chapter. Upon determination by the court that a second violation has occurred involving the same child, a fifty dollar penalty shall be imposed upon the parent with all required surcharges and assessments. Upon a third violation involving the same child, the parent or guardian shall be subject to a one hundred dollar penalty together with all required surcharges and assessments. Upon a fourth or subsequent violation involving the same child, the parent or guardian shall be subject to a two hundred fifty dollar penalty together with all required surcharges and assessments.

Enrollment in, and successful completion of a parenting improvement course, and or family counseling course approved by the municipal court may be imposed by the court in lieu of one penalty for violation per child. The costs of said course shall be the responsibility of the parent or guardian electing for this alternative. A certificate of successful completion of said course shall be provided to the court on completion of said course and the time limit for said course shall be set by the court upon recommendation of the counselor or instructor for the course.

B. The police department shall maintain a record of all juveniles found in those locations and at those times prohibited by this chapter. Such a record shall be conclusive proof that a juvenile has previously been the subject of inquiry pursuant to this chapter.

The police department shall maintain a record of all parents or custodians contacted and determined to have violated this chapter. Such list shall be made available to any juvenile court or child welfare or child-protective agency upon request.

C. Any parent or guardian unable to control the whereabouts and activities of a juvenile in their care, custody or control shall contact the police department and report such juvenile as possibly appearing in locations and at times that violate this chapter. In such case, the parent or guardian shall not be responsible for actions of the juvenile for the purposes of this chapter, but the police department may consider reporting such juvenile to the Department of Social and Health Services as a dependent or runaway child.

D. At the time the police department issues a warning or notice of infraction to any parent or guardian for violation of this chapter, the police department may consider reporting the circumstances of such juvenile as needing the intervention of child protective services.

(Ord. 1022 § 1, 1995)

Chapter 9.32

DANGEROUS WEAPONS

Sections:

- 9.32.010 Unauthorized use of firearms – Prohibited.**
- 9.32.020 Violation – Penalty.**

9.32.010 Unauthorized use of firearms – Prohibited.

Any person who draws, displays or exhibits in a rude, angry or vicious manner, any deadly or dangerous weapon in the presence of two or more persons, or who draws any deadly or dangerous weapon upon the person of another within the limits of the city, or who wilfully discharges or shoots off any pistol, revolver or gun within the limits, shall be deemed guilty of a misdemeanor.

(Ord. 23 § 3, 1902)

9.32.020 Violation – Penalty.

Anyone convicted of violating any of the provisions of this chapter shall be fined in any sum not exceeding three hundred dollars or imprisoned for any period of time not to exceed ninety days, or both fined and imprisoned as provided in this chapter.

(Ord. 436 § 1, 1949; Ord. 23 § 4, 1902)

Chapter 9.36

DISCHARGE OF GUNS

Sections:

- 9.36.010 Gun defined.**
- 9.36.020 Prohibited.**
- 9.36.030 Violation – Penalty.**

9.36.010 Gun defined.

"Gun," as used in this chapter, means any rifle, pistol, firearm, airgun, air pistol, B.B. gun; or any other rifle, pistol or weapon forcibly propelling a hard or metallic missile of any type of size.

(Ord. 448 § 1, 1949)

9.36.020 Prohibited.

The discharge of any gun within the city, and the discharge of any gun without the limits of the city in such manner that the missile from the gun falls within the limits of the city, is declared to be unlawful.

(Ord. 448 § 2, 1949)

9.36.030 Violation – Penalty.

Any person violating any of the provisions of this chapter shall be deemed guilty of a misdemeanor and on conviction thereof shall be fined in any sum not exceeding one hundred dollars or imprisoned not to exceed thirty days, or both fined and imprisoned as provided in this section.

(Ord. 448 § 3, 1949)

Chapter 9.40

CARRYING OF FIREARMS – EXEMPTION FROM STATE PROHIBITION

Sections:

9.40.010 Exemption from state prohibition – Details.

9.40.010 Exemption from state prohibition – Details.

A. The Washington State Legislature in its First Extraordinary Session enacted Chapter 7, Section 405 (4) which establishes new restrictions with respect to the carrying of firearms. The city council has reviewed the prohibitions of Chapter 7, Section 405 (4) First Extraordinary Session and chooses to exempt itself from the prohibition of the subsection.

B. Pursuant to the authority granted in Chapter 7, Section 405 (6) the city is and shall be exempt from the prohibitions set forth in Chapter 7, Section 405 (4) Laws of the State of Washington 1994 First Extraordinary Session which shall be codified as RCW 9.41.050(4).

(Ord. 1009, 1994)

Chapter 9.44

VIOLATION OF DOMESTIC VIOLENCE ORDERS

Sections:

9.44.010 Violation of domestic violence orders.

9.44.010 Violation of domestic violence orders.

- A. Every person who shall violate a lawful order of any court issued pursuant to RCW Chapter 10.99 or RCW Chapter 26.50 pertaining to domestic violence shall be guilty of a misdemeanor.
- B. Any person convicted of violating any provisions of this chapter shall be fined in an amount not to exceed one thousand dollars, or may be imprisoned for a term not to exceed ninety days, or both.

(Ord. 1092, 2000)

Chapter 9.48

VIOLATION OF NO-HARASSMENT ORDERS

Sections:

9.48.010 Violation of no-harassment orders.

9.48.010 Violation of no-harassment orders.

- A. Every person who shall violate a lawful order of any court issued pursuant to RCW Section 9A.46.040 pertaining to no-harassment orders shall be guilty of a misdemeanor.
- B. Any person convicted of violating any provisions of this chapter shall be fined in an amount not to exceed one thousand dollars, or may be imprisoned for a term not to exceed ninety days, or both.

(Ord. 1093, 2000)

Chapter 9.52

VIOLATION OF CIVIL ANTI-HARASSMENT PROTECTION ORDERS

Sections:

9.52.010 Violation of civil anti-harassment protection orders.

9.52.010 Violation of civil anti-harassment protection orders.

A. Every person who shall violate a lawful order of any court issued pursuant to RCW Section 10.14.080 pertaining to civil anti-harassment protection orders shall be guilty of a misdemeanor.

B. Any person convicted of violating any provisions of this chapter shall be fined in an amount not to exceed one thousand dollars, or may be imprisoned for a term not to exceed ninety days, or both.

(Ord. 1094, 2000)

Chapter 9.56

VIOLATION OF NO-CONTACT ORDERS

Sections:

9.56.010 Violation of no-contact orders.**9.56.010 Violation of no-contact orders.**

A. Every person who shall violate a lawful order of any court issued pursuant to RCW Section 10.99.040 pertaining to no-contact orders shall be guilty of a misdemeanor.

B. Any person convicted of violating any provisions of this chapter shall be fined in an amount not to exceed one thousand dollars, or may be imprisoned for a term not to exceed ninety days, or both.

(Ord. 1095, 2000)

Chapter 9.60

INTERFERENCE WITH REPORTING DOMESTIC VIOLENCE

Sections:

9.60.010 Interference with reporting domestic violence.**9.60.010 Interference with reporting domestic violence.**

A. Every person who interferes with the reporting of domestic violence by: (a) committing a crime of domestic violence, as defined in RCW Section 10.99.020; and (b) preventing or attempting to prevent the victim of, or a

witness to, that domestic violence crime from calling a 911 emergency communication system, obtaining medical assistance or making a report to any law enforcement official, shall be guilty of a misdemeanor.

B. Commission of the crime of domestic violence pursuant to subsection (A) of this section is a necessary element of the crime of interfering with the reporting of domestic violence.

C. Any person convicted of violating the provisions of this chapter shall be fined in an amount not to exceed one thousand dollars, or may be imprisoned for a term not to exceed ninety days, or both.

(Ord. 1096, 2000)

Chapter 9.64

POSSESSION OF MARIJUANA

Sections:

9.64.010 Possession of marijuana.

9.64.010 Possession of marijuana.

Chapter 69.50 RCW is hereby adopted by reference as currently enacted or as hereafter amended or recodified.

(Ord. 1649 § 2, 2023)

Chapter 9.68

POSSESSION OF DRUG PARAPHERNALIA

Sections:

9.68.010 Possession of drug paraphernalia.

9.68.010 Possession of drug paraphernalia.

Chapter 69.50 RCW is hereby adopted by reference as currently enacted or as hereafter amended or recodified.

(Ord. 1649 § 4, 2023)

Chapter 9.72

CARRYING PISTOL WITHOUT PERMIT

Sections:

9.72.010 Carrying pistol without permit.

9.72.010 Carrying pistol without permit.

- A. 1. Except in the person's place of abode or fixed place of business, a person shall not carry a pistol concealed on his or her person without a license to carry a concealed pistol.
2. Every licensee shall have his or her concealed pistol license in his or her immediate possession at all times that he or she is required by this section to have a concealed pistol license and shall display the same upon demand to any police officer or to any other person when and if required by law to do so. Any violation of this subsection (A)(2) shall be a class 1 civil infraction under RCW Chapter 7.80 and shall be punished accordingly pursuant to RCW Chapter 7.90 and the infraction rules for courts of limited jurisdiction.
- B. A person shall not carry or place a loaded pistol in any vehicle unless the person has a license to carry a concealed pistol and:
1. The pistol is on the licensee's person;
 2. The licensee is within the vehicle at all times that the pistol is there; or
 3. The licensee is away from the vehicle and the pistol is locked within the vehicle and concealed from view from outside the vehicle.
- C. A person at least eighteen years of age who is in possession of an unloaded pistol shall not leave the unloaded pistol in a vehicle unless the unloaded pistol is locked within the vehicle and concealed from view from outside the vehicle.
- D. Violation of any of the prohibitions of subsections (B) and (C) of this chapter is a misdemeanor.
- E. Any person convicted of violating provisions of subsections (B) and (C) of this chapter shall be fined in an amount not to exceed one thousand dollars, or may be imprisoned for a term not to exceed ninety days, or both.
- F. Nothing in this section permits the possession of firearms illegal to possess under state or federal law.

(Ord. 1099, 2000)

Chapter 9.80

RECKLESS ENDANGERMENT

Sections:

9.80.010 Reckless endangerment.

9.80.010 Reckless endangerment.

- A. A person is guilty of reckless endangerment when he or she recklessly engages in conduct not amounting to drive-by shooting but that creates a substantial risk of death or serious physical injury to another person.
- B. Any person convicted of reckless endangerment under the provisions of this chapter shall be guilty of a misdemeanor.
- C. Any person convicted of reckless endangerment under the provisions of this chapter shall be fined in an amount not to exceed one thousand dollars, or may be imprisoned for a term not to exceed ninety days, or both.

(Ord. 1100, 2000)

Chapter 9.84

MINORS IN POSSESSION OF LIQUOR

Sections:

9.84.010 Minors in possession of liquor.

9.84.010 Minors in possession of liquor.

- A. It is unlawful for any person under the age of twenty-one years to possess, consume, or otherwise acquire any liquor.
- B. Any person convicted of being a person under the age of twenty-one in possession of liquor under the provisions of this chapter shall be guilty of a misdemeanor.
- C. Any person convicted of being a person under the age of twenty-one in possession of liquor under the provisions of this chapter shall be fined in an amount not to exceed one thousand dollars, or may be imprisoned for a term not to exceed ninety days, or both.

(Ord. 1101, 2000)

The Cle Elum Municipal Code is current through Ordinance 1667, passed March 12, 2024.

Disclaimer: The city clerk's office has the official version of the Cle Elum Municipal Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited here.

City Website: cityofcleelum.com

City Telephone: (509) 674-2262

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Title 7 - CRIMINAL CODE

Chapters:

CHAPTER 7.00 - PRELIMINARY ARTICLE

7.00.010 - Preliminary article.

- A. This title shall be known and may be cited as the "Ellensburg criminal code."
- B. As used in this title, "RCW" shall mean the Revised Code of Washington.
- C. As used in this title, "ECC" shall mean the Ellensburg City Code.
- D. If any chapter, section, subsection, sentence, or provision of this title or its application to any person or circumstance is held invalid, the remainder of this title, or the application of the chapter, section, subsection, sentence, or provision to other persons or circumstances is not affected, and to this end, the chapters, sections, subsections, sentences and provisions of this title are declared to be severable.
- E. By adopting Washington State statutes by reference in this title, the city intends to assume jurisdiction over and become the jurisdictional authority for the enforcement and prosecution of misdemeanor and gross misdemeanor crimes committed within the city of Ellensburg. Whenever the word "state" shall appear in any statute adopted by reference in this title, the word "city" shall be substituted therefor; provided, however, the term "city" shall not be substituted for the term "state" in those circumstances that set forth administrative or licensing duties of the state and its subdivisions.
- F. Whenever a state statute specifically adopted in this title refers to another state statute not specifically adopted in this title, the statute referred to shall be given the force and effect necessary to enforce the statute specifically adopted in this title.
- G. Any state statute that is adopted by reference in this title and which is later amended, repealed, or recodified shall remain in full force and effect until the effective date of the legislative act that repeals, recodifies, or amends the state statute. The amendment or recodification of any state statute adopted by reference in this title shall retain its full force and effect as part of this title subsequent to the effective date of its amendment or recodification.
- H. When issuing a citation, information, or complaint for the violation of any section of the RCW adopted by this title, it shall be sufficient for a commissioned officer or prosecutor to cite and refer to the RCW section number.
- I. Title, chapter, section and subsection captions are for organizational purposes only and shall not be construed as part of this title.
- J. The provisions of this title do not apply to or govern the construction of or punishment of any offense committed prior to the effective date of the ordinance codified in this title or to the construction and application of any defense to a prosecution for such offense. Such an offense shall be construed and punished according to the provisions of the law existing at the time of the commission of the offense in the same manner as if this title had not been enacted.
- K. As used in this title, words used in the present tense include the future tense; the masculine includes the feminine and neutral genders; and the singular includes the plural and vice versa.
- L. The provisions of this title are intended to create a duty to the public in general and not to create any duty to individuals or to any particular class of individuals. These provisions are not for the protection of any person or class of persons.
- M. Unless otherwise provided in this title, violation of any provision of this title shall be punishable by:
 - 1. *Gross misdemeanor*. Every person convicted of a gross misdemeanor shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than 364 days, or by a fine in an amount fixed by the court of not more than \$5,000.00, or by both such imprisonment and fine.
 - 2. *Misdemeanor*. Every person convicted of a misdemeanor shall be punished by imprisonment in jail for a maximum term fixed by the court of not more than 90 days, or by a fine in an amount fixed by the court of not more than \$1,000.00, or by both such imprisonment and fine.

(Ord. No. 4922, § 1, 8-7-2023; Ord. 4438 § 2, 2006)

CHAPTER 7.02 - ADOPTION OF RCW SECTIONS NOT SPECIFICALLY SET FORTH

7.02.010 - Adoption of RCW sections not specifically set forth.

- A. With the exception of the RCW section set forth in subsection (C) of this section, and notwithstanding the RCW sections that are specifically adopted by reference in this title, all RCW sections that constitute misdemeanors and gross misdemeanors and the RCW sections necessary for the investigation, arrest, prosecution, sentencing, confinement, and enforcement of misdemeanors and gross misdemeanors are hereby adopted by reference as currently enacted or as hereafter amended or recodified from time to time, and shall be given the same force and effect as if set forth herein in full.
- B. All class C felony crimes set forth in the RCW are hereby adopted by reference for the purposes of charging a gross misdemeanor for a violation of any of the crimes set forth in chapter 9A.28 RCW. The adoption of class C felonies shall be subject to the provisions of subsection (A) of this section and of chapter 7.00 ECC.
- C. The following RCW section is not adopted by the city of Ellensburg:

RCW	
9A.16.110	Defending against violent crime—Reimbursement

(Ord. 4438 § 2, 2006)

CHAPTER 7.04 - ADOPTION OF SPECIFIC RCW SECTIONS

7.04.010 - Chapter 2.48 RCW, entitled "State Bar Act"—Adoption by reference.

The following RCW section, as currently enacted or as hereafter amended or recodified from time to time, is hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
2.48.180	Definitions—Unlawful practice a crime—Cause for discipline—Unprofessional conduct—Defense—Injunction—Remedies—Costs—Attorneys' fees—Time limit for action.

(Ord. 4438 § 2, 2006)

7.04.020 - Chapter 7.21 RCW, entitled "Contempt of Court"—Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
7.21.010	Definitions.
7.21.020	Sanctions—Who may impose.
7.21.030	Remedial sanctions—Payment for losses.

7.21.040	Punitive sanctions—Fines.
7.21.050	Sanctions—Summary imposition—Procedure.
7.21.070	Appellate review.

(Ord. 4438 § 2, 2006)

7.04.030 - Chapter 7.80 RCW, entitled "Civil Infractions"—Adoption by reference.

For purposes of offenses under this title only, the following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
7.80.120	Monetary penalties—Restitution.
7.80.160	Notice, failure to sign, nonappearance—Failure to satisfy penalty.

(Ord. 4463 § 1, 2007; Ord. 4438 § 2, 2006)

7.04.035 - Chapter 7.105 RCW, entitled "Civil Protection Orders"—Adoption by reference.

For purposes of offenses under this title only, the following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
VIOLATIONS AND ENFORCEMENT	
7.105.450	Enforcement and penalties—Other than antiharassment protection orders and extreme risk protection orders.
7.105.455	Enforcement and penalties—Antiharassment protection orders.
7.105.460	Enforcement and penalties—Extreme risk protection orders—False petitions.
7.105.465	Enforcement and penalties—Knowledge or order.
7.105.470	Enforcement—Prosecutor assistance.

(Ord. No. 4922, § 2, 8-7-2023)

7.04.040 - RCW title 9, entitled "Crimes and Punishments"—Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
GENERAL PROVISIONS	
9.01.055	Citizen immunity if aiding officer, scope—When.
9.01.110	Omission, when not punishable.
9.01.130	Sending letter, when complete.
ABORTION	
9.02.050	Concealing birth.
ABANDONED REFRIGERATION EQUIPMENT	
9.03.010	Abandoning, discarding refrigeration equipment.
9.03.020	Permitting unused equipment to remain on premises.
9.03.040	Keeping or storing equipment for sale.
ADVERTISING, CRIMES RELATING TO	
9.04.010	False advertising.
9.04.090	Advertising fuel prices by service stations.
ANIMALS, CRIMES RELATING TO	
9.08.030	False certificate of registration of animals—False representation as to breed.
9.08.065	Definitions.
9.08.070	Pet animals—Taking, concealing, injuring, killing, etc.—Penalty.
BARRATRY	
9.12.010	Barratry.
9.12.020	Buying, demanding, or promising reward by district judge or deputy.
BRANDS AND MARKS, CRIMES RELATING TO	
9.16.005	Definitions.
9.16.010	Removing lawful brands.
9.16.020	Imitating lawful brand.

