



# Official Gazette

## City of Spokane, Washington

Statement of City Business, including a Summary of the Proceedings of the City Council

Volume 112

OCTOBER 12, 2022

Issue 41



### MAYOR AND CITY COUNCIL

MAYOR NADINE WOODWARD

COUNCIL PRESIDENT BREEAN BEGGS

COUNCIL MEMBERS:

JONATHAN BINGLE (DISTRICT 1)

MICHAEL CATHCART (DISTRICT 1)

LORI KINNEAR (DISTRICT 2)

KAREN STRATTON (DISTRICT 3)

BETSY WILKERSON (DISTRICT 2)

ZACK ZAPPONE (DISTRICT 3)

### The Official Gazette

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# Minutes

**City Council Study Session****October 6, 2022****Call to Order:** 11:07 a.m.Recording of the meeting may be viewed here at <https://vimeo.com/spokanecitycouncil>.Direct link: <https://vimeo.com/75772384>**Attendance:**

Committee Members Present: Council President Breean Beggs, Council Members Kinnear, Stratton, Cathcart, Wilkerson, and Bingle

Committee Members Absent: Council Member Zappone

**Agenda Items:**1. Budget – Utility Delinquencies♦ Presenters:

Marlene Feist, City of Spokane Public Works Division Director

♦ Action taken:

No action taken. Presentation and discussion only.

2. Budget – Parking System Recovery Plan♦ Presenters:

Luis Garcia, City of Spokane Director of Parking Services and Code Enforcement

♦ Action taken:

No action taken. Presentation and discussion only.

3. 2021/2022 Comprehensive Plan Amendments♦ Presenters:

Kevin Freibott, City of Spokane Planning; KayCee Downey, City of Spokane Planning; Colin Quinn-Hurst, City of Spokane Planning; Inga Note, City of Spokane Planning

♦ Action taken:

No action taken. Presentation and discussion only.

**Executive Session:** None**Adjournment:**

The meeting adjourned at 12:28 p.m.

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**MINUTES OF SPOKANE CITY COUNCIL****Monday, October 3, 2022****BRIEFING SESSION**

The Briefing Session of the Spokane City Council held on the above date was called to order at 3:32 p.m. in the Council Chambers in the Lower Level of the Municipal Building, 808 West Spokane Falls Boulevard, Spokane, Washington.

**Roll Call**

On roll call, Council President Beggs (appeared virtually), Council President Pro Tem Kinnear (Chair) and Council Members Bingle, Cathcart, Kinnear, Stratton, and Wilkerson were present. Council Member Zappone was absent.

City Administrator Johnnie Perkins; Hannahlee Allers, Director-City Council Office; and City Clerk Terri Pfister were also present for the meeting. Assistant City Attorney Lauren Beattie was absent.

**Advance Agenda Review**

Council Members and staff provided an overview of the October 10, 2022, Advance Agenda items.

Special Budget Ordinance C36277

**Motion** by Council President Beggs, seconded by Council Member Stratton, **to table indefinitely** Special Budget Ordinance C36277 (increasing staffing at the downtown precinct and in Police IT) (and take up during regular budget); **failed to pass on 3-3 vote.**

**Motion** by Council Member Cathcart, seconded by Council President Beggs, **to defer** Special Budget Ordinance C36277 to November 7, 2022; **carried 5-1.**

**Action to Approve October 10, 2022, Advance Agenda**

Following reports and Council inquiry and discussion regarding the October 10, 2022, Advance Agenda items, the City Council took the following action (pursuant to Council Rule 2.1.B):

**Motion** by Council Member Bingle, seconded by Council Member Wilkerson, **to approve** the October 10, 2022, Advance Agenda; **carried 6-0.**

**Current Agenda Review**

The City Council reviewed the October 3, 2022, Current Agenda for any changes.

Special Budget Ordinance C36282

**Motion** by Council Member Wilkerson, seconded by Council Member Cathcart, **to defer** Special Budget Ordinance C36282 (replacing four pickup trucks and pay the last retainage bill for the Construction Management Building) to October 17, 2022, and to place on the Finance Committee that day (October 17) as well; **carried 5-1.**

Special Budget Ordinance C36284

**Motion** by Council President Beggs, seconded by Council Member Wilkerson, **to defer** Special Budget Ordinance C36284 (providing for full time senior-level project management expertise to the Community Safety Initiative) to October 17, 2022, and also discuss at the next Finance Committee meeting (to be held October 17); **carried 6-0.**

Special Budget Ordinance C36288

**Motion** by Council Member Stratton, seconded by Council Member Bingle, **to table indefinitely** Special Budget Ordinance C36288 (funding the 2022 victim advocacy services provided by C.O.P.S.) (as it's already been included in the budget); **carried 6-0.**

**Cancellation of October 31, 2022, City Council Meeting**

City Council discussed whether to cancel the October 31 City Council meeting. The following action was taken:

**Motion** by Council Member Bingle, seconded by Council Member Wilkerson, **to cancel** the October 31 City Council meeting; **carried 6-0.**

**December 19, 2022, City Council Meeting**

Council President Beggs announced that departments will need to get their agenda submission items on the agenda for no later than December 12, as that will be the last agenda of the year for which Council will accept items for approval. December 19 is reserved, if needed, for the 2023 Budget approval.