9.16.030	Counterfeit mark—Intellectual property.
9.16.035	Counterfeiting—Penalties.
9.16.041	Counterfeit items—Seizure and forfeiture.
9.16.050	When deemed affixed.
9.16.060	Fraudulent registration of trademark.
9.16.070	Form and similitude defined.
9.16.080	Petroleum products improperly labeled or graded—Penalty.
9.16.100	Use of the words "sterling silver," etc.
9.16.110	Use of the words "coin silver," etc.
9.16.120	Use of the word "sterling" on mounting.
9.16.130	Use of the words "coin silver" on mounting.
9.16.140	Unlawfully marking article made of gold.
9.16.150	"Marked, stamped or branded" defined.
BIDDING OFFENSES	
9.18.080	Offender a competent witness.
9.18.120	Suppression of competitive bidding.
9.18.130	Collusion to prevent competitive bidding—Penalty.
9.18.150	Agreements outside state.
CORPORATIONS, CRIMES RELATING TO	
9.24.010	Fraud in stock subscription.
9.24.040	Corporation doing business without license.
TELECOMMUNICATIONS CRIME	
9.26A.090	Telephone company credit cards—Prohibited acts.
9.26A.100	Definitions.
9.26A.110	Fraud in obtaining telecommunications service—Penalty.

9.26A.120	Fraud in operating coin-box telephone or other receptacle.
9.26A.130	Penalty for manufacture or sale of slugs to be used for coin.
9.26A.140	Unauthorized sale or procurement of telephone records—Penalties—Definitions.
INTERFERENCE WITH COURT	
9.27.015	Interference, obstruction of any court, building, or residence—Violations.
IDENTITY CRIMES	
9.35.005	Definitions.
9.35.030	Soliciting undesired mail.
FALSE REPRESENTATIONS	
9.38.010	False representation concerning credit.
9.38.015	False statement by deposit account applicant.
9.38.020	False representation concerning title.
FIRE, CRIMES RELATING TO	
9.40.040	Operating engine or boiler without spark arrester.
9.40.100	Tampering with fire alarm or fire fighting equipment—False alarm—Penalties.
FIREARMS AND DANGEROUS WEAPONS	
9.41.010	Terms defined.
9.41.040	Unlawful possession of firearms—Ownership, possession by certain persons—Penalties.
9.41.050	Carrying firearms.
9.41.060	Exceptions to restrictions on carrying firearms.
9.41.070	Concealed pistol license—Application—Fee—Renewal.
9.41.090	Dealer deliveries regulated—Hold on delivery.
9.41.098	Forfeiture of firearms—Disposition—Confiscation.
9.41.100	Dealer licensing and registration required.
9.41.110	Dealer's licenses, by whom granted, conditions, fees—Employees, fingerprinting and background checks—Wholesale sales excepted—Permits prohibited.

9.41.140	Alteration of identifying marks—Exceptions.
9.41.220	Unlawful firearms and parts contraband.
9.41.230	Aiming or discharging firearms, dangerous weapons.
9.41.240	Possession of pistol by person from 18 to 21.
9.41.250	Dangerous weapons—Penalty.
9.41.260	Dangerous exhibitions.
9.41.270	Weapons apparently capable of producing bodily harm—Unlawful carrying or handling—Penalty—Exceptions.
9.41.280	Possessing dangerous weapons on school facilities—Penalty—Exceptions.
9.41.290	State preemption.
9.41.300	Weapons prohibited in certain places—Local laws and ordinances—Exceptions—Penalty.
9.41.800	Surrender of weapons or licenses—Prohibition on future possession or licensing.
9.41.810	Penalty.
PETITION MISCONDUCT	
9.44.080	Misconduct in signing a petition.
FRAUDS AND SWINDLES	
9.45.060	Encumbered, leased, or rented personal property—Construction.
9.45.070	Mock auctions.
9.45.080	Fraudulent removal of property.
9.45.090	Knowingly receiving fraudulent conveyance.
9.45.100	Fraud in assignment for benefit of creditors.
9.45.270	Fraudulent filing of a vehicle report of sale.
GAMBLING—1973 ACT	
9.46.196	Cheating.
9.46.1962	Cheating in the second degree.
9.46.198	Working in gambling activity without license is violation—Penalty.

9.46.217	Gambling records—Penalty—Exceptions.
9.46.222	Professional gambling in the third degree.
9.46.225	Professional gambling—Penalties not applicable to authorized activities.
9.46.240	Gambling information, transmitting or receiving.
INHALING TOXIC FUMES	
9.47A.010	Definition.
9.47A.020	Unlawful inhalation—Exception.
9.47A.030	Possession of certain substances prohibited, when.
9.47A.040	Sale of certain substances prohibited, when.
9.47A.050	Penalty.
JURIES, CRIMES RELATING TO	
9.51.010	Misconduct of officer drawing jury.
9.51.020	Soliciting jury duty.
9.51.030	Misconduct of officer in charge of jury.
MALICIOUS MISCHIEF—INJURY TO PROPERTY	
9.61.230	Telephone harassment.
9.61.240	Telephone harassment—Permitting telephone to be used.
9.61.250	Telephone harassment—Offense, where deemed committed.
9.61.260	Cyberstalking. RECODED 9A.90.120 UPDATED 2022
MALICIOUS PROSECUTION—ABUSE OF PROCESS	
9.62.010	Malicious prosecution.
9.62.020	Instituting suit in name of another.
NUISANCE	
9.66.010	Public nuisance.
9.66.020	Unequal damage.

9.66.030	Maintaining or permitting nuisance.
9.66.040	Abatement of nuisance.
9.66.050	Deposit of unwholesome substance.
OBSCENITY AND PORNOGRAPHY	
9.68.015	Obscene literature, shows, etc.—Exemptions.
9.68.030	Indecent articles, etc.
9.68.050	"Erotic material"—Definitions.
9.68.060	"Erotic material"—Determination by court—Labeling—Penalties.
9.68.070	Prosecution for violation of RCW 9.68.060—Defense.
9.68.080	Unlawful acts.
9.68.100	Exceptions to RCW 9.68.050 through 9.68.120.
9.68.110	Motion picture operator or projectionist exempt, when.
9.68.130	"Sexually explicit material"—Defined—Unlawful display.
SEXUAL EXPLOITATION OF CHILDREN	
9.68A.011	Definitions.
9.68A.080	Reporting of depictions of minor engaged in sexually explicit conduct—Civil immunity.
9.68A.090	Communication with minor for immoral purposes—Penalties.
9.68A.110	Certain defenses barred, permitted.
9.68A.120	Seizure and forfeiture of property.
9.68A.150	Allowing minor on premises of live erotic performance—Definitions—Penalty.
DUTY OF WITNESSES	
9.69.100	Duty of witness of offense against child or any violent offense—Penalty.
PERJURY	
9.72.090	Committal of witness—Detention of documents.
PRIVACY, VIOLATING RIGHT OF	

9.73.010	Divulging telegram.
9.73.020	Opening sealed letter.
9.73.030	Intercepting, recording or divulging private communication—Consent required—Exceptions.
9.73.050	Admissibility of intercepted communication in evidence.
9.73.070	Persons and activities excepted from chapter.
9.73.080	Penalties.
9.73.090	Certain emergency response personnel exempted from RCW 9.73.030 through 9.73.080—Standards—Court authorizations—Admissibility.
9.73.100	Recordings available to defense counsel.
9.73.110	Intercepting, recording, or disclosing private communications—Not unlawful for building owner—Conditions.
MISCELLANEOUS CRIMES	
9.91.010	Denial of civil rights—Terms defined.
9.91.020	Operating railroad, steamboat, vehicle, etc., while intoxicated.
9.91.025	TRANSIT Unlawful bus conduct.
9.91.060	Leaving children unattended in a parked automobile.
9.91.130	Disposal of trash in charity donation receptacle.
9.91.140	Food stamps. — UNLAWFUL SALE
9.91.142	Food stamps—Trafficking.
9.91.160	Personal protection spray devices.
9.91.170	Interfering with dog guide or service animal.
9.91.175	Interfering with search and rescue dog.

(Ord. 4463 § 2, 2007; Ord. 4438 § 2, 2006)

7.04.050 - RCW title 9A, entitled "Washington Criminal Code"—Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
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PRELIMINARY ARTICLE	
9A.04.020	Purposes—Principles of construction.
9A.04.030	State criminal jurisdiction.
9A.04.050	People capable of committing crimes—Capability of children.
9A.04.060	Common law to supplement statute.
9A.04.070	Who amenable to criminal statutes.
9A.04.080	Limitation of actions.
9A.04.090	Application of general provisions of the code.
9A.04.100	Proof beyond a reasonable doubt.
9A.04.110	Definitions.
PRINCIPLES OF LIABILITY	
9A.08.010	General requirements of culpability.
9A.08.020	Liability for conduct of another—Complicity.
9A.08.030	ENTITY Corporate and personal liability.
INSANITY	
9A.12.010	Insanity.
DEFENSES	
9A.16.010	Definitions.
9A.16.020	Use of force—When lawful.
9A.16.060	Duress.
9A.16.070	Entrapment.
9A.16.080	Action for being detained on mercantile establishment premises for investigation—"Reasonable grounds" as defense.
9A.16.090	Intoxication.
9A.16.100	Use of force on children—Policy—Actions presumed unreasonable.
ANTICIPATORY OFFENSES	

9A.28.020	Criminal attempt.
9A.28.030	Criminal solicitation.
9A.28.040	Criminal conspiracy.
ASSAULT—PHYSICAL HARM	
9A.36.041	Assault in the fourth degree.
9A.36.050	Reckless endangerment.
9A.36.070	Coercion.
9A.36.150	Interfering with the reporting of domestic violence.
9A.36.160	Failing to summon assistance.
9A.36.161	Failing to summon assistance—Penalty.
KIDNAPPING, UNLAWFUL IMPRISONMENT, AND CUSTODIAL INTERFERENCE	
9A.40.010	Definitions.
9A.40.070	Custodial interference in the second degree.
9A.40.080	Custodial interference—Assessment of costs—Defense—Consent defense, restricted.
CRIMINAL MISTREATMENT	
9A.42.010	Definitions.
9A.42.035	Criminal mistreatment in the third degree.
9A.42.037	Criminal mistreatment in the fourth degree.
9A.42.039	Arresting officer, notification by.
9A.42.040	Withdrawal of life support systems.
9A.42.045	Palliative care.
9A.42.050	Defense of financial inability.
9A.42.080	Abandonment of a dependent person in the third degree.
9A.42.090	Abandonment of a dependent person—Defense.
9A.42.110	Leaving a child in the care of a sex offender.

SEX OFFENSES	
9A.44.010	Definitions.
9A.44.096	Sexual misconduct with a minor in the second degree.
9A.44.170	Custodial sexual misconduct in the second degree.
9A.44.180	Custodial sexual misconduct—defense.
HARASSMENT	
9A.46.010	Legislative finding.
9A.46.020	Definition—Penalties.
9A.46.030	Place where committed.
9A.46.040	Court-ordered requirements upon person charged with crime—Violation.
9A.46.050	Arraignment—No contact order.
9A.46.060	Crimes included in harassment.
9A.46.070	Enforcement of orders restricting contact.
9A.46.080	Order restricting contact—Violation.
9A.46.090	Nonliability of peace officer.
9A.46.100	"Convicted," time when.
9A.46.110	Stalking.
ARSON, RECKLESS BURNING, AND MALICIOUS MISCHIEF	
9A.48.010	Definitions.
9A.48.050	Reckless burning in the second degree.
9A.48.060	Reckless burning—Defense.
9A.48.090	Malicious mischief in the third degree.
9A.48.100	Malicious mischief—"Physical damage" defined.
9A.48.110	Defacing a state monument.
LASERS	

9A.49.001	Findings.
9A.49.010	Definitions.
9A.49.030	Unlawful discharge of a laser in the second degree.
9A.49.040	Civil infraction, when.
9A.49.050	Exclusions.
INTERFERENCE WITH HEALTH CARE FACILITIES AND PROVIDERS	
9A.50.010	Definitions.
9A.50.020	Interference with health care facility.
9A.50.030	Penalty.
9A.50.060	Informational picketing.
BURGLARY AND TRESPASS	
9A.52.010	Definitions.
9A.52.050	Other crime in committing burglary punishable.
9A.52.060	Making or having burglar tools.
9A.52.070	Criminal trespass in the first degree.
9A.52.080	Criminal trespass in the second degree.
9A.52.090	Criminal trespass—Defenses.
9A.52.100	Vehicle prowling in the second degree.
9A.52.120 ✓ Good	Computer trespass in the second degree.
9A.52.130	Computer trespass—Commission of other crime.
THEFT AND ROBBERY	
9A.56.010	Definitions.
9A.56.020	Theft—Definition, defense.
9A.56.050	Theft in the third degree.
9A.56.060	Unlawful issuance of checks or drafts.

9A.56.096	Theft of rental, leased, or lease-purchased property. OR LOANED PROPERTY
9A.56.140	Possessing stolen property—Definition—Presumption.
9A.56.170	Possessing property in the third degree.
9A.56.180	Obscuring the identity of a machine.
9A.56.220	Theft of subscription television services.
9A.56.240	Forfeiture and disposal of device used to commit violation.
9A.56.260	Connection of channel converter.
9A.56.270	Shopping cart theft.
9A.56.330	Possession of another's identification.
FRAUD	
9A.60.010	Definitions.
9A.60.045	Criminal impersonation in the second degree.
9A.60.050	False certification.
9A.60.070	False academic credentials—Unlawful issuance or use—Definitions—Penalties.
DEFRAUDING A PUBLIC UTILITY	
9A.61.010	Definitions.
9A.61.020	Defrauding a public utility.
9A.61.050	Defrauding a public utility in the third degree.
9A.61.060	Restitution and costs.
PERJURY AND INTERFERENCE WITH OFFICIAL PROCEEDINGS	
9A.72.010	Definitions.
9A.72.040	False swearing.
9A.72.050	Perjury and false swearing—Inconsistent statements—Degree of crime.
9A.72.060	Perjury and false swearing—Retraction.
9A.72.070	Perjury and false swearing—Irregularities no defense.

9A.72.080	Statement of what one does not know to be true.
9A.72.085	Unsworn statements, certification. - STANDARDS FOR SUBSCRIBING TO AN UNSWORN STATEMENT. 2019
9A.72.140	Jury tampering.
9A.72.150	Tampering with physical evidence.
OBSTRUCTING GOVERNMENTAL OPERATION	
9A.76.010	Definitions.
9A.76.020	Obstructing a law enforcement officer.
9A.76.030	Refusing to summon aid for a peace officer.
9A.76.040	Resisting arrest.
9A.76.050	Rendering criminal assistance—Definition of term.
9A.76.060	Relative defined.
9A.76.070	Rendering criminal assistance in the first degree.
9A.76.080	Rendering criminal assistance in the second degree.
9A.76.090	Rendering criminal assistance in the third degree.
9A.76.100	Compounding.
9A.76.130	Escape in the third degree.
9A.76.160	Introducing contraband in the third degree.
9A.76.170	Bail jumping.
9A.76.175	Making a false or misleading statement to a public servant.
ABUSE OF OFFICE	
9A.80.010	Official misconduct.
PUBLIC DISTURBANCE	
9A.84.010	Riot. CRIMINAL MISCHIEF 2013
9A.84.020	Failure to disperse.
9A.84.040	False reporting.

INDECENT EXPOSURE—PROSTITUTION	
9A.88.010	Indecent exposure.
9A.88.030	Prostitution.
9A.88.050	Prostitution—Sex of parties immaterial—No defense.
9A.88.090	Permitting prostitution.
9A.88.110	Patronizing a prostitute.
9A.88.120	Additional fee assessments.
9A.88.130	Additional requirements.
9A.88.140	Vehicle impoundment. — FEES — FINES.

(Ord. 4463 § 3, 2007; Ord. 4438 § 2, 2006)

7.04.060 - RCW title 10, entitled "Criminal Procedure"—Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
WARRANTS AND ARRESTS	
10.31.030	Service—How—Warrant not in possession, procedure—Bail.
10.31.040	Officer may break and enter.
10.31.050	Officer may use force.
10.31.060	Arrest by telegraph or teletype.
10.31.100	Arrest without warrant.
DOMESTIC VIOLENCE—OFFICIAL RESPONSE	
10.99.010	Purpose—Intent.
10.99.020	Definitions.
10.99.030	PEACE OFFICERS — POWERS AND DUTIES. Law enforcement officers—Training, powers, duties—Domestic violence reports.
10.99.040	Duties of court—No-contact order. — EMERGENCY ORDER.
10.99.045	— DEFENDANT'S HISTORY Appearances by defendant—No-contact order.

10.99.050	Victim contact—Restriction, prohibition—Violation, penalties—Written order—Procedures—Notice of change.
10.99.055	Enforcement of orders.
10.99.060	Prosecutor's notice to victim—Description of available procedures.
10.99.070	Liability of peace officers.

(Ord. No. 4922, § 3, 8-7-2023; Ord. 4438 § 2, 2006)

7.04.070 - Chapter 13.32A RCW, entitled "Family Reconciliation Act"—Adoption by reference.

The following RCW section, as currently enacted or as hereafter amended or recodified from time to time, is hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
13.32A.080	Unlawful harboring of a minor—Penalty—Defense—Prosecution of adult for involving child in commission of offense.

(Ord. 4438 § 2, 2006)

7.04.080 - Chapter 16.52 RCW, entitled "Prevention of Cruelty to Animals"—Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
16.52.011	Definitions—Principles of liability.
16.52.015	Enforcement—Law enforcement agencies and animal care and control agencies.
16.52.080	Transporting or confining in unsafe manner—Penalty.
16.52.085	Removal of animals for feeding—Examination—Notice—Euthanasia. 2023
16.52.090	Docking horses—Misdemeanor.
16.52.095	CERTAIN VETERINARY PROCEDURES - MISDEMEANOR Cutting ears—Misdemeanor. 2020
16.52.100	Confinement without food and water—Intervention by others.
16.52.165	Punishment—Conviction of misdemeanor.
16.52.190	Poisoning animals—Penalty.
16.52.193	Poisoning animals—Strychnine sales—Records—Report on suspected purchases.

16.52.200	Sentences—Forfeiture of animals—Liability for cost—Civil penalty—Education, counseling.
16.52.207	Animal cruelty in the second degree. — PENALTY
16.52.210	Destruction of animal by law enforcement officer—Immunity from liability.
16.52.300	Dogs or cats used as bait—Seizure—Limitation.

(Ord. 4463 § 4, 2007; Ord. 4438 § 2, 2006)

7.04.090 - Chapter 19.48 RCW, entitled "Hotels, Lodging Houses, Etc.—Restaurants"—Adoption by reference.

The following RCW section, as currently enacted or as hereafter amended or recodified from time to time, is hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
19.48.110	Obtaining hotel, restaurant, lodging house, ski area, etc., accommodations by fraud—Penalty.

(Ord. 4438 § 2, 2006)

7.04.100 - RCW title 26, entitled "Domestic Relations"—Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
DISSOLUTION OF MARRIAGE—LEGAL SEPARATION	
26.09.300	Restraining orders—Notice—Refusal to comply—Arrest—Penalty—Defense—Peace officers, immunity.
MISCELLANEOUS PARENTAGE ACT PROVISIONS	
26.26B.050	Restraining order—Knowing violation—Penalty—Law enforcement immunity.
AGE OF MAJORITY	
26.28.080	Selling or giving tobacco to minor—Belief of representative capacity, no defense—Penalty.
26.28.085	Applying tattoo to a minor—Penalty.
ABUSE OF CHILDREN	
26.44.015	Limitations of chapter.
26.44.020	Definitions.

26.44.030	Reports—Duty and authority to make—Duty of receiving agency—Duty to notify—Case planning and consultation—Penalty for unauthorized exchange of information—Filing dependency petitions—Interviews of children—Records—Risk assessment process.
26.44.040	Reports—Oral, written—Contents.
26.44.060	Immunity from civil or criminal liability—Confidential communications not violated—Actions against state not affected—False report, penalty.
26.44.063	Temporary restraining order or preliminary injunction—Enforcement—Notice of modification or termination of restraining order.
26.44.067	Temporary restraining order or preliminary injunction—Contents—Notice—Noncompliance—Defense—Penalty.
26.44.080	Violation—penalty.
26.44.150	Temporary restraining order restricting visitation for persons accused of sexually or physically abusing a child—Penalty for violating court order.
FOREIGN PROTECTION ORDER FULL FAITH AND CREDIT ACT	
26.52.020	Foreign protection orders—Validity.
26.52.050	Peace officer immunity.
26.52.070	Violation of foreign orders—Penalties.

(Ord. No. 4922, § 4, 8-7-2023; Ord. 4438 § 2, 2006)

7.04.110 - Chapter 28A.635 RCW, entitled "Offenses Relating to School Property and Personnel"—Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
28A.635.020	Willfully disobeying school administrative personnel or refusing to leave public property, violations, when—Penalty.
28A.635.040	Examination questions—Disclosing—Penalty.
28A.635.050	Certain corrupt practices of school officials—Penalty.
28A.635.090	Interference by force or violence—Penalty.
28A.635.100	Intimidating any administrator, teacher, classified employee, or student by threat of force or violence unlawful.

28A.635.110	Violations under RCW 28A.635.090 and 28A.635.100—Disciplinary authority exception.
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(Ord. 4438 § 2, 2006)

7.04.120 - RCW title 66, entitled "Alcoholic Beverage Control"—Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
DEFINITIONS	
66.04.010	Definitions.
EXEMPTIONS	
66.12.010	Wine or beer manufactured for home use.
MISCELLANEOUS REGULATORY PROVISIONS	
66.28.200	Keg registration—Special endorsement for grocery store licensee—Requirements of seller.
66.28.210	Keg registration—Requirements of purchaser.
66.28.220	Keg registration—Identification of containers—Rules—Fees—Sale in violation of rules unlawful.
66.28.230	Keg registration—Furnishing to minors—Penalties.
ENFORCEMENT—PENALTIES	
66.44.010	Local officers to enforce law—Authority of board—Liquor enforcement officers.
66.44.040	Sufficiency of description of offenses in complaints, information, process, etc.
66.44.060	Proof of unlawful sale establishes prima facie intent.
66.44.070	Certified analysis is prima facie evidence of alcoholic content.
66.44.080	Service of process on corporation.
66.44.090	Acting without license.
66.44.100	Opening or consuming liquor in a public place—Penalty.
66.44.120	Unlawful use of seal.
66.44.130	Sales of liquor by drink or bottle.
66.44.140	Unlawful sale, transportation of spirituous liquor without stamp or seal—Unlawful operation, possession of still or mash.

66.44.150	Buying liquor illegally.
66.44.160	Illegal possession, transportation of alcoholic beverages.
66.44.170	Illegal possession of liquor with intent to sell—Prima facie evidence, what is.
66.44.175	Violations of law.
66.44.180	General penalties—Jurisdiction for violations.
66.44.200	Sales to persons apparently under the influence of liquor—Purchases or consumption by persons apparently under the influence of liquor on licensed premises—Penalty—Notice—Separation of actions.
66.44.210	Obtaining liquor for ineligible person.
66.44.240	Drinking in public conveyance—Penalty against carrier—Exception.
66.44.250	Drinking in public conveyance—Penalty against individual—Restricted application.
66.44.270	Furnishing liquor to minors—Possession, use—Exhibition of effects—Exceptions.
66.44.280	Minor applying for permit.
66.44.290	Minor purchasing or attempting to purchase liquor—Penalty.
66.44.300	Treats, gifts, purchases of liquor for or from minor, or holding out minor as at least 21, in public place where liquor sold.
66.44.310	Minors frequenting off-limits area—Misrepresentation of age—Penalty—Classification of licensees.
66.44.316	Certain persons 18 years and over permitted to enter and remain upon licensed premises during employment.
66.44.318	Employees aged 18 to 21 stocking, merchandising, and handling beer and wine. 2021
66.44.325	Unlawful transfer to a minor of an identification of age.
66.44.328	Preparation or acquisition and supply to persons under age 21 of facsimile of official identification card—Penalty.
66.44.340	Employees 18 years and over allowed to sell and handle beer and wine for certain licensed employers.
66.44.350	Employees 18 years and over allowed to serve and carry liquor, clean up, etc., for certain licensed employers.
66.44.370	Resisting or opposing officers in enforcement of title.

(Ord. 4438 § 2, 2006)

7.04.130 - RCW title 69, entitled "Food, Drugs, Cosmetics, and Poisons"—Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
LEGEND DRUGS—PRESCRIPTION DRUGS	
69.41.010	Definitions.
69.41.030	Sale, delivery, or possession of legend drug without prescription or order prohibited—Exceptions—Penalty. ^{OR USE} - REFERRAL TO ASSESSMENT AND SERVICES.
69.41.050	Labeling requirements—Penalty.
69.41.060	Search and seizure.
69.41.300	Definitions.
69.41.320	Practitioners—Restricted use—Medical records.
69.41.350	Penalties.
PRECURSOR DRUGS	
69.43.010	Report to pharmacy quality assurance commission—List of substances—Modification of list—Identification of purchasers—Report of transactions—Penalties.
69.43.020	Receipt of substance from source outside state—Report—Penalty.
69.43.030	Exemptions.
69.43.035	Suspicious transactions—Report—Penalty.
69.43.040	Reporting form.
69.43.043	Recordkeeping requirements—Penalty.
69.43.048	Reporting and recordkeeping requirements—Submission of computer readable data, copies of federal reports.
69.43.090	Permit to sell, transfer, furnish, or receive substance—Exemptions—Application for permit—Fee—Renewal—Penalty.
69.43.110	Ephedrine, pseudoephedrine, phenylpropanolamine—Sales restrictions—Electronic sales tracking system—Penalty.
69.43.120	Ephedrine, pseudoephedrine, phenylpropanolamine—Possession of more than fifteen grams—Penalty—Exceptions.

69.43.130	Exemptions—Pediatric products—Products exempted by the pharmacy quality assurance commission.
69.43.135	Iodine, methylsulfonylmethane—Sales restrictions—Recording of transaction—Penalty.
UNIFORM CONTROLLED SUBSTANCES ACT	
69.50.101	Definitions.
69.50.102	Drug paraphernalia—Definitions.
69.50.202	Nomenclature.
69.50.204	Schedule I.
69.50.206	Schedule II.
69.50.208	Schedule III.
69.50.210	Schedule IV.
69.50.212	Schedule V.
69.50.401	Prohibited acts: A—Penalties.
69.50.4011	Counterfeit substances—Penalties. — REFERRAL TO ASSESSMENT AND SERVICES.
69.50.4013	Possession of controlled substance—Penalty—Possession of useable cannabis, cannabis concentrates, or cannabis-infused products—Delivery.
69.50.4014	Possession of 40 grams or less of cannabis—Penalty. — REFERRAL TO ASSESSMENT AND SERVICES.
69.50.4016	Provisions not applicable to offenses under RCW 69.50.410.
69.50.404	Penalties under other laws.
69.50.407	Conspiracy.
69.50.408	Second or subsequent offenses.
69.50.412	Prohibited acts: E—Penalties.
69.50.4121	Drug paraphernalia—Selling or giving—Penalty.
69.50.435	Violations committed in or on certain public places or facilities—Additional penalty—Defenses—Construction—Definitions.
69.50.445	Opening package of or consuming cannabis, useable cannabis, cannabis-infused products, or cannabis concentrates in view of general public or public place—Penalty.
69.50.475	Cannabis retail outlets—Sale to persons under the age of twenty-one—Penalty.

69.50.505	Seizure and forfeiture.
69.50.509	Search and seizure of controlled substances.
69.50.560	Controlled purchase programs—Persons under age of twenty-one—Violation—Criminal penalty—Exceptions.
MEDICAL CANNABIS	
69.51A.005	Purpose and intent.
69.51A.010	Definitions.
69.51A.030	Acts not constituting crimes or unprofessional conduct—Health care professionals not subject to penalties or liabilities.
69.51A.040	Compliance with chapter—Qualifying patients and designated providers not subject to penalties—Law enforcement not subject to liability.
69.51A.043	Failure to enter into the medical cannabis authorization database—Affirmative defense.
69.51A.045	Possession of plants, cannabis concentrates, useable cannabis or cannabis-infused products exceeding lawful amount—Affirmative defense.
69.51A.050	Medical cannabis, lawful possession—State not liable.
69.51A.055	Limitations of chapter—Persons under supervision.
69.51A.060	Crimes—Limitations of chapter.
69.51A.260	Housing unit—No more than fifteen plants may be grown or located—Exception—Civil penalties.

(Ord. No. 4922, § 5, 8-7-2023; Ord. 4463 § 5, 2007; Ord. 4438 § 2, 2006)

7.04.140 - RCW title 70, entitled "Public Health and Safety"—Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
WASHINGTON STATE EXPLOSIVES ACT	
70.74.010	Definitions.
70.74.160	Unlawful access to explosives.
70.74.295	Abandonment of explosives.
70.74.300	Explosive containers to be marked—Penalty.

70.74.310	Gas bombs, explosives, stink bombs, etc.
70.74.400	Seizure and forfeiture.
TOBACCO—ACCESS TO MINORS	
70.155.080	Purchasing, possessing, or obtaining tobacco by persons under the age of 18—Civil infraction—Courts of jurisdiction.

(Ord. 4438 § 2, 2006)

7.04.150 - Chapter 74.34 RCW, entitled "Abuse of Vulnerable Adults"—Adoption by reference.

The following RCW sections, as currently enacted or as hereafter amended or recodified from time to time, are hereby adopted by reference and shall be given the same force and effect as if set forth herein in full:

RCW	
74.34.020	Definitions.
74.34.021	Vulnerable adult—Definition.
74.34.035	Reports—Mandated and permissive—Contents—Confidentiality.
74.34.040	Reports—Contents—Identity confidential.
74.34.050	Immunity from liability.
74.34.053	Failure to report—False reports—Penalties.
74.34.145	Protection of vulnerable adults—Notice of criminal penalties for violation—Enforcement under RCW 26.50.110.

(Ord. 4438 § 2, 2006)

CHAPTER 7.06 - MAKING OR HAVING VEHICLE PROWL OR VEHICLE THEFT TOOLS

7.06.010 - Making or having vehicle prowl or vehicle theft tools.

Every person who shall make or mend, or cause to be made or mended, or have in his or her possession any engine, machine, tool, false key, master key, adapted or altered key, pick lock, bit, nippers, dent remover, or implement, adapted, designed, or commonly used for the commission of vehicle prowl or vehicle theft under circumstances evidencing an intent to use or employ, or allow the same to be used or employed in the commission of a vehicle prowl or vehicle theft or knowing that the same is or was intended to be so used, shall be guilty of making or having vehicle prowl or vehicle theft tools.

(Ord. 4438 § 2, 2006)

7.06.020 - Penalty—Misdemeanor.

Making or having vehicle prowler or vehicle theft tools is a misdemeanor.

(Ord. 4438 § 2, 2006)

CHAPTER 7.08 - INTERFERING WITH POLICE ANIMALS OR ACCELERANT DETECTION DOGS

7.08.010 - Definition.

"Police animal" shall mean dogs or horses.

(Ord. 4438 § 2, 2006)

7.08.020 - Unlawful interference.

- A. No person shall willfully or maliciously assault, torment, beat, kick, or otherwise strike any police animal or accelerant detection dog as defined in RCW 4.24.410, owned or being used by the police or fire service in the performance of its official duties.
- B. No person shall willfully hinder, delay, or obstruct any animal used by a law enforcement officer in discharging or attempting to discharge his official duties.

(Ord. 4566 § 25, 2010; Ord. 4438 § 2, 2006)

7.08.030 - Penalty—Gross misdemeanor.

Any person violating the provisions of this chapter shall be guilty of a gross misdemeanor.

(Ord. 4438 § 2, 2006)

CHAPTER 7.10 - DISORDERLY CONDUCT

7.10.010 - Definition.

"Public place," for purposes of this chapter, shall mean an area generally visible to public view, and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which serve food or drink to provide entertainment, and the doorways and entrances to those buildings or dwellings and the grounds enclosing them.

(Ord. 4438 § 2, 2006)

7.10.030 - Disorderly conduct.

A person is guilty of disorderly conduct if the person:

- A. Uses abusive language and thereby intentionally creates a risk of assault;
- B. Intentionally disrupts any lawful assembly or meeting of persons without lawful authority;
- C. Intentionally obstructs vehicular or pedestrian traffic without lawful authority; or
- D. Is fighting another person or persons in a public place or in the public view.

(Ord. 4818 § 1, 2018; Ord. 4463 § 7, 2007; Ord. 4438 § 2, 2006)

7.10.050 - Penalty—Misdemeanor.

Disorderly conduct is a misdemeanor.

(Ord. 4628 § 1, 2012; Ord. 4438 § 2, 2006)

CHAPTER 7.12 - UNLAWFUL POSSESSION OF DANGEROUS KNIVES

7.12.010 - Definition.

"Dangerous knife" means any knife having a blade more than three inches in length, or any dagger, sword, bayonet, bolo knife, machete, straight-edged razor, or razor blade not in a package, dispenser or shaving appliance.

(Ord. 4438 § 2, 2006)

7.12.020 - Unlawful possession of dangerous knives.

It is unlawful for anyone knowingly to carry concealed on his person or in any vehicle any dangerous knife.

(Ord. 4438 § 2, 2006)

7.12.030 - Exemptions.

The proscriptions of this chapter relating to dangerous knives shall not apply to:

- A. Individual licensed hunters or fishermen while on a hunting, camping or fishing trip.
- B. Any person carrying such knife in a secure wrapper from or to the place of purchase or a place of repair to or from his home or place of business, or in moving from one place of abode or business to another, or while in his place of abode or fixed place of business.
- C. Persons in the military service or commissioned law enforcement officers actually engaged in the performance of his or her duty or training or in the course of any training acting pursuant to orders from competent authority, nor shall this chapter apply to any property owner or person acting under his or her authority in providing protection against the commission of a felony.

(Ord. 4438 § 2, 2006)

7.12.040 - Penalty—Misdemeanor.

Unlawful possession of dangerous knives is a misdemeanor.

(Ord. 4438 § 2, 2006)

CHAPTER 7.14 - SALE OF TOBACCO PRODUCTS TO MINORS

7.14.010 - Legislative intent.

The city council finds cigarette smoking by minors to be a continuing problem with grave social consequences. Much more strenuous action to curtail the availability of cigarettes and tobacco products to minors is necessary. The National Institute on Drug Abuse and the U.S. Public Health Service have concluded that the nicotine in tobacco is a powerful, habit-forming drug and have described nicotine addiction as the most widespread example of drug dependence in our country. It is imperative to take more vigorous enforcement action to implement the existing prohibition of sales of tobacco to minors found in state law at RCW 26.28.080.

(Ord. 4438 § 2, 2006)

7.14.020 - Definitions.

For the purposes of this chapter all words and phrases shall have the meanings ascribed to them, unless otherwise noted.

Sales conducted in person means that payment for the purchase of the tobacco item is received directly and in person from the purchaser by the seller or his/her employee. Sales from tobacco vending machines which are located in plain view of the seller or of his/her employee which are controlled by an electronic device activated by the seller or his/her employee shall be considered to be "sales conducted in person."

Tobacco machine operator means any person who operates, rents or possesses one or more tobacco vending machines.

Tobacco vending machine means and includes any machine or device designed for or used for the vending of cigarettes, cigars, tobacco or any tobacco products upon the insertion of coins, bills, trade checks or slugs.

(Ord. 4438 § 2, 2006)

7.14.030 - Sales to persons under 18 prohibited.

- A. It is unlawful for anyone to sell or give, or permit to be sold or given, to any person under the age of 18 years any cigar, cigarette, cigarette paper or wrapper, or tobacco in any form.
- B. Sales to persons under 18 shall be a gross misdemeanor.

(Ord. 4438 § 2, 2006)

7.14.040 - Cigarette sales by package only.

It is unlawful for a retailer to sell cigarettes except in an unopened package provided by the manufacturer with required health warnings.

(Ord. 4438 § 2, 2006)

7.14.050 - Samples.

It is unlawful for a manufacturer, a retailer or any other distributor of tobacco products to distribute free samples of tobacco products in any setting within the jurisdiction of Ellensburg.

(Ord. 4438 § 2, 2006)

7.14.060 - Enforcement.