**Revisiting Council Rules**

Council President Beggs noted its almost time to revisit the City Council Rules. He noted Hannahlee Allers, Director – City Council Office, is inventorying all the suggestions she's received over this past year, and she'll put those together in track changes for discussion at a Council retreat in November. Council President Beggs requested council members to get any proposals for rule changes to Ms. Allers by the 17<sup>th</sup> so she can consider those, and then the Council will have a full discussion at a Council retreat on a Friday in November. He asked if council members have a conflict with any Friday in November, other than the Friday after Thanksgiving, to let Ms. Allers know about that.

**Council Recess/Executive Session**

The City Council recessed at 4:01 p.m. and immediately reconvened into an Executive Session to discuss contract negotiations and jail negotiations for 30 minutes. Interim City Attorney Lynden Smithson, Assistant City Attorney and Interim Human Resources Director Mike Piccolo, and Special Counsel John Henry were present for the executive session. At 4:30 p.m., the Executive Session was extended for an additional 10 minutes. The Executive Session ended

at 4:40 p.m., at which time the 3:30 p.m. Briefing Session also ended. The City Council reconvened at 6:01 p.m. for the Legislative Session.

## LEGISLATIVE SESSION

### Pledge of Allegiance

The Pledge of Allegiance was led by Council President Pro Tem Kinnear.

### Roll Call

On roll call, Council President Beggs (appearing virtually), Council President Pro Tem Kinnear (Chair, and Council Members Bingle, Cathcart, Stratton, and Wilkerson were present. Council Member Zappone was absent.

Hannahlee Allers, Director-City Council Office and City Clerk Terri Pfister were also present for the meeting. Assistant City Attorney Lauren Beattie was absent.

### POETRY AT THE PODIUM

Alexander Manzoni presented the poem entitled "The Most Stability I've Had in Years."

### MAYORAL PROCLAMATION

October 2022 *Disability Employment Awareness Month*

Council Member Wilkerson noted this past Friday the City held its job fair for people with disabilities and there was an amazing turnout. She then read the proclamation. Kevin Williams from Spokane WorkSource and Clay, also from WorkSource, accepted the proclamation and remarked on the event.

October 19, 2022 *Breast Reconstruction Awareness Day*

Council Member Stratton read the proclamation. Dr. Christopher Pannucci and Justine Pereira, along with other individuals, accepted the proclamation and remarked on the event.

*House America* – Proclaiming that, as of September 1, 2022, the City of Spokane proudly joins House America with the goal to add 313 new units of affordable or supportive housing and an additional 100 spaces of transitional housing for individuals currently residing at Camp Hope.

Each of the proclamations appear as an attachment to these minutes.

### NEIGHBORHOOD COUNCIL REPORT

#### Chief Garry Park Neighborhood

Colleen Gardner, Chair, provided an overview of the successes and challenges of the Chief Garry Park Neighborhood over the past year.

There were no **Council Committee Reports**.

There were no **Boards and Commissions Appointments**.

There were no **Administrative Reports**.

## CONSENT AGENDA

Subsequent to public testimony from one individual and an opportunity for Council commentary, the following action was taken:

**Motion** by Council Member Bingle, seconded by Council Member Stratton, **to approve** Staff Recommendations for the following items; **carried 6-0**:

Value Blanket with McLoughlin & Eardley Group (Tigard, OR), using Washington State Contract #03719, for the purchase of light bars, sirens, and accessories, as needed, from October 1, 2022 through August 31, 2023—estimated annual expenditure \$100,000. (OPR 2022-0679) (Council Sponsor: Council Member Wilkerson)

Pre-approval to purchase 2 replacement units, one for the Street Department and one for the Water Department, to allow the City to purchase the units at the time they become available and to avoid price increases from the time a quote is received —\$275,000. (OPR 2022-0680) (Council Sponsor: Council Member Wilkerson)

Contract Extensions for legislative and lobbying services with the State of Washington on behalf of the City from July 1, 2022, through October 31, 2022 with:

- a. Luke Esser (Bellevue, WA)—additional \$14,000. (OPR 2016-0743)
- b. Nick Federici (Tacoma, WA)—additional \$14,000. (OPR 2016-1040)  
(Council Sponsor: Council President Beggs)