All law enforcement personnel of the city are authorized and directed to enforce the terms and provisions of this chapter. Any violation of this chapter, unless otherwise stated, shall be a misdemeanor and any person convicted thereof shall be liable to a fine of not to exceed \$500.00 and to a jail sentence of not to exceed five days.

(Ord. 4438 § 2, 2006)

7.14.070 - Notice of sales.

No one shall sell, or permit to be sold, cigarettes or other tobacco products to anyone, unless the tobacco vending machine or other location at which the cigarettes or other tobacco products are available for purchase is posted with a notice at a point of purchase which is clearly visible to anyone considering purchase of the products, and which states:

IT IS ILLEGAL TO SELL OR PERMIT TO BE SOLD ANY TOBACCO PRODUCTS TO ANY PERSON UNDER THE AGE OF EIGHTEEN (18)—R.C.W.
26.28.080; ELLENSBURG CITY CODE CHAPTER 7.14.

The notice must be in black letters at least one inch in height on a white background, and will be made available by the city clerk's office or the department of health. The prospective seller shall require proof of age from anyone who reasonably appears to be under 18.

(Ord. 4438 § 2, 2006)

7.14.080 - Location.

After the effective date of the ordinance codified in this chapter, tobacco vending machines or any other mechanism or method of retail sales of cigarettes or other tobacco products which do not require a sale to be conducted in person by the seller or agent of the seller are prohibited in this city; provided, that this section shall not prohibit the installation and use of a tobacco vending machine by a proprietor, his/her agents or his/her employees 18 years or older in:

- A. Any premises or portion thereof to which access by minors is expressly prohibited by law if, and only if, the tobacco vending machine is located fully within such premises from which minors are prohibited and not less than ten feet from all entrance and/or exit ways; and
- B.

Commercial buildings or industrial plants or portions thereof where the public is expressly prohibited and where such machines are strictly for the use of the employees therein.

(Ord. 4438 § 2, 2006)

CHAPTER 7.15 - PUBLIC INDECENCY

7.15.010 - Definition.

"Public place," for purposes of this chapter, shall mean an area generally visible to public view, and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots, automobiles (whether moving or not), and buildings open to the general public, including those which serve food or drink to provide entertainment, and the doorways and entrances to those buildings or dwellings and the grounds enclosing them.

(Ord. 4818 § 2, 2018)

7.15.020 - Urinating and/or defecating in public.

It is unlawful for any person to intentionally urinate or defecate in a public place, other than in a toilet, urinal, washroom, toilet room or portable toilet, where such act could be observed by any member of the public.

(Ord. 4818 § 2, 2018)

7.15.030 - Penalty.

Any person who violates this chapter shall be assessed a penalty and default amount in an amount not to exceed \$250.00, not including statutory assessments; provided, that the penalty and default amount for a second violation shall not exceed \$500.00. Any person who violates this chapter and has been found to have committed two prior violations of this chapter shall be guilty of a misdemeanor.

(Ord. 4818 § 2, 2018)



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Street Naming and House Numbering Systems

PAS Report 13

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Information Report No. 13

April 1950

Street Naming and House Numbering Systems

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"Though fog or night the scene encumbers,
Why don't all buildings show their numbers
On lintel, wall or door?
Why can't a house say good and plenty,
'Hey look at me! I'm Nineteen-twenty,
The joint you're looking for!"

"Why can't our thoroughfares, our highways,
Our squares, our streets, our parks, our byways,
Have signs where all can see?
'I'm Lincoln Place.' 'I'm Pershing Corner.'
'I'm Avenue Ignatius-Horner.'
'I'm Boulevard Legree.'

"So, dwellings, mansions, roadways, alleys,
 As well as rivers, mountains, valleys
 And hamlets near and far
 Throughout this self-effacing nation,
 We really want the information;
 Please tell us who you are! "

— Arthur Guiterman

Problems of street naming and house numbering may confront planning commissions in relation to new subdivisions or new planned neighborhood developments or these problems may arise simply as a result from the difficulties that have come out of the accumulated inefficiencies of an outmoded system.

PLANNING ADVISORY SERVICE has recently received a number of inquiries on this subject.

No one would advocate designing a city or a subdivision along certain lines merely because it would be easy for the visitor or the delivery truck to locate persons and buildings. A well-planned community, with well-grouped major uses and service facilities, and with efficient means of intercommunication, is the primary concern of planners. However, once a street plan has been adopted by a community, with major and minor streets laid out, with feeder streets, and residential streets, and through highways and heavy traffic bearers, designed each according to its function, facilitating the use of these streets follows naturally. In part, the general attitude towards street naming and house numbering might be compared to that towards calendar reform; everybody is in favor of the reform, but such reform does not have top priority.

Correct as this attitude may be, it is unwarranted to dismiss street naming and house numbering systems as unimportant. Since planning in part is directed to providing rationality and order in community life, and in making communities more efficient and convenient, ease in locating places and facilities within a community should be encouraged.

This need has been recognized by citizen associations as well as official agencies. For example, the City Club of Chicago was instrumental in dramatizing the importance of clarifying the city's muddled street system. The first major attempt to systematize Chicago's street names was done in 1895; in 1913 and 1936 further clarification took place. The *Nashville Times* and *Nashville Banner* conducted a newspaper campaign in 1940 to reorganize the Nashville, Tennessee, naming and numbering procedure. Citizen support led to the formation of a special Joint Standing Committee on Ordinances on the Nomenclature of Streets in Boston in 1879 to recommend changes in that historic city's street naming policies — the recommendations made by the Commission at this early date contain some of the same general recommendations made today.

General Arguments for Adopting a Street Naming and House Numbering System

Many arguments may be advanced to justify the need for special funds for a study of existing practices in a community, or to justify a street naming and house numbering reorganization ordinance:

1. Unfavorable impression on visitors to the community if they have difficulty in finding places of interest and the businesses and persons they wish to see.
2. Expense to delivery services in routing and rerouting packages.
3. Difficulty in quick delivery of mail.
4. Loss of letters and goods, wrongly addressed.
5. Potential increase in traffic accidents by motorists intent on searching for correct address rather than on driving.
6. Difficulty in training civic employees in knowledge of the city, and the resultant disappointment by residents and visitors in the caliber of these employees and the government in general.
7. Subconscious feeling of estrangement toward community on the part of residents and visitors to the community.
8. Difficulty in emergency fire, ambulance and doctor access to correct address.
9. Difficulty in maintaining correct legal documents, such as those for licenses, vital statistics, deeds.

Agencies and Organizations that may be Helpful in Devising a Street Naming and House Numbering System

1. The local post office.
2. Local police department.
3. A retailers' association or large department stores.
4. Chamber of Commerce.
5. Better business associations, businessmen's associations such as Kiwanis, Rotary, etc.
6. Local Railway Express Company.
7. Real estate board, local home builder's association, subdividers of large tracts, abstract firms.

8. The local newspaper.
9. Regional office of the Federal Housing Administration.
10. Local civic groups.
11. Local utility companies.
12. Local medical society and health department.

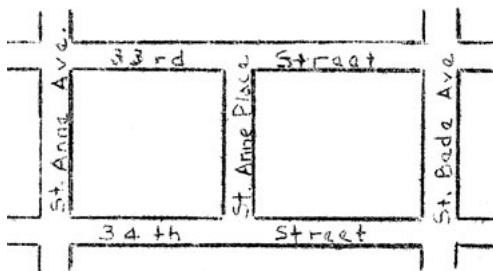
It is assumed that the street department, the city engineer, the department of public works, will be among the most interested municipal officials.

Possible Objections to a New System

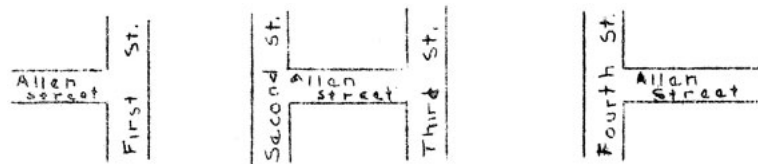
Objections may be raised to changing street names and house numbers. These generally come from those business or professional firms that feel a close identification of their activities with their street address. Objections are also raised, particularly in some of the older areas, if it is believed historic names will be discarded, and that the municipality will thus lose some of its individuality. Also, some persons object to change per se, believing that if a previous system worked at a previous time, it should not be altered. The section on court decisions in this report discusses whether individuals have rights in maintaining existing street names.

General Recommendations:

1. No duplication of names or numbers. It is preferable not to have differentiation by a suffix "street" or "avenue." For example, "Washington Street" and "Washington Avenue" can too easily be confused, since often "avenue" and "street" are synonymous in the public mind. In some communities "place" is used to indicate a minor street closely associated with a major street — for example, "St. Anne Place" might be located a half block from "St. Anne Street." The suffix differentiation "place" is more defensible than the former example, since "place" generally connotes a subsidiary street, and because it more unusual that the ordinary suffixes, "street" and "avenue."



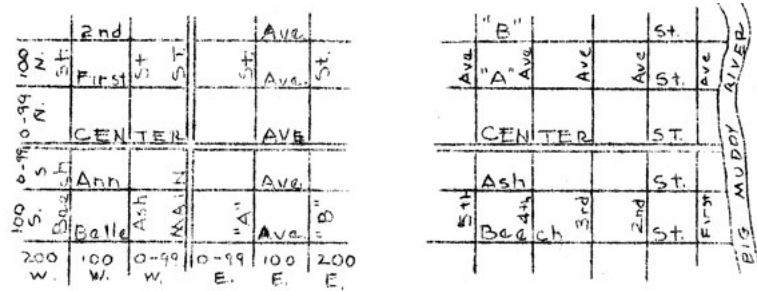
2. Continuation of a street name. A street should have one name only and should have the same name throughout its entire length. If the street is not a through street but is broken by intervening land uses and is laid out in substantially the same location at a more distant point, the same name should be used on all of the "links."



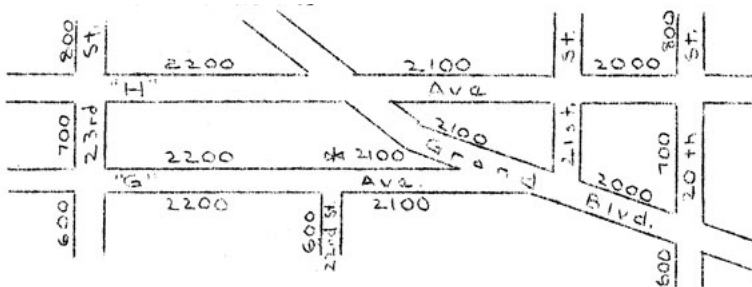
In some communities, if a street jogs sharply, the portion of the street running in the different direction is given another name.



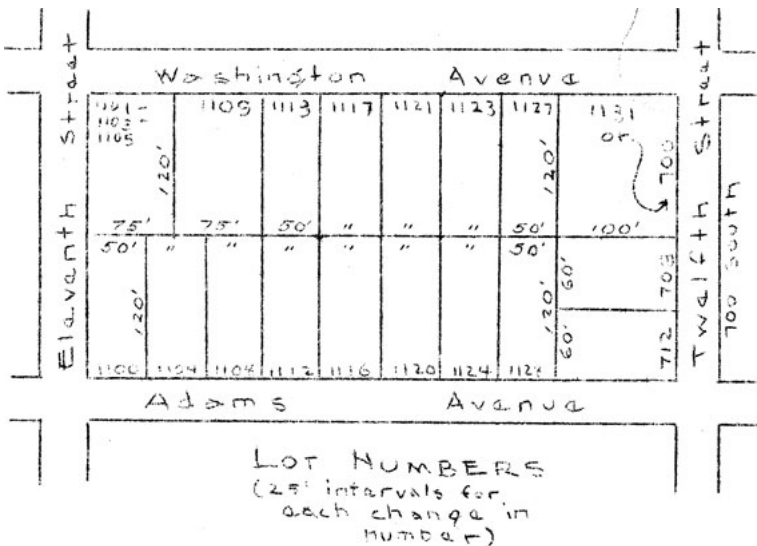
3. There should be base lines dividing the community into east, west, north and south sections. It is not imperative that the suffixes "east," "west," "north," and "south" be used if a continuous numbering system is used, and if there are not many through streets. However, if the numbers radiate from the base intersecting streets, and there are many through streets, it will be easier to have such suffixes.



4. Numbers on parallel streets should be comparable. If a parallel street does not originate at the same point as another street, the numbers should not begin with a low number but should begin with the same number on a parallel street measured from the base line.



5. Numbering should be uniform, based on street frontage. This should be done within blocks and between blocks.



6. Numbering should be consecutive.

7. Even numbers should always be on one side of the street, and odd on the other. Common practice is to place even numbers on the north and west sides of streets and odd numbers on the south and east sides of streets.

8. It is good practice to distinguish between size and importance of street, and direction of street, by terminology. For example, "street" might be used for east-west streets, and "avenue" for north-south streets, or vice-versa. Diagonal streets or heavy traffic bearers might be called "boulevard." State or federal routes might be called "highway." "Drive" might be used for scenic pleasure thoroughfares. Curvilinear streets might use "place," "road," "way," and "lane," etc. (The Committee on Terminology established by the American Society of Planning Officials may make recommendations for the use of these terms.)

Miscellaneous Considerations

Subdividers have found that there is greater "sales appeal" for houses on named streets, particularly if "romantic" names are used with suffixes such as "place," "road," "lane," than on numbered streets. For example, the home purchaser prefers to live on "Rose Lane" than on "72nd Street."

Natural barriers such as a river or lake front, a ridge, etc., or man-created barriers such as railroad tracks, often are useful "basing points" for street naming systems and house numbering systems, if these barriers are outstanding and bear a suitable relationship to the growth of the town.

The heart of the central business district is a good "basing point" for such systems. There may be a shift in the location of the central business district at a later date, but such shift should not cause disruption of the street naming system.

Central business district retailers' associations may be very much interested in seeing that the street naming and house numbering system radiates from the central business district. For example, in Chicago, Western Avenue and Madison Street were selected as the base lines for dividing the city into quadrants. The business interests in "The Loop" objected and were influential in establishing State Street and Madison Street as the dividing lines, even though that meant that there would be virtually no north-east quadrant of the city, due to the curve in Lake Michigan in that area.

In many communities, particularly in the Midwest, streets were laid out by law on the U. S. section lines. In some of these communities; the applicable regulations pertaining to the establishment of a gridiron street pattern have never been repealed. There also may be legal obstacles in establishing curvilinear street patterns or "super blocks" as well as perhaps some local street department reluctance to spoiling a gridiron street naming and numbering system.

Subdividers of large tracts have advised that street names be distinctive within a subdivision so that even though a visitor cannot immediately find an address on a curvilinear street, or in a cul-de-sac, he can immediately identify it as to its general location.

When a new street naming and numbering system is put into effect, it should be done completely at one time and not piecemeal over a period of time.

Presidents, states, famous women, famous army and military heroes, trees, famous men, cities, are favorite street name choices. Descriptive names such as "Lake," "Main," "Church" are also common. Historical names are often selected.

Streets may have interesting names which are in no way related to actual conditions, for example, a River Street may not be near any water, a Crooked Street may be straight, a Southport Avenue may not be close to a port. In Chicago, a Garfield Boulevard terminates at Washington Park, and a Washington Boulevard runs through a Garfield Park. It is not easy to select names, particularly for large cities. It was reported that London had approximately 5,350 street names, Paris 1,628, New York 5,003, Philadelphia 1,914, Baltimore 3,923, Cleveland 2,199, Detroit 2,262, and Chicago 1,360.

Communities requiring the posting of numbers often specify the type of lettering, size of numbers, etc. (See the Tucson, Arizona proposed ordinance in this report.) Some communities purchase these numbers, and others require the property owner to furnish them. Some communities paint or stencil the house number on the curb as well as requiring it on the house door itself.

Examples of Street Naming and House Numbering Systems

Tulsa, Oklahoma, is based on a grid with the basic line Main Street running north and south and the Frisco tracks running east and west. All the streets east of Main are named in alphabetical order for cities of the United States situated east of the Mississippi — Boston, Cincinnati, Detroit, Elgin, etc.; while all those lying west of Main are named for western cities — also in alphabetical order, such as Boulder, Cheyenne, Denver, etc. All the streets south of the Frisco tracks are named numerically in sequence — 1st, 2nd, 3rd, etc., while those north of the tracks are named after prominent Indians or pioneer citizens and arranged alphabetically — Archer, Brady, Cameron, and others. In all parts of the city, the house numbers start with the even hundred at each corner.

M. C. Shibley, City Engineer for Tulsa, reported in the *American City*, March, 1938, that:

"One can see at a glance what a simple problem it is to reach any desired number from any other part of the city. Suppose, for example, one wishes to go to 615 Cincinnati. Everyone knows Main Street, which is one of the principal business streets of the city. Cincinnati is an eastern city, therefore he knows that Cincinnati Street is the second block east of main. All the streets that are named numerically lie south of the Frisco tracks. Therefore, he knows that house number 615 is in the southern part of the city between 6th and 7th streets. All the house numbers on streets running north of the tracks have the prefix of the letter "N," thus making a clear distinction between 615 and N. 615. . . ."

An example of a small city that recently renumbered and renamed its streets, is that of DeQuincy, Louisiana, population approximately, 5,000. The old street system gave each addition or sub-addition to the city a code number which formed part of the house number; the block number also formed part of the house number as did the relative location of the house on the block (or actual house number). Thus, a

house located in a new subdivision, might have a house number such as 98562 although it was only one block distant from a house numbered 403. Also, under the old system, some streets had different names at different portions of their length, one street having three names. Ten streets had to be renamed, so that each would have the same name throughout its entire length.

After the revision, two streets were set up as basing points, Division Street running north and south, and Center Street running east and west. Now, all of the streets have a prefix designating north, east, south or west. At the point where Center and Division Streets intersect, and house numbers increase in size, the further the distance from these intersecting points. The streets are laid out in gridiron fashion.

Sturgeon Bay, Wisconsin, recently revised its street naming system: on the east side of the bay, which is the larger area, all north-south streets were assigned numerical names, beginning with "First Avenue," and the east-west streets were given geographical names (mostly states), beginning with "Alabama Street" and proceeding geographically to "Utah Street." On the west side of the bay, the north-south streets were given the names of cities, alphabetically arranged, and the east-west streets are named after trees.

Oshkosh, Wisconsin, prepared a new address system in 1949 which specified that all north-south streets should be called "Street," all east-west streets should be called "Avenue," all diagonal streets should be called "Drives," and all unrelated dead-end streets should be called "Courts." Rhinelander is another Wisconsin city that has adopted a new street naming and numbering system.

Henderson, Tennessee, adopted a new property numbering system in 1949 in which a grid was used and where there was a bend in the street, the numbering was continued as though the street was straight. An ordinance to provide for a uniform system of numbering in Jefferson City, Tennessee was published in *Community Planning in Tennessee*, a 1942 report of the Tennessee State Planning Commission.

The street-naming system of the metropolitan area of a city should be linked to the central city. A good example of a coordinated street naming pattern is in the vicinity of Washington, D. C.

The northeast Maryland suburbs falling within the area of the Maryland National Capital Park and Planning Commission adopted a street naming system in 1941, which is primarily a continuation of the street naming system of Washington, D. C. The base lines for the new system are North Capitol Street and East Capitol Street in Washington. These streets radiate north and east from the U. S. Capitol, and form the two inner boundaries of that city's northeast section. East from North Capitol are a series of numbered (north-south) streets which continue beyond the Washington, D. C. boundary into Maryland suburbs to numbers as high as 95th Avenue. North of East Capitol Street, the system consists of several zones of east-west streets arranged in alphabetical order. (1) A zone of streets named with letters of the alphabet, such as A Street, B Street, etc. (this is in Washington, D. C. only), (2) then alphabetized two-syllable names of famous Americans, such as Adams Street, and Bryant Street (this zone is located almost entirely in Washington, D. C., but some streets cross into Mount Rainier, Bladensburg, and Brentwood, Maryland.) (3) The next zone consists of alphabetized three-syllable names of famous Americans, such as Allison Street, Buchanan Street, etc., (these names are used in Northern Washington D. C., and in Hyattsville, Riverdale, and Edmonston, Maryland and vicinity.) (4) The next zone extending into Maryland contains the alphabetized names of colleges, Austin Road, Clemson Road, and so forth. (5) The next zone consists of alphabetized Indian names, such as Apache Street, Blackfoot Street, etc., and is in Maryland only.

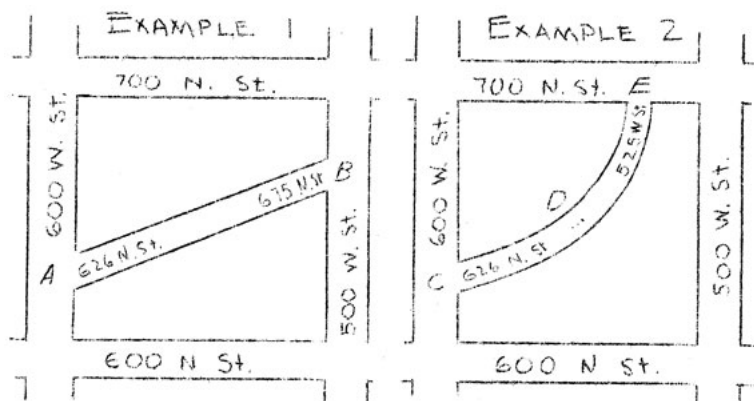
Monroe County, New York, at the request of the smaller municipalities within its area, undertook the job of eliminating duplication of street and road names, and of establishing a pattern of house numbering. Over two hundred duplicate names were discovered and eliminated. The new pattern was dovetailed into that previously established for Rochester, where numbers were formerly established on the basis of 15 feet per number. This was extended through the towns surrounding the central city, until all old subdivisions with lot frontages of less than 50 feet had been included. In the area of new subdivisions, where 50 foot lots have been required, the numbers were based on 50 feet intervals. Arterial highways originating in Rochester were given the same name for their entire length to the county line, and were given numbers on a continuous basis, the lower numbers nearer to the center of the town. Where incorporated villages had adopted another numbering system, the county numbering system was established so that the incorporated villages could join the county system when they chose to do so.

The Lyman or Salt Lake City System

The Lyman Uniform Street Numbering System was developed by Richard R. Lyman, a consulting civil engineer, and has been adopted by Salt Lake City and County, Utah, by St. George, Utah, and by Sacramento, California, among other cities, and was proposed by the Weber County-Ogden City Planning Commission. Some of the features of this plan have also been incorporated in Los Angeles, California

and Kansas City, Missouri. This system utilizes a grid, with base line streets dividing the city into east, west, north and south portions. Streets are given numbers, instead of street names, with an increase in the size of the numbers, the greater the distance from the base lines.

Curved and crooked streets, and other streets deviating from the basic grid pattern may fit into this pattern of street numbering. For example, in the illustration used below, which appeared in the *American City* in the issue of September 1942, an irregular street will have as many "number" names as necessary. In the first example, the diagonal street from point A to point B, is considered as an east-west street and is called 624 North Street at one end, and 675 North Street at the other (since the street originates on the even numbered side on one block and runs through to the odd numbered side on the other end of the block, the numbers differ accordingly). The residents would choose as a street address whatever street name was closest to their home. If this street were to be continued in a diagonal direction, it would have a new numbered name at each intersection, corresponding to its geographic location. In the second example, a street running from points C to D to E would be in part an east-west street, and in part, a north-south street, and would be numbered accordingly.

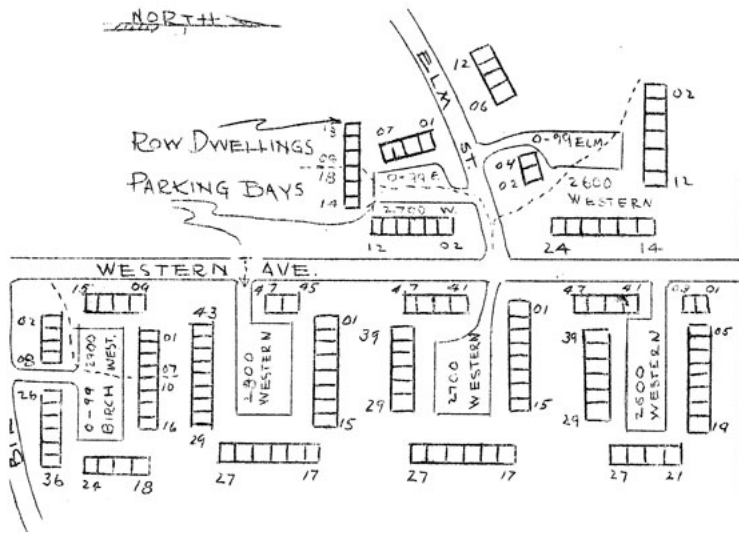


House Rural Numbering

In rural communities, it is suggested that numbers be based on fractions of a mile, indicating the distance not only from the point of origin of the road, but also from other properties along that road. In a system described in the *New York State Planning News* of June 8, 1949, it is proposed that the house numbers indicate the hundredths of a mile the property is located from the origin of the road. This system is geared to the automobile and the speedometer, since a motorist may locate a property by watching his mileage gauge. The numbers begin at the end of the road nearest the city, village, or post office, or where the road joins a more important highway. There would be a hundred units to each mile or about 53 feet to a unit. Since odd numbers are used on one side of the road, and even on the other, there should actually be numbers running from 1-200 for the first mile. The way the system is reported in the article, only numbers 1-100 are applicable for the first mile, evidently assuming that the area will not be so built up to require use of all the numbers. In an article in the February 1950 *American City*, numbers 1-999 are used for each mile section of the road, and since odd numbers are on one side and even on the other, a number can be assigned to each 10-1/2 feet of frontage and can thus be carried through built-up communities as well as the rural areas. This is the system that has been adopted by Fresno County, California. A base point was established in the City of Fresno, which is located approximately in the center of the county, and north-south, and east-west lines established, with one mile square sections marked off in grid fashion. In an example given, an address 6238 West Rural Road could be located by consulting a directory for the location of the Rural Road, and the property would be located a little more than 6.2 miles west of the base line.

Street Naming and House Numbering in New Subdivisions

An example of street naming and house numbering in a modern subdivision with a curvilinear street pattern is that of Park Forest, Illinois. In Park Forest, the new community development south of Chicago, one of the designation problems involved making a decision as to which of two streets to use in giving the unit an address. The buildings — row houses — are grouped around parking bays, and the units actually face neither street. The sketch shows how this and some of the other numbering problems were handled.



Professor Eugene Van Cleef has described a system of house numbering on irregular streets, within a larger framework of a gridiron street pattern, in the February, 1950 issue of *American City*. A house derives its street address from its location in respect to the two nearest major arteries.

Pertinent Court Decisions

In the case of *Hagerty v. Chicago*, 195 N.E. 652 (Illinois) the court held that an ordinance changing the name or a street under statutory authority is not invalid as unreasonable. Under the Laws of 1911, the common council of cities, and the president and board of trustees in villages are expressly authorized to name and change the name of any street, avenue, alley, or other public place. The property owner abutting the street was found to have no property right in the name of the street which would prevent the municipality from changing the name of the street.

According to *Bacon v. Miller*, 160 N.E. 381 (New York) names of streets and numbers of houses may be changed since there is no vested right in the name of a street or in a number originally assigned. The court also found that although renaming and renumbering streets is inherently a local matter, it cannot be done arbitrarily, but must be done in good faith.

In Ohio, the court held that in *Miller v. Cincinnati*, 10 Ohio Dec. 423, 21 Cin. Law Bul. 121, if no good cause exists for changing the name of a street, the municipality cannot change it except on petition of the abutting owners.

In *Brown v. Topeka* 74 P. (2d) 142, it was held that a city had the implied authority to change the name of a street.

However, when streets are deeded to a city or village, the deed conveying the street may restrict the grantee's right to change its name according to *Belden v. Niagara Falls*, 136 Misc. 406, 241 N.Y.S. 5.

Naming streets is a legislative act and not a judicial act, according to *Darling v. Jersey City*, 78 A. 10 (New Jersey), and is not subject to review by or interference from the courts. Also, in *Eldridge v. Fawcett*, 223 P. 1040 (Washington) it was found that the right to change the name of a street is a legislative right which is not exhausted by previous exercise thereof.

In *Norwood Heights Improvement Association Inc., v. Mayor and City Council of Baltimore et al.*, 72 A. (2d) 1, (Maryland, 1950), the Association appealed a decision of the Board of Municipal and Zoning Appeals, objecting, among other things, to the house numbers to be given to several apartment buildings. The court dismissed the appeal, and, among other things, stated that the zoning ordinance had nothing to do with the numbering of new houses.

Sample Ordinance

Model ordinances for establishing street naming and house numbering systems have been proposed by the League of South Dakota Municipalities, in its *Bulletin* of November, 1936, and by the League of Wisconsin Municipalities in *The Municipality*, February, 1941.

Tucson, Arizona, proposed a new system in 1949; the suggested ordinance is reproduced below to indicate types of provisions which may be included in such an ordinance.

"An Ordinance Establishing A Uniform System For Numbering Buildings And Streets, Naming Streets, Establishing Base Streets and Designations For Numbering And Naming Purposes, Providing The Methods For Instituting Said System, And For The Enforcement Thereof.

"The Mayor and Council of the City of Tucson do ordain as follows:

"SECTION 1. There is hereby established a uniform system for numbering buildings fronting on all streets, avenues, and public ways in the City of Tucson, and all houses and other buildings shall be numbered in accordance with the provisions of this ordinance.

"SECTION 2. Speedway shall constitute the base line for numbering buildings along all streets running northerly and southerly; and Pioneer Boulevard, as hereinafter named and established, shall constitute the base line for numbering buildings along all streets running easterly and westerly.

"(1) Each building north of Speedway, and facing a street running in a northerly direction shall carry a number and address indicating its location north of said base street.

"(2) Each building south of Speedway, and facing a street running in a southerly direction shall carry a number and address indicating its location south of said base street.

"(3) Each building east of Pioneer Boulevard, and facing a street running in an easterly direction shall carry a number and address indicating its location east of said base street.

"(4) Each building west of Pioneer Boulevard, and facing a street running in a westerly direction shall carry a number and address indicating its location west of said base street.

"(5) All buildings on diagonal streets shall be numbered the same as buildings on northerly and southerly streets if the diagonal runs more from the north to the south, and the same rule shall apply on easterly and westerly streets if the diagonal runs more from the east to the west. All buildings on diagonal streets having a deviation of exactly forty-five (45) degrees, shall be numbered the same as buildings on northerly and southerly streets.

"SECTION 3. The numbering of buildings on each street shall begin at the base line. All numbers shall be assigned on the basis of one thousand (1000) numbers to each mile, or one thousand (1000) numbers between established section lines or the streets located thereon, and where practicable two numbers shall be assigned to each ten and fifty-six hundredths (10.56) feet of occupied frontage.

"SECTION 4.(a) All buildings on the right-hand side of each street running from the base street shall bear even numbers. All buildings on the left-hand side of each street running from the base street shall bear odd numbers.

"(b) Where any building has more than one entrance serving separate occupants, a separate number shall be assigned to each entrance serving a separate occupant providing said building occupies a lot, parcel, or tract having a frontage equal to 10.56' for each such entrance. If the building is not located on a lot, parcel, or tract which would permit the assignment of one number to each such entrance, numerals and letters shall be used, as set forth in Section 8 herein.

"SECTION 5. All buildings facing streets not extending through to the base line shall be assigned the same relative numbers as if the said street had extended to the said base line.

"SECTION 6. In addition to the numbers placed on each house or other building as heretofore provided, all streets, avenues, and other public ways within said city are hereby given numbers and directional symbols according to their distance and direction from the two base streets set forth in Section 2 herein.

"(a) All streets approximately parallel to and north of Speedway are given the direction North.

All streets approximately parallel to and south of Speedway are given the direction South.

All streets approximately parallel to and east of Pioneer Boulevard are given the direction East.

All streets approximately parallel to and west of Pioneer Boulevard are given the direction West.

"(b) East street shall bear a number or numbers corresponding with the one-tenth (1/10) of a mile in which said street is located at any given point. If said street is not parallel with either base street, then its number shall vary in the case of each address on said street according to the distance said address is from both base streets. Each house or other building in addition to the number or numbers given it under Section 4 herein shall also bear the number and direction of the street on which it is located.

"SECTION 7(a). The Mayor and Council shall cause the necessary survey to be made and completed within six (6) months from the date of the adoption of this ordinance and thereafter there shall be assigned to each house and other residential or commercial building located on any street, avenue, or public way in said city, its respective number under the uniform system provided for in this ordinance according to said survey. When the said survey shall have been completed and each house or building has been assigned its respective number or numbers; the owner, occupant, or agent shall place or cause to be placed upon each house or building controlled by him the number or numbers assigned under the uniform system as provided in this ordinance.

"(b) Such number or numbers shall be placed on existing buildings on or before the effective date of this ordinance, and within twenty (20) days after the assigning of the proper number in the case of numbers assigned after the effective date of this ordinance. The cost of the number or numbers shall be paid for by the property owner and may be procured either from the street superintendent at the unit price for the same, such price to be the cost of such units to the city, or from any other source. Replacement of numbers shall be procured and paid for by the owner. The numbers used shall be not less than three (3) inches in height and shall be made of a durable and clearly visible material. If the proper number is not placed on an existing building on or before the effective date of this ordinance, it shall be the duty of the superintendent of streets to install the proper number or numbers on said premises as hereinafter set forth, and to make a charge of five dollars (\$5.00) for each number so installed; which said charge shall become a lien against the premises on which said building is located, and shall be added to the city real estate tax on said premises for the ensuing year.

"(c) The numbers shall be conspicuously placed immediately above, on, or at the side of the proper door of each building so that the number can be seen plainly from the street line. Whenever any building is situated more than fifty feet from the street line, near the walk, driveway, or common entrance to such building and upon a gate post, fence, tree, post, or other appropriate place so as to be easily discernible from the sidewalk.

"SECTION 8. Where only one number can be assigned to any house or building, the owner, occupant, or agent of such house or building, who shall desire distinctive numbers for the upper and lower portion of any house or building, or for any part of any such house or building fronting on any street; such owner, occupant, or agent shall use the suffix (A), (B), (C), etc. as may be required.

"SECTION 9. For the purpose of facilitating a correct numbering, a plat book of all streets, avenues, and public ways within the city showing the proper numbers of all houses or other buildings fronting upon all streets, avenues, or public ways shall be kept on file in the office of the city superintendent of streets. These plats shall be open to inspection of all persons during the office hours of the superintendent. Duplicate copies of such plats shall be furnished to the engineer and building inspector by the city superintendent of streets.

"SECTION 10. It shall be the duty of the city superintendent of streets to inform any party applying therefore of the number or numbers belonging to or embraced within the limits of any said lot or property as provided in this ordinance. In case of conflict as to the proper number to be assigned to any building, the said superintendent shall determine the number of such building.

"SECTION 11. Whenever any house, building, or structure shall be erected or located in the City of Tucson after the establishment of a uniform system of house and building numbering has been completed, in order to preserve the continuity and uniformity of numbers of the houses, buildings, and structures, it shall be the duty of the owner to procure the correct number or numbers as designated from the city superintendent of streets for the said property and to immediately fasten the said number or numbers so assigned upon said building as provided by this ordinance. No building permit shall be issued for any house, building, or structure until the owner has procured from the superintendent of streets the official number of the premises. Final approval of any structure erected, repaired, altered, or modified after the effective date of this ordinance shall be withheld by the city building inspector until permanent and proper numbers have been affixed to said structure.

"SECTION 12. There is hereby established a uniform system of street naming in the City of Tucson, and all streets, avenues, and other dedicated public ways shall be named in accordance with the provisions of this ordinance.

"(a) All streets and other public ways running in the same direction and having a deviation of not more than 125 feet, shall carry the same name unless special circumstances make such a plan impracticable or not feasible.

"(b) All through east and west streets shall carry the designation 'street' and all through north and south streets shall carry the designation 'avenue,' except for thoroughfares on section lines.

"(c) All through thoroughfares running north and south on section lines shall be designated as 'boulevards.'

"(d) All through thoroughfares running east and west on section lines shall be designated as 'ways,' such as Speedway, Broadway, etc.

"(e) That part of any street ending in a 'dead-end,' or cul-de-sac, shall carry the designation 'place.'

"(f) The name 'lane' shall be used in any residential or business development for any north and south alley street which bisects or crosses a nominal block or series of blocks, and the name 'row' for any such east and west alley street.

"(g) Any street or portion thereof, running in a straight line for more than 500 feet, which moves at an angle of more than 20 degrees from a true north-south or east-west pattern, shall be designated, wherever practicable, as 'stravenue.'

"(h) Any street which curves in an irregular pattern to an extent that its east-west or north-south direction is changed, shall be designated as 'paseo.'

"(i) A short street that does not continue through, running east and west, shall be designated as 'calle.' Such a short street running north and south shall be designated as 'via.'

"(j) No street established or named after the adoption of this ordinance shall bear a name in a language in conflict with its destination.

"(k) The Mayor and Council may adopt further designations or any additional rules and regulations which may be required from time to time upon recommendations of the Planning and Zoning Commission by amending this section.

"SECTION 13. For the purpose of clarifying and systematizing the present street naming pattern in the City of Tucson and to implement the application of the matters set forth in Section 12 herein, there is hereby adopted the following plan.

"(a) The Planning and Zoning Commission of said city is hereby authorized to prepare and present to the Mayor and Council a complete plan for the naming of all streets, avenues, and public ways within said city.

"(b) Said Planning and Zoning Commission shall follow the general plan set forth in Section 12 herein and such other rules as are herein set forth.

"(c) If said Commission shall find an existing street now carrying more than one name, it shall recommend that said street shall bear the name under which it currently travels the longest distance both inside and outside of the city limits of said city unless circumstances indicate that another and different name would be desirable. Said Commission if it sees fit, may hold public hearings at which interested property owners may express their views concerning the changing of the name or names of any street.

"(d) For the purpose of establishing a north and south base street, for numbering and naming purposes, the present existing north and south First Avenue and the extensions thereof is hereby named and designated as Pioneer Boulevard and is hereby established as the north and south base street for the purpose of this ordinance.

"(e) The north and south bound streets west of said Pioneer Boulevard, which are named Second, Third, Fourth, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh, Twelfth, Thirteenth, Fourteenth, Fifteenth, and Sixteenth Avenues, are hereby renamed in a manner to be determined by the Mayor and Council upon recommendation of said Commission, so that the present conflict between numbered streets and numbered avenues is eliminated.

"SECTION 14. Every subdivision plat submitted to the Mayor and Council for their approval after the effective date of this ordinance shall bear upon its face the report of the Planning and Zoning Commission of the proper names of any and all streets, avenues, and public ways hereafter dedicated to public use within the jurisdiction of the Mayor and Council shall first be checked by the Planning and Zoning Commission as to their names under the provisions of this ordinance.

"SECTION 15. This ordinance and all house and building numbers assigned under the provisions thereof, and all street numbers and names established by said ordinance shall become effective one year from the date the Mayor and Council of said city shall by resolution accept and ratify the recommendations made by the Planning and Zoning Commission for the names of all streets, avenues, and public ways within said City, and shall determine that the superintendent of streets has completed the survey required by Section 7 of this ordinance.

"SECTION 16. The Mayor and Council by resolution may change, rename, or name an existing or newly established street within the limits of said city at any time after the adoption of this ordinance upon recommendation of the Planning and Zoning Commission, and after consultation with the Board of Supervisors, the County Planning Agency, and any other municipality directly affected thereby."

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Attorney Suggestions

To ensure proper effectiveness of the code, impose criminal penalty options similar to state criminal trespass levels, and to comply with *Auburn v. Gauntt* decision, the City should:

- (1) update CEMC 1.16.010 to refer to the correct chapter title of 9.24;
- (2) amend the penalty section in 9.24.080 to either make an exception for a criminal trespass penalty under CEMC 9.24.030 or specifically call out the criminal penalty within CEMC 9.24 to mirror state criminal trespass penalties (either option is a policy decision); and
- (3) add a section into 9.24 CEMC also to comply with *Auburn v. Gauntt*, which can be plugged into a new section 9.24.090 as follows:

9.24.090 Statutes incorporated by reference.

The following statutes are incorporated in this chapter by reference:

RCW 9A.52.010, Definitions

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

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

RCW 9A.52.090, Criminal trespass – Defenses

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

RCW 9A.52.120, Computer trespass in the second degree

Each of the above-referenced changes could be rolled into this ordinance to make sure everything is properly enforceable.

We are also happy to help draft or review “WHEREAS” declarations at the beginning of the ordinance draft as there are some nuances and other considerations that can impact risk.

We can also prepare a Notice to Vacate and Admonishment form for the City that will help to provide notice to people in illegal encampments that the City intends to remove and clean up. This form would also provide the admonishment forbidding a person to return to that site, as well as the appeal options for a person to challenge such a decision by the City, as required under state law (see RCW 9A.52.105 and 115).

Cle Elum Municipal Code Chapter 8.44

CAMPING WITHIN CITY LIMITS

Sections:

- 8.44.010 Location, Purpose,
- 8.44.020 Disposal of garbage, Definitions,
- 8.44.030 Sanitary facilities required, Unlawful camping,
- 8.44.040 Violation – Penalty, Unlawful storage of personal property in public places,
- New Section 8.44.050 Removal of unauthorized encampments and individual camps,
- New Section 8.44.060 Penalty for violations,
- New Section 8.44.070 No public duty created,
- New Section 8.44.080 Severability,

8.44.010 Location – Purpose.

No person, firm, or corporation shall erect, establish or maintain within the corporate limits of the city, any camp, shack or other place of temporary abode, except by permission of the city council granted on a case-by-case basis. It is the purpose of this chapter to prevent harm and to promote the public health, safety, and general welfare and environment by keeping public streets, sidewalks, parks, and other public property owned or maintained by the city and public rights-of-way within the city readily accessible to the public, and to prevent use of public property owned or maintained by the city for camping purposes or storage of personal property that interferes with the rights of others to use the areas for the purposes for which they were intended. It is also the purpose of this chapter to establish a uniform policy for city departments to address the removal of unauthorized encampments from public property owned or maintained by the city and, where applicable, temporarily store personal property in a manner consistent with local, state, and federal laws.

(Ord. 1152 § 1, 2001; Ord. 183 § 1, 1918)

8.44.020 Disposal of garbage – Definitions.

All solid or semisolid kitchen refuse shall be disposed of in watertight trash receptacles, provided with tight-fitting covers, which shall at all times be kept securely in place on the receptacle so as to prevent the ingress or egress of flies. All trash receptacles must be emptied daily and contents cremated or otherwise disposed of in a manner approved of the city health officer.

- (1) "Abandoned" means personal property or other items that which reasonably appears, based on the totality of the circumstances, the owner thereof intentionally relinquished the right or intent to possess by action, verbal or written disclaimer, lapse of time, or non-use of the same.

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(2) "Admonishment" means a written exclusion order issued by a law enforcement officer that excludes a person from specific public property associated with a person's violations of local or state laws. Admonishments may be issued for a period of up to one year from the issuance date and subject a person to arrest and prosecution for criminal trespass if violated.

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(3) "Camp" or "camping" means to pitch, erect, or occupy camp facilities, structures, or locations, or to use camp paraphernalia or both, for the purpose of or in such a way to facilitate, taking up temporary residence overnight; or parking or otherwise situating a camper, recreational vehicle, trailer, or other vehicle for the purpose of taking up temporary residence overnight.

(4) "Camp facilities" include, but are not limited to, tents, huts, temporary shelters or structures made of any material, campers, recreational vehicles, or trailers.

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(5) "Camp paraphernalia" includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks and/or cooking facilities and similar equipment.

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(6) "City" has the same meaning as provided in CMC 1.04.010.

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(7) "Contraband" means any item, material, or substance that is unlawful to produce or possess.

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(8) "Hazardous item" means an item, including personal property, which reasonably appears to be dangerous or involves risk of harm to the health or safety of human, animals, or the environment, either in its present form or as stored.

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(9) "Litter" has the same meaning as used in RCW 70A.200.030(6) and (11) as adopted or may be amended.

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(10) "Park" or "park facility" means any building, structure, equipment, sign, shelter, swimming pool, vegetation, playground, real property, or other physical property owned or controlled by the city for park purposes. Park or park facility includes all associated areas, including but not limited to parking lots for parks, structures, regardless of whether the area is under the management and control of the parks and recreation department.

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(11) "Public property" means real property, including facilities located thereon, owned or maintained by the city.

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(12) "Personal property" means, in addition to its common meaning, an item that is:

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(a) Reasonably recognizable as belonging to a person;

(b) Has apparent utility or value in its present condition; and

(c) Is not abandoned, solid waste, litter, trash, or a hazardous item.

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(13) "Right-of-Way" has the same meaning as provided in CEMC 12.01.020.

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(14) "Rules and regulations" means any policies or laws governing use of and behavior or conduct upon public property.

(15) "Solid waste" has the same meaning as used in RCW 70A.205.015(22) as currently enacted or subsequently amended, and includes, but is not limited to: human or animal waste; garbage or trash; household liquid or hazardous waste; food waste; soiled or infested sleeping bags, clothing, bedding, and/or tents or other similar structures or shelters; other Hazards; empty packaging; or clearly discarded materials and decaying furniture, tires, mattresses, and wood.

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(16) "Street" has the same meaning as provided CEMC 1.04.010.

(17) "Store" or "storage" means to put aside or accumulate for use when needed, to put for safekeeping, or to place or leave in a location.

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- (18) "Trail" means a public path owned, operated, or maintained by the city for the primary purpose of walking, biking, or other non-vehicular travel.
- (19) "Unauthorized encampment" means one or more camp facilities in an identifiable area where the camp facilities are in sight of each other or areas where each camp facility is located within 300 feet of another camp facility.
- (20) "Vehicle" has the same meaning as RCW 46.04.670 as currently enacted or hereafter amended.

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(Ord. 1152 § 2, 2001; Ord. 183 § 2, 1918)

8.44.030 Sanitary facilities required – Unlawful camping.

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~~Each camp site shall be provided with at least two sanitary toilets, and such toilets shall conform to the requirements of city and state regulations pertaining to the disposal of such waste.~~

- (1) It is unlawful for any person to camp, occupy camp facilities for purposes of habitation, or use camp paraphernalia in the following areas, except as otherwise provided by the city code or where specifically designated:
 - (a) Any street, alley, sidewalk, city street, or city right-of-way;
 - (b) Any trail, park, or park facility, except as authorized by special permit or allowance;
 - (c) Any city-owned or maintained parking lot or city-owned area, whether improved or unimproved; or
 - (d) Any other city-owned or -maintained property.
- (2) It is unlawful for any person to occupy a vehicle for the purpose of camping while that vehicle is parking in the following areas, except as otherwise provided by ordinance or as permitted by special permit or allowance:
 - (a) Any park outside of opening hours;
 - (b) Any street, alley, city road, or city right-of-way; or
 - (c) Any city-owned or -maintained parking lot or other city-owned or -maintained areas, whether improved or unimproved.

(Ord. 1152 § 3, 2001; Ord. 183 § 3, 1918)

8.44.040 Violation – Penalty – Unlawful storage of personal property in public places.

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~~Any person violating any provision of this chapter is deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars or more than fifty dollars.~~

- (1) It is unlawful for any person to store personal property, including camp facilities and camp paraphernalia, on the following public property owned or maintained by the city, except as otherwise provided by the Cle Elum city code:
 - (a) Any city street or right-of-way;
 - (b) Any trail, park, or park facility, or parking lot thereof;
 - (c) Any city-owned or maintained parking lot or city-owned area, whether improved or unimproved; or

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- (d) Any other public property owned or maintained by the city.
- (2) This section shall not apply to vehicles, including trailers, recreational vehicles, and campers, that are legally parked in rights-of-way, unless otherwise prohibited by law.

(Ord. 183 § 4, 1918)

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NEW SECTION 8.44.050 – Removal of unauthorized encampments and individual camps.

- (1) Law enforcement officer(s) or city designated personnel will determine whether a location constitutes a "camp," "unauthorized encampment," "abandoned," or meeting the definition of any other term defined in this chapter. For this determination, the law enforcement officer or designated city personnel merely needs to determine that the thing, collection of items, area, or location is readily identifiable as such without said inquiry or determination creating a danger or threat of safety to law enforcement or the designated city personnel.

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- (2) Personal property, camping paraphernalia, camp facilities, and all other property, hazardous items, contraband, litter, and/or solid waste located at an unauthorized encampment may be removed subject to the following provisions:

- (a) Upon a determination by law enforcement or designated city personnel that an area constitutes an unauthorized encampment or that an individual is engaged in unlawful camping or storage of personal property in a public place,

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- (b) Property which presents an immediate and substantial risk of harm. If the unauthorized encampment, unlawful camping, or unlawful storage of personal property results in an immediate and significant risk of harm to any person or impedes pedestrian or vehicular traffic, then law enforcement, city staff, or contracted city agent may immediately remove any personal property, camping paraphernalia, camp facilities, and all other property, contraband, weapons, litter, and solid waste, which shall be stored or disposed in the manner as set forth below in subsection (2)(c) below.

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- (c) Except as stated in subsection (2)(b) above, prior to removing property from an unauthorized encampment or unlawful camp, or removing personal property unlawfully stored on public property owned or maintained by the city, the following shall occur:

- (i) The county shall post at least a 72-hour advanced notice, which shall include the following information at a minimum:

Commented [JE9]: The City draft provided includes a 48-hour notice period. Many other jurisdictions do a 72-hour period. I erred on the longer notice period for the draft, but you may adjust it if you wish. You will want to ensure that your Notice to Vacate and Admonishment includes the correct period corresponding to whatever you decide on. Additionally, the Admonishment should include details on how to appeal the exclusion determination. We can help with a draft for the City if you wish. Please let us know.

- (A) The address or location of the unauthorized encampment, unlawful camping, or unlawful storage of personal property;

- (B) A statement that camping or storage activity is prohibited by CMC [insert appropriate code references];

- (C) A statement that any individual continuing to use the area for unlawful camping or storage of personal property may be subject

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to criminal penalties pursuant to CMC, [insert trespass code references];

(D) A statement that any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, or solid waste remaining at the site after the notice period is subject to removal and, as may be applicable, temporary storage by the city, consistent with chapter 63.32 RCW as exists now and hereafter amended.

(ii) At the end of the 72-hour notice period, any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, or solid waste may be removed by city personnel or agents thereof. Furthermore:

(A) Any personal property removed from the site shall be stored by the city for at least sixty (60) days, consistent with chapter 63.32 RCW as exists now and hereafter amended, prior to being disposed of;

(B) Notice of where personal property removed from the encampment may be claimed, along with the length of time the owner has to retrieve said property, shall be posted at the location or delivered to any individuals at the site;

(C) If the name and contact information for the owner of a particular item of personal property can reasonably be identified, the city shall attempt to contact the identified owner and provide notice that the personal property has been removed and how the owner may claim the personal property, along with the length of time the owner has to retrieve said property;

(D) Any contraband or evidence of a crime located at the site shall be seized and properly disposed of or retained as evidence of criminal activity; and

(E) Any litter, hazardous item, or solid waste found at the site shall be properly disposed of consistent with federal, state, and local laws and regulations.

NEW SECTION 8.44.060 – Penalties.

(1) The first violation of any of the provisions of this chapter is punishable by a fine of \$75, which may be reduced to \$35 for mitigation efforts of the violating individual per CEMC 8.44.070.

(2) The second violation of any of the provisions of this chapter is punishable by a fine of \$75, which may be reduced to \$50 for mitigation efforts of the violating individual per CEMC 8.44.070.

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(3) In the instance of a third (cited) violation within one year of previous two citations under this chapter, the individual in violation, in addition to a citation of \$75, may be issued a written exclusion order by a police officer of the Police Department barring said individual from the particular public property owned or maintained by the city for a period of 30 days up to a period of one year, as determined by the officer based on a totality of the circumstances.

- (a) Such an exclusion order shall only apply to the particular public property owned or maintained by the city that the conduct constituting a violation of this chapter occurred in.
- (b) A person violating the written exclusion order is subject to arrest and prosecution for criminal trespass under CEMC 9.24.030.

[DELETED THE "ENFORCEMENT SUSPENDED" SECTION AS IT IS NOT REQUIRED AFTER THE GRANTS PASS DECISION. HOWEVER, THE CITY IS FREE TO KEEP THAT IN HERE IF IT WISHES TO.]

NEW SECTION 8.44.070 – Mitigation.

Upon conviction for a violation of this Chapter, in addition to any other factors deemed appropriate by the Court, the Court shall consider whether the person immediately removed all personal property and litter, including but not limited to bottles, cans, and garbage from the campsite, after being informed the placement thereof was in violation of the law as a mitigating factor for determining appropriate penalties.

NEW SECTION 8.44.080 – Temporary Exclusion from Public Property – Written Exclusion Order – Opportunity to appeal.

- (1) An individual may be issued a written exclusion order/notice to vacate by a city law enforcement officer barring said individual from public property for a period of 30 days up to one year, as determined by the officer based on a totality of the circumstances if within a one-year period the individual is warned two or more times, formally or informally, or issued two or more citations at the same public property for violating regulations related to public property; or for violating any state or local law(s) while on said public property. The foregoing exclusion order shall only apply to the particular public property in which the offending conduct occurred.
- (2) An individual with a current exclusion order applying to them may be subject to arrest and prosecution for criminal trespass under CEMC 9.24.030 for violating the exclusion order.
- (3) The admonishment included on an exclusion notice:
 - (a) Shall comply with RCW 9A.52.105 and 9A.52.115;
 - (b) Is effective whether or not the excluded person is charged, tried, or convicted of any crime or infraction;
 - (c) Is effective even if the admonished person refuses a copy of the Admonishment; provided, that the issuing city official reasonably notifies the admonished person

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Commented [JE16]: See email and comments regarding issues with the way trespass appears in the City code. RCW 9A.52.070 and 080 need to be incorporated by reference.

For example, RCW 9A.52.080, Criminal trespass in the second degree.

- (1) A person is guilty of criminal trespass in the second degree if he or she knowingly enters or remains unlawfully in or upon premises of another under circumstances not constituting criminal trespass in the first degree.
- (2) Criminal trespass in the second degree is a misdemeanor.

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of the admonishment period, place(s) of exclusion, and appeal process under this Notice;

(d) Is effective for the admonishment period unless and until shortened or rescinded by an official ruling after appeal in this section;

(e) May be based upon observations by city officials and/or police officers, or upon civilian reports that an official or officer could reasonably rely on in determining probable cause; and

(f) Shall provide the excluded person with information on how to appeal the exclusion decision of the City.

(4) Admonishments and exclusion orders may be delivered in person to the individual or by first class mail to the individual at the individual's last known address, or any other method reasonably designed to provide service of the notice to the individual trespassed.

(5) The person subject to an admonishment contained on an exclusion order/notice to vacate may appeal the Admonishment in writing. Any such appeal must:

(a) Be in writing including at least the person's name, the involved property location, and the approximate Admonishment date to enable processing of the appeal;

(b) Be received by the City Clerk or postmarked within 14 calendar days of the person's receiving the Admonishment; and

(c) Be under oath and include all facts that the admonished person believes support shortening or rescinding of the Admonishment.

(6) The Mayor or designee shall review any appeal of the Admonishment and shall issue a ruling upholding, rescinding, or shortening the Admonishment within 14 calendar days of receiving the written request for appeal. The appeal process in this section cannot be used to appeal any criminal penalties imposed by a court under this section or any other law. The Mayor or designee may consider the Admonishment and any other relevant and trustworthy submitted written materials in deciding the appeal. The Admonishment shall be upheld if supported by a preponderance of evidence. The ruling may be transmitted to the excluded person by mail, in person, electronically, or by any other method specified by the person or reasonably likely under the circumstances to give notice of the decision.

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NEW SECTION 8.44.090 – No public duty created.

It is expressly the purpose of this chapter to provide for and promote the health, safety, and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons or individual who will or should be especially protected or benefited by the terms of this chapter.

Nothing contained in this chapter is intended nor shall be construed to create or form the basis of any liability on the part of the city or its officers, employees, or agents for any injury or damage resulting from any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees, or agents.

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NEW SECTION 8.44,100 – Severability.

If any portion of this chapter, or its application to any person or circumstances, is held invalid, the validity of the chapter as a whole, or any other portion thereof, or the application of the provision to other persons or circumstances is not affected.

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See email and comments regarding issues with the way trespass appears in the City code. RCW 9A.52.070 and 080 need to be incorporated by reference.

For example, RCW [9A.52.080](#), Criminal trespass in the second degree.

(1) A person is guilty of criminal trespass in the second degree if he or she knowingly enters or remains unlawfully in or upon premises of another under circumstances not constituting criminal trespass in the first degree.

(2) Criminal trespass in the second degree is a misdemeanor.

Under RCW [9A.20.021](#), a conviction of a misdemeanor is punishable by up to 90 days in jail or a fine of up to \$1,000, or a combination of both.

Under CEMC 9.24.030, trespass is only subject to a fine of \$500 per CEMC 9.24.080.

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I recommend that the City do not go longer than 30 days for exclusion orders issued administratively unless and until the City obtains a court order or this code section becomes effective. Additionally, there will need to be a training element for officers on how/when to apply this. You may also want to have a policy about when an officer needs to seek approval of the exclusion and its duration if you want to control risk and avoid inconsistent application.

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The City has designated trespass as carrying a fine of \$500 in CEMC 9.24.030. I did not locate an area in the code where anything from Title 9A RCW, which contains criminal trespass in RCW 9A.52.070 and 080, has been adopted, which is not compliant with the *Auburn v. Gauntt* decision of the WA Supreme Court. This will also mean that no jail time would be associated with a trespass violation, and there will be less flexibility in a monetary penalty. I did locate CEMC 1.16.010 that designates a violation of Chapter 9.24 CEMC as a gross misdemeanor, but the chapter reference listed there has it as "Theft and Vehicle Prowling" rather than its current chapter title of "Trespass and Vehicle Prowling."

The City should (1) update CEMC 1.16.010 to refer to the correct chapter title of 9.24; (2) amend the penalty section in 9.24.080 to either make an exception for a criminal trespass penalty under CEMC 9.24.030 or specifically call out the criminal penalty within CEMC 9.24 to mirror state criminal trespass penalties (either option is a policy decision); and (3) add a section into 9.24 CEMC also to comply with *Auburn v. Gauntt*, which can be plugged into a new section 9.24.090. Each of these changes could be rolled into this ordinance to make sure everything is properly enforceable.

9.24.090 Statutes incorporated by reference.

The following statutes are incorporated in this chapter by reference:

RCW 9A.52.010, Definitions

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

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

RCW 9A.52.090, Criminal trespass – Defenses

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

RCW 9A.52.120, Computer trespass in the second degree

Cle Elum Municipal Code Chapter 8.44

CAMPING WITHIN CITY LIMITS

Sections:

- [8.44.010 Purpose.](#)
- [8.44.020 Definitions.](#)
- [8.44.030 Unlawful camping.](#)
- [8.44.040 Unlawful storage of personal property in public places.](#)
- **New Section 8.44.050 Removal of unauthorized encampments and individual camps.**
- **New Section 8.44.060 Penalty for violations.**
- **New Section 8.44.070 No public duty created.**
- **New Section 8.44.080 Severability.**

Commented [JE1]: I did not include any "WHEREAS" statements or declarations in this draft. We can certainly work on those for you if you like as there are some nuances to consider and language that may involve particular risk.

8.44.010 – Purpose.

It is the purpose of this chapter to prevent harm and to promote the public health, safety, and general welfare and environment by keeping public streets, sidewalks, parks, and other public property owned or maintained by the city and public rights-of-way within the city readily accessible to the public, and to prevent use of public property owned or maintained by the city for camping purposes or storage of personal property that interferes with the rights of others to use the areas for the purposes for which they were intended. It is also the purpose of this chapter to establish a uniform policy for city departments to address the removal of unauthorized encampments from public property owned or maintained by the city and, where applicable, temporarily store personal property in a manner consistent with local, state, and federal laws.(Ord. 1152 § 1, 2001; Ord. 183 § 1, 1918)

8.44.020 – Definitions.

- (1) "Abandoned" means personal property or other items that which reasonably appears, based on the totality of the circumstances, the owner thereof intentionally relinquished the right or intent to possess by action, verbal or written disclaimer, lapse of time, or non-use of the same.
- (2) **"Admonishment"** means a written exclusion order issued by a law enforcement officer that excludes a person from specific public property associated with a person's violations of local or state laws. Admonishments may be issued for a period of up to one year from the issuance date and subject a person to arrest and prosecution for criminal trespass if violated.
- (3) "Camp" or "camping" means to pitch, erect, or occupy camp facilities, structures, or locations, or to use camp paraphernalia or both, for the purpose of or in such a way to facilitate, taking up temporary residence overnight; or parking or otherwise situating a

Commented [JE2]: Admonishment, as well as the appeal process for them, should also be codified. Codified language would follow what City of Auburn has done here: <https://auburn.municipal.codes/ACC/2.22.240>, and would be included on a Notice to Vacate/Admonishment form. Without codification, exclusions should not be longer than 30 days without a court order to avoid risk.

camper, recreational vehicle, trailer, or other vehicle for the purpose of taking up temporary residence overnight.

- (4) "Camp facilities" include, but are not limited to, tents, huts, temporary shelters or structures made of any material, campers, recreational vehicles, or trailers.
- (5) "Camp paraphernalia" Includes, but is not limited to, tarpaulins, cots, beds, sleeping bags, hammocks and/or cooking facilities and similar equipment.
- (6) "City" has the same meaning as provided in CMC 1.04.010.
- (7) "Contraband" means any item, material, or substance that is unlawful to produce or possess.
- (8) "Hazardous item" means an item, including personal property, which reasonably appears to be dangerous or involves risk of harm to the health or safety of human, animals, or the environment, either in its present form or as stored.
- (9) "Litter" has the same meaning as used in RCW 70A.200.030(6) and (11) as adopted or may be amended.
- (10) "Park" or "park facility" means any building, structure, equipment, sign, shelter, swimming pool, vegetation, playground, real property, or other physical property owned or controlled by the city for park purposes. Park or park facility includes all associated areas, including but not limited to parking lots for parks, structures, regardless of whether the area is under the management and control of the parks and recreation department.
- (11) "Public property" means real property, including facilities located thereon, owned or maintained by the city.
- (12) "Personal property" means, in addition to its common meaning, an item that is:
 - (a) Reasonably recognizable as belonging to a person;
 - (b) Has apparent utility or value in its present condition; and
 - (c) Is not abandoned, solid waste, litter, trash, or a hazardous item.
- (13) "Right-of-Way" has the same meaning as provided in CEMC 12.01.020.
- (14) "Rules and regulations" means any policies or laws governing use of and behavior or conduct upon public property.
- (15) "Solid waste" has the same meaning as used in RCW 70A.205.015(22) as currently enacted or subsequently amended, and includes, but is not limited to: human or animal waste; garbage or trash; household liquid or hazardous waste; food waste; soiled or infested sleeping bags, clothing, bedding, and/or tents or other similar structures or shelters; other Hazards; empty packaging; or clearly discarded materials and decaying furniture, tires, mattresses, and wood.
- (16) "Street" has the same meaning as provided CEMC 1.04.010.
- (17) "Store" or "storage" means to put aside or accumulate for use when needed, to put for safekeeping, or to place or leave in a location.
- (18) "Trail" means a public path owned, operated, or maintained by the city for the primary purpose of walking, biking, or other non-vehicular travel.
- (19) "Unauthorized encampment" means one or more camp facilities in an identifiable area where the camp facilities are in sight of each other or areas where each camp facility is located within 300 feet of another camp facility.
- (20) "Vehicle" has the same meaning as RCW 46.04.670 as currently enacted or hereafter amended.

(Ord. 1152 § 2, 2001; Ord. 183 § 2, 1918)

Commented [JE3]: Consider this definition from the Grants Pass city ordinance since it has passed U.S. Supreme Court scrutiny: "Campsite" means any place where bedding, sleeping bag, or other material used for bedding purposes, or any stove or fire is placed, established, or maintained for the purpose of maintaining a temporary place to live, whether or not such place incorporates the use of any tent, lean-to, shack, or any other structure, or any vehicle or part thereof.

We can blend the definitions from this draft, which tracks the Kittitas county and Ellensburg ordinances, to broaden the definition, as the definition in the current draft is narrower.

Commented [JE4]: You may also consider this definition from another city's policies on this subject: "Encampment" means an identifiable area within the city where evidence is present reasonably indicating a person or multiple people inhabit or have inhabited, including but not limited to one or more tent(s), structure(s), shelter(s), or collection of camping equipment, bedding, or personal property used for camping or otherwise sleeping and living, in a location, whether currently occupied or abandoned.

Commented [JE5]: This definition is higher level than another that you may consider:

"Hazardous item" or "hazardous material" means items that reasonably appear to pose a threat to public safety or health to an individual, members of the public, or to City employees. Examples include, but are not limited to: human and/or animal waste; drug use needles or other illegal drug related paraphernalia; illegal drugs or items that may be used for manufacture of illegal drugs; items bearing signs of contamination, infestation, mold, or biohazard; dangerous or hazardous chemicals; and items posing a risk of fire or explosion.

Of note:

- People could also be collecting any number of chemicals in these areas, including creating meth labs, which pose a great risk to the public and environment. The broad definition in this draft could cover it, it just depends on how specific you want to get.

- One thing that is beneficial from the more detailed definition above is that it helps to differentiate between ... [1]

Commented [JE6]: Added this language from another jurisdiction's example. You don't have to include if not applicable or desired, but wanted to include it here as an option.

Commented [JE7]: This is the definition from Kittitas County and Ellensburg, however, you may want to consider adding to this to make it a expansive definition, especially if the City has been granted trespass authority from other governmental entities with property within your jurisdiction: "or other publicly owned property, improved or unimproved."

8.44.030 – Unlawful camping.

- (1) It is unlawful for any person to camp, occupy camp facilities for purposes of habitation, or use camp paraphernalia in the following areas, except as otherwise provided by the city code or where specifically designated:
 - (a) Any street, alley, sidewalk, city street, or city right-of-way;
 - (b) Any trail, park, or park facility, except as authorized by special permit or allowance;
 - (c) Any city-owned or maintained parking lot or city-owned area, whether improved or unimproved; or
 - (d) Any other city-owned or -maintained property.
- (2) It is unlawful for any person to occupy a vehicle for the purpose of camping while that vehicle is parking in the following areas, except as otherwise provided by ordinance or as permitted by special permit or allowance:
 - (a) Any park outside of opening hours;
 - (b) Any street, alley, city road, or city right-of-way; or
 - (c) Any city-owned or -maintained parking lot or other city-owned or -maintained areas, whether improved or unimproved.

(Ord. 1152 § 3, 2001; Ord. 183 § 3, 1918)

8.44.040 – Unlawful storage of personal property in public places.

- (1) It is unlawful for any person to store personal property, including camp facilities and camp paraphernalia, on the following public property owned or maintained by the city, except as otherwise provided by the Cle Elum city code:
 - (a) Any city street or right-of-way;
 - (b) Any trail, park, or park facility, or parking lot thereof;
 - (c) Any city-owned or maintained parking lot or city-owned area, whether improved or unimproved; or
 - (d) Any other public property owned or maintained by the city.
- (2) This section shall not apply to vehicles, including trailers, recreational vehicles, and campers, that are legally parked in rights-of-way, unless otherwise prohibited by law.

(Ord. 183 § 4, 1918)

NEW SECTION 8.44.050 – Removal of unauthorized encampments and individual camps.

- (1) Law enforcement officer(s) or city designated personnel will determine whether a location constitutes a "camp," "unauthorized encampment," "abandoned," or meeting the definition of any other term defined in this chapter. For this determination, the law enforcement officer or designated city personnel merely needs to determine that the thing, collection of items, area, or location is readily identifiable as such without said inquiry or determination creating a danger or threat of safety to law enforcement or the designated city personnel.

(2) Personal property, camping paraphernalia, camp facilities, and all other property, hazardous items, contraband, litter, and/or solid waste located at an unauthorized encampment may be removed subject to the following provisions:

- (a) Upon a determination by law enforcement or designated city personnel that an area constitutes an unauthorized encampment or that an individual is engaged in unlawful camping or storage of personal property in a public place.
- (b) Property which presents an immediate and substantial risk of harm. If the unauthorized encampment, unlawful camping, or unlawful storage of personal property results in an immediate and significant risk of harm to any person or impedes pedestrian or vehicular traffic, then law enforcement, city staff, or contracted city agent may immediately remove any personal property, camping paraphernalia, camp facilities, and all other property, contraband, weapons, litter, and solid waste, which shall be stored or disposed in the manner as set forth below in subsection (2)(c) below.

(c) Except as stated in subsection (2)(b) above, prior to removing property from an unauthorized encampment or unlawful camp, or removing personal property unlawfully stored on public property owned or maintained by the city, the following shall occur:

- (i) The ~~city~~ county shall post at least a 72-hour advanced notice, which shall include the following information at a minimum:
 - (A) The address or location of the unauthorized encampment, unlawful camping, or unlawful storage of personal property;
 - (B) A statement that camping or storage activity is prohibited by CMC [insert appropriate code references];
 - (C) A statement that any individual continuing to use the area for unlawful camping or storage of personal property may be subject to criminal penalties pursuant to CMC [insert trespass code references];
 - (D) A statement that any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, or solid waste remaining at the site after the notice period is subject to removal and, as may be applicable, temporary storage by the city, consistent with chapter 63.32 RCW as exists now and hereafter amended.

(ii) At the end of the 72-hour notice period, any personal property, camping paraphernalia, camp facilities, and all other property, contraband, litter, or solid waste may be removed by city personnel or agents thereof.

Furthermore:

- (A) Any personal property removed from the site shall be stored by the city for at least sixty (60) days, consistent with chapter 63.32 RCW as exists now and hereafter amended, prior to being disposed of;

Commented [JE8]: This will need training to determine when/if this is appropriate. It would be a good idea to have the action approved in instances where the items are not on a roadway or sidewalk since they will pose less of an immediate risk to public safety.

Commented [JE9]: The City draft provided includes a 48-hour notice period. Many other jurisdictions do a 72-hour period. I erred on the longer notice period for the draft, but you may adjust it if you wish. You will want to ensure that your Notice to Vacate and Admonishment includes the correct period corresponding to whatever you decide on. Additionally, the Admonishment should include details on how to appeal the exclusion determination. We can help with a draft for the City if you wish. Please let us know.

- (B) Notice of where personal property removed from the encampment may be claimed, along with the length of time the owner has to retrieve said property, shall be posted at the location or delivered to any individuals at the site;
- (C) If the name and contact information for the owner of a particular item of personal property can reasonably be identified, the city shall attempt to contact the identified owner and provide notice that the personal property has been removed and how the owner may claim the personal property, along with the length of time the owner has to retrieve said property;
- (D) Any contraband or evidence of a crime located at the site shall be seized and properly disposed of or retained as evidence of criminal activity; and
- (E) Any litter, hazardous item, or solid waste found at the site shall be properly disposed of consistent with federal, state, and local laws and regulations.

NEW SECTION 8.44.060 – Penalties.

- (1) The first violation of any of the provisions of this chapter is punishable by a fine of \$75, which may be reduced to \$35 for mitigation efforts of the violating individual per CEMC 8.44.070.
- (2) The second violation of any of the provisions of this chapter is punishable by a fine of \$75, which may be reduced to \$50 for mitigation efforts of the violating individual per CMC 8.44.070.
- (3) In the instance of a third (cited) violation within one year of previous two citations under this chapter, the individual in violation, in addition to a citation for \$75, may be issued a written exclusion order by a city law enforcement officer barring said individual from the particular public property owned or maintained by the city for a period of 30 days up to a period of one year, as determined by the officer based on a totality of the circumstances.
 - (a) Such an exclusion order shall only apply to the particular public property owned or maintained by the city that the conduct constituting a violation of this chapter occurred in.
 - (b) A person violating the written exclusion order is subject to arrest and prosecution for criminal trespass under CEMC 9.24.030.

[DELETED THE "ENFORCEMENT SUSPENDED" SECTION AS IT IS NOT REQUIRED AFTER THE GRANTS PASS DECISION. HOWEVER, THE CITY IS FREE TO KEEP THAT IN HERE IF IT WISHES TO.]

NEW SECTION 8.44.070 – Mitigation.

Commented [JE10]: Warnings prior to this can be as numerous as you like, though some level of documentation may help officers determine when issuing a citation would be warranted. The options for officers to be able to issue informal (verbal) or formal (written) warnings does not need to be codified necessarily, and would/could instead follow City/PD policy.

Commented [JE11]: Both Ellensburg and Kittitas County have a violation of this chapter set at a misdemeanor. However, consistent with what the U.S. Supreme Court found acceptable in the *Grants Pass* decision, I recommend that you consider adopting something similar to that instead, which has the first two citations punishable by a fine, followed by a third fine and a written exclusion, with arrest and prosecution for criminal trespass as the punishment for violating the written exclusion order. You can choose to have these fines be escalating, which we are happy to work into the draft for you if you like. It could go something like \$50 for 1st offense, \$75 for 2nd offense, and \$100 for 3rd offense.

Commented [JE12]: This should be done by the court, not the officer. If you want to be very clear about this, you could add "by the court" to avoid confusion with officers. Up to you.

Commented [JE13]: Same comment as above.

Commented [JE14]: Grants Pass code had this at 30 days. It is up to the City's discretion of how long to do this for, though it's likely a good bet to follow the Grants Pass code more closely to avoid risk. If you prefer to avoid risk of too much discretion and want to restrict to 30 days, we can adjust this language.

Commented [JE15]: With this condition, you may run into a practicality issue in that it may be difficult to track who has been trespassed from where and then have that available to officers in the field. Granted, they may have personal knowledge from previous contacts, but that may not always be the case. However, this mirrors what was in the Grants Pass decision and is likely to most defensible route for that reason. Especially given the recent lawsuit filed by the ACLU against Spokane, it may be best to approach this as closely to the Grants Pass example as possible given its "blessing" by the Supreme Court. You can likely address some practicality of application issues in the field with training and guidance to officers, as well as good recordkeeping that is accessible to officers in the field.

Commented [JE16]: See email and comments regarding issues with the way trespass appears in the City code. RCW 9A.52.070 and 080 need to be incorporated by reference.

For example, RCW [9A.52.080](#), Criminal trespass in the second degree.

- (1) A person is guilty of criminal trespass in the second degree if he or she knowingly enters or remains unlawfully in or upon premises of another under

[2]

Upon conviction for a violation of this Chapter, in addition to any other factors deemed appropriate by the Court, the Court shall consider whether the person immediately removed all personal property and litter, including but not limited to bottles, cans, and garbage from the campsite, after being informed the placement thereof was in violation of the law as a mitigating factor for determining appropriate penalties.

Commented [JE17]: Grants Pass ordinance had this as a directive. The City may want to change to a permissive "may," especially as courts may not appreciate being directed to do things.

NEW SECTION 8.44.080 – Temporary Exclusion from Public Property – Written Exclusion Order – Opportunity to Appeal.

Commented [JE18]: Use of this term as defined in the definitions section in this chapter rather than "city properties" allows this to expand to other publicly owned property that the City has been provided trespass authority on.

- (1) An individual may be issued a written exclusion order/notice to vacate by a city law enforcement officer barring said individual from public property for a period of 30 days up to one year, as determined by the officer based on a totality of the circumstances if within a one-year period the individual is warned two or more times, formally or informally, or issued two or more citations at the same public property for violating regulations related to public property; or for violating any state or local law(s) while on said public property. The foregoing exclusion order shall only apply to the particular public property in which the offending conduct occurred.

Commented [JE19]: I recommend that the City do not go longer than 30 days for exclusion orders issued administratively unless and until the City obtains a court order or this code section becomes effective. Additionally, there will need to be a training element for officers on how/when to apply this. You may also want to have a policy about when an officer needs to seek approval of the exclusion and its duration if you want to control risk and avoid inconsistent application.

- (2) An individual with a current exclusion order applying to them may be subject to arrest and prosecution for criminal trespass under CEMC 9.24.030 for violating the exclusion order.

Commented [JE20]: The City has designated trespass as carrying a fine of \$500 in CEMC 9.24.030. I did not locate an area in the code where anything from Title 9A RCW, which contains criminal trespass in RCW 9A.52.070 and 080, has been adopted, which is not compliant with the *Auburn v. Gauntt* decision of the WA Supreme Court. This will also mean that no jail time would be associated with a trespass violation, and there will be less flexibility in a monetary penalty. I did locate CEMC 1.16.010 that designates a violation of Chapter 9.24 CEMC as a gross misdemeanor, but the chapter reference listed there has it as "Theft and Vehicle Prowling" rather than its current chapter title of "Trespass and Vehicle Prowling."

- (3) The admonishment included on an exclusion notice:

- (a) Shall comply with RCW 9A.52.105 and 9A.52.115;
- (b) Is effective whether or not the excluded person is charged, tried, or convicted of any crime or infraction;
- (c) Is effective even if the admonished person refuses a copy of the Admonishment; provided, that the issuing city official reasonably notifies the admonished person of the admonishment period, place(s) of exclusion, and appeal process under this Notice;
- (d) Is effective for the admonishment period unless and until shortened or rescinded by an official ruling after appeal in this section;
- (e) May be based upon observations by city officials and/or police officers, or upon civilian reports that an official or officer could reasonably rely on in determining probable cause; and
- (f) Shall provide the excluded person with information on how to appeal the exclusion decision of the City.

The City should (1) update CEMC 1.16.010 to refer to the correct chapter title of 9.24; (2) amend the penalty section in 9.24.080 to either make an exception for a criminal trespass penalty under CEMC 9.24.030 or specifically call out the criminal penalty within CEMC 9.24 to mirror state criminal trespass penalties (either option is a policy decision); and (3) add a section into 9.24 CEMC also to comply with *Auburn v. Gauntt*, which can be plugged into a new section 9.24.090. Each of these changes could be rolled into this ordinance to make sure everything is properly enforceable.

9.24.090 Statutes incorporated by reference.

The following statutes are incorporated in this chapter by reference:

RCW 9A.52.010, Definitions
 RCW 9A.52.070, Criminal trespass in the first degree
 RCW 9A.52.080, Criminal trespass in the second degree
 RCW 9A.52.090, Criminal trespass – Defenses
 RCW 9A.52.100, Vehicle prowling in the second degree
 RCW 9A.52.120, Computer trespass in the second degree

- (4) Admonishments and exclusion orders may be delivered in person to the individual or by first class mail to the individual at the individual's last known address, or any other method reasonably designed to provide service of the notice to the individual trespassed.

- (5) The person subject to an admonishment contained on an exclusion order/notice to vacate may appeal the Admonishment in writing. Any such appeal must:
- (a) Be in writing including at least the person's name, the involved property location, and the approximate Admonishment date to enable processing of the appeal;
 - (b) Be received by the City Clerk or postmarked within 14 calendar days of the person's receiving the Admonishment; and
 - (c) Be under oath and include all facts that the admonished person believes support shortening or rescinding of the Admonishment.
- (6) The Mayor or designee shall review any appeal of the Admonishment and shall issue a ruling upholding, rescinding, or shortening the Admonishment within 14 calendar days of receiving the written request for appeal. The appeal process in this section cannot be used to appeal any criminal penalties imposed by a court under this section or any other law. The Mayor or designee may consider the Admonishment and any other relevant and trustworthy submitted written materials in deciding the appeal. The Admonishment shall be upheld if supported by a preponderance of evidence. The ruling may be transmitted to the excluded person by mail, in person, electronically, or by any other method specified by the person or reasonably likely under the circumstances to give notice of the decision.

NEW SECTION 8.44.090 – No public duty created.

It is expressly the purpose of this chapter to provide for and promote the health, safety, and welfare of the general public and not to create or otherwise establish or designate any particular class or group of persons or individual who will or should be especially protected or benefited by the terms of this chapter.

Nothing contained in this chapter is intended nor shall be construed to create or form the basis of any liability on the part of the city or its officers, employees, or agents for any injury or damage resulting from any action or inaction on the part of the city related in any manner to the enforcement of this chapter by its officers, employees, or agents.

NEW SECTION 8.44.100 – Severability.

If any portion of this chapter, or its application to any person or circumstances, is held invalid, the validity of the chapter as a whole, or any other portion thereof, or the application of the provision to other persons or circumstances is not affected.

Commented [JE21]: These sections are added consistent with the City's draft (as well as Kittitas County and Ellensburg)

This definition is higher level than another that you may consider:

“Hazardous item” or “hazardous material” means items that reasonably appear to pose a threat to public safety or health to an individual, members of the public, or to City employees. Examples include, but are not limited to: human and/or animal waste; drug use needles or other illegal drug related paraphernalia; illegal drugs or items that may be used for manufacture of illegal drugs; items bearing signs of contamination, infestation, mold, or biohazard; dangerous or hazardous chemicals; and items posing a risk of fire or explosion.

Of note:

- People could also be collecting any number of chemicals in these areas, including creating meth labs, which pose a great risk to the public and environment. The broad definition in this draft could cover it, it just depends on how specific you want to get.

- One thing that is beneficial from the more detailed definition above is that it helps to differentiate between what is personal property and what is considered a biohazard or so soiled so as to truly be unhealthy for use.

See email and comments regarding issues with the way trespass appears in the City code. RCW 9A.52.070 and 080 need to be incorporated by reference.

For example, RCW [9A.52.080](#), Criminal trespass in the second degree.

(1) A person is guilty of criminal trespass in the second degree if he or she knowingly enters or remains unlawfully in or upon premises of another under circumstances not constituting criminal trespass in the first degree.

(2) Criminal trespass in the second degree is a misdemeanor.

Under RCW [9A.20.021](#), a conviction of a misdemeanor is punishable by up to 90 days in jail or a fine of up to \$1,000, or a combination of both.

Under CEMC 9.24.030, trespass is only subject to a fine of \$500 per CEMC 9.24.080.

CLE ELUM PUBLIC SAFETY & HEALTH COMMITTEE

MINUTES

JULY 16, 2024

1:00 PM

**119 W FIRST STREET
CLE ELUM, WA 98922**

1. Call to Order

John Glondo - present
Ken Ratliff - absent
Beth Williams - present

Matthew Lundh - Mayor
Ed Mills - Fire Chief
Debbie Lee - Clerk
Rich Albo - Police Chief

2. Unfinished Business

a. Municipal Codes - Criminal

Chief Albo stated in his notes he identified what currently exists in the criminal municipal code and a path to proceed with the needed changes. All the codes are out of date. Chief Albo is reviewing all the Criminal Code and comparing it to the RCW and how it relates to the current code.

Committee Member Glondo thought it would be prudent to give the Public Health & Safety Committee updates but wait until there is something substantial before going to the Council.

3. New Business

a. Approve the Minutes Dated May 21, 2024

**MOTION: Committee Member Williams made a motion to approve the minutes dated May 21, 2024; seconded by Committee Member Glondo.
MOTION CARRIED: 2 yes 0 no.**

b. Approve the Minutes Dated June 18, 2024

**MOTION: Committee Member Williams made a motion to approve the minutes dated June 18, 2024; seconded by Committee Member Glondo.
MOTION CARRIED: 2 yes 0 no.**

Public Safety & Health Committee Agenda

July 16, 2024

119 W FIRST STREET
CLE ELUM, WA 98922

c. Municipal Code - Addressing (fire/police)

Chief Mills stated that it is a requirement to post addresses on houses, businesses etc. Some areas of Cle Elum are mislabeled. Chief Mills would like to strengthen the Municipal Code and have a grid type system to make it easier to set up addresses. Chief Mills would like to establish a process for addressing problems and will continue to work with the Public Safety & Health Committee and then take it to the Council once they come up with a plan.

Committee Member Williams stated that she would like to stay with what the City has currently. Chief Mills stated currently there is nothing that defines how the city addresses houses or residences.

d. Washington Auto Theft Prevention WATPA Flock Camera Grant Contract - Chief Albo

Chief Albo discussed the recent grant that his department was awarded. Flock cameras do not take video, but pictures of vehicles and license plate numbers that are put into a database where all departments can search. For example, if a vehicle was stolen from Cle Elum and has a hit in Texas the car can be recovered. This tool will help with kidnapping, amber alerts and silver alerts. This grant would pay for 5 cameras for 2 years. At that time, the department can decide if this is a valuable tool or not. Chief Albo believes this will be a valuable tool for the department. Chief Albo would like the Committee to recommend this to be presented to the Council for approval. Once this grant is signed, Chief Albo will set up a time for Flock Cameras to come give a presentation to the Council.

e. Cle Elum Municipal Code - Public Camping

Chief Albo would like to move forward with the Camping Code. The Grants Pass Code passed in the Supreme Court and Chief Albo would like to present this to the City attorney. He would like the Cle Elum Camping Code to be consistent with the City of Ellensburg and the County Code.

4. Other Committee Comments

Committee Member Williams asked if there has been a Fire Budget Meeting lately. Chief Mills stated there has not been a need lately, so they have not been having them.

5. Adjourn

Committee Member Glondo adjourned the meeting at 1:28 p.m.

John Glondo, Chair

Debbie Lee, Clerk

Flock Safety LPR Policy

Best Practices Outline

Below is a list of items to consider when developing an LPR policy for your community. This list is not exhaustive and is meant to provide general guidance. Please confer with your legal counsel as you develop your policy.

1. Definitions

2. Use and Access

a. Authorization for use

- i. Use of LPR should be decided in a public hearing.

b. Allowed uses

- i. Outline permitted and prohibited uses of the technology. For example:
 1. LPR may be used for law enforcement purposes, including but not limited to:
 - a. Pursuing information relevant to an ongoing criminal investigation
 - b. Apprehending an individual with an outstanding warrant
 - c. Locating a missing or endangered person
 - d. Locating a lost or stolen vehicle
 2. LPR may not for:
 - a. traffic enforcement or red light enforcement
 - b. fines or fees, including expired tags
 - c. to obtain biometric information
 - d. selling data to private third parties like repossession companies.

c. Access Management

- i. Outline who at the department will have access to LPR Data (for example: all sworn officers, patrol officers, and detectives), and what level of access they will have (for example, who will have access to hotlist alerts).

Flock Safety LPR Policy

Best Practices Outline

ii. Establish an administrator

1. An agency that uses an LPR should designate an LPR administrator, who shall be the administrator of the LPR system and shall be responsible for:

- a. maintaining a list of the name and job title of all users who are authorized to use or access LPR data;
- b. developing training requirements; and
- c. promptly disclosing to the public any security breach with respect to the agency's LPRs or LPR data.

d. Search Reasons

- i. Define allowable search reasons as well as typology that will be entered into the system for auditing purposes. Examples: case number, call for service, or reference number.

e. Response

- i. Define how officers will dispatch alerts. Example: must first be cleared by the dispatch center.

f. Data Sharing Criteria and Protocols

- i. Outline how data will be shared with other departments/jurisdictions.
This can cover/ prohibit specific geographic areas as well as type of uses.

3. Protections

a. **Data Ownership:** agency should own the LPR data.

b. Retention

- i. Explain your retention policy, and how data is stored in the event it is needed for a crime. Example: thirty day retention of LPR information unless it is involved in an investigation.

Flock Safety LPR Policy

Best Practices Outline

c. Auditing

- i. Define how audits will be conducted, and how often.
- ii. Establish what information audits will include in order to verify proper use in accordance with the LPR policy. For example, audits should ensure users are entering valid search reasons and/or real case numbers.

d. Training

- i. Define training systems and cadence.

e. Misuse Policy

- i. Define consequences of misuse and policy violations.

4. Transparency

a. Reporting

- i. Determine procedures for reporting to a public agency or elected officials and cadence.

b. Create and publish a public, online LPR transparency portal, showing:

- i. The agency's LPR policy.
- ii. LPR use metrics, including:
 1. the number and type (stationary or mobile) of LPRs owned or operated by the agency;
 2. hot list sources;
 3. the number of total plate-reads in a 30-day period;
 4. the number of searches in a 30-day period; and
 5. a list of all entities with whom the agency has shared LPR data.

iii. Records Requests

1. State how records requests will be handled as it pertains to the data obtained through these technologies.

Automated License Plate Readers

461.1 PURPOSE AND SCOPE

Automated License Plate Reader (ALPR) technology, also known as License Plate Recognition, provides automated detection of license plates. ALPR is used by the Yakima Police Department to convert data associated with vehicle license plates for official law enforcement purposes, including identifying stolen or wanted vehicles, stolen license plates and missing persons. ALPRs may also be used to gather information related to active warrants, homeland security, electronic surveillance, suspect interdiction and stolen property recovery.

461.2 ADMINISTRATION OF ALPR DATA

All installation and maintenance of ALPR equipment, as well as ALPR data retention and access, shall be managed by the Administration Division Commander. The Administration Division Commander will assign personnel under his/her command to administer the day-to-day operation of the ALPR equipment and data.

461.3 ALPR OPERATION

Use of an ALPR is restricted to the purposes outlined below. Department personnel shall not use, or allow others to use, the equipment or database records for any unauthorized purpose.

- (a) An ALPR shall only be used for official and legitimate law enforcement business.
- (b) An ALPR may be used in conjunction with any patrol operation or official department investigation. Reasonable suspicion or probable cause is not required before using an ALPR.
- (c) While an ALPR may be used to canvass license plates around any crime scene, particular consideration should be given to using ALPR-equipped cars to canvass areas around homicides, shootings and other major incidents. Partial license plates reported during major crimes should be entered into the ALPR system in an attempt to identify suspect vehicles.
- (d) No member of this department shall operate ALPR equipment, or access ALPR data, without first completing department-approved training.
- (e) If practicable, the officer should verify an ALPR response through the Central Computerized Enforcement Service System (ACCESS) before taking enforcement action that is based solely upon an ALPR alert.
- (f) No ALPR operator may retrieve ACCESS data unless otherwise authorized to do so.

461.4 ALPR DATA COLLECTION AND RETENTION

All data and images gathered by an ALPR are for the official use of the Yakima Police Department, and because such data may contain confidential ACCESS information, it is not open to public

Automated License Plate Readers

review. ALPR information gathered and retained by this department may be used and shared with prosecutors or others only as permitted by law.

The Administration Division Commander is responsible to ensure proper collection and retention of ALPR data and for transferring ALPR data stored in department vehicles to the department server on a regular basis, not to exceed 30 days between transfers.

All ALPR data downloaded to the server shall be stored according to the Washington State Law Enforcement Records Retention Schedule and thereafter may be purged unless it has become, or it is reasonable to believe it will become, evidence in a criminal or civil action, or is subject to a lawful action to produce records. In such circumstances the applicable data should be downloaded from the server onto portable media and booked into evidence.

461.5 ACCOUNTABILITY AND SAFEGUARDS

All saved data will be closely safeguarded and protected by both procedural and technological means. The Yakima Police Department will observe the following safeguards regarding access to and use of stored data:

- (a) All non-law enforcement requests for access to stored ALPR data shall be referred to the Services Unit Manager and processed in accordance with applicable law.
- (b) All ALPR data downloaded to the mobile workstation and server shall be accessible only through a login/password-protected system capable of documenting all access of information by name, date and time.
- (c) Persons approved to access ALPR data under these guidelines are permitted to access the data for legitimate law enforcement purposes only, such as when the data relate to a specific criminal investigation or department-related civil or administrative action.
- (d) Such ALPR data may be released to other authorized and verified law enforcement officials and agencies at any time for legitimate law enforcement purposes.
- (e) ALPR system audits should be conducted on a regular basis.