Contract Amendments with outside counsel, Summit Law Group, who represents the City in the following actions brought against the City and various state agencies to prevent the enforcement of the vaccine mandate as applicable to health care workers:

- a. Travis J. Wise, et. al. v. Governor Jay Inslee, et. al.—increase of \$30,000. Total contract amount: \$215,000. (OPR 2021-0707)
- b. Michael Bacon, et. al. v. City of Spokane, et. al.—increase of \$30,000. Total contract amount: \$155,000. (OPR 2021-0722)  
(Council Sponsor: Council Member Kinnear)

Contract Amendment with outside counsel, Stewart A. Estes and the law firm of Keating, Bucklin & McCormack, Inc., P.S. (Seattle, WA) for outside counsel services and advice in the legal matter Estate of David Novak, et. al. versus City of Spokane et. al.—\$300,000. Total contract amount: \$874,500. (OPR 2019-0750) (Council Sponsor: Council Member Kinnear)

No-cost Contract Amendment with Electronic Data Collection Corporation (EDC) (Syracuse, NY) replacing Exhibit E – EDC Costs and Fees with a revised version. (OPR 2021-0185) (Council Sponsors: Council Members Stratton and Kinnear)

Contract Amendment with Robert Half International, Inc. (San Ramon, CA) adding grant administration work for the new American Rescue Plan Act Grant for the Accounting Department—additional \$100,000 (plus applicable tax). (OPR 2021-0646) (Council Sponsor: Council Member Wilkerson)

Contract Amendment/Extension with Archbright Workplace Performance Experts (Seattle, WA) to provide Human Resources Operation Support for the Human Resources Department from October 5, 2022 through December 31, 2022—additional \$54,000. Total contract amount: \$100,000. (OPR 2022-0551) (Relates to Special Budget Ordinance C36283) (Council Sponsors: Council Members Kinnear and Wilkerson)

Report of the Mayor of pending claims and payments of previously approved obligations, including those of Parks and Library, through September 23, 2022, total \$15,229,182.14 (Check Nos. 589133-589307; ACH Payment Nos.: 107500-107819), with Parks and Library claims approved by their respective boards. Warrants excluding Parks and Library total \$14,486,328.46.

City Council Meeting Minutes: September 19, September 22, and September 29, 2022. (CPR 2022-0013)

## LEGISLATIVE AGENDA

### SPECIAL BUDGET ORDINANCES

#### **Special Budget Ordinance C36283 (Council Sponsors: Council Members Wilkerson and Kinnear)**

Subsequent to an opportunity for public testimony and Council commentary, with no individuals requesting to speak,

**Upon 6-0 Roll Call Vote**, the City Council **passed Special Budget Ordinance C36283** amending Ordinance No. C36161 passed by the City Council December 13, 2021, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2022, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2022, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

#### General Fund

- 1) Decrease the appropriation for a Senior Human Resource Analyst position in the Human Resources Department by \$54,000.
- 2) Increase the appropriation for contractual services by \$54,000.
- (A) There is no change to the overall appropriation level in the General Fund.

(This action arises from entering into a contract with Archbright to provide personnel services.) (Relates to OPR 2022-0551 under the Consent Agenda) (Council Sponsors: Council Members Wilkerson and Kinnear)

**Ayes:** Beggs, Bingle, Cathcart, Kinnear, Stratton, and Wilkerson  
**Nays:** None  
**Abstain:** None  
**Absent:** Zappone

**Special Budget Ordinance C36285 (Council Sponsors: Council Members Kinnear and Bingle)**

Subsequent to an opportunity for public testimony and Council commentary, with no individuals requesting to speak, the following action was taken:

**Upon 6-0 Roll Call Vote**, the City Council **passed Special Budget Ordinance C36285** amending Ordinance No. C36161 passed by the City Council December 13, 2021, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2022, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2022, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

Public Safety & Judicial Grants Fund

1) Increase the appropriation by \$41,400.

A) Of the increased appropriation, \$41,400 is provided solely for the purchase of twenty-five 40mm launchers and accessories.

(This action arises from the need to procure less-than-lethal equipment.)

**Ayes:** Beggs, Bingle, Cathcart, Kinnear, Stratton, and Wilkerson  
**Nays:** None  
**Abstain:** None  
**Absent:** Zappone

**Special Budget Ordinance C36287 (Council Sponsors: Council Members Wilkerson and Stratton)**

Subsequent to an opportunity for public testimony and Council commentary, with no individuals requesting to speak, the following action was taken:

**Upon 6-0 Roll Call Vote**, the City Council **passed Special Budget Ordinance C36287** amending Ordinance No. C36161 passed by the City Council December 13, 2021, and entitled, "An Ordinance adopting the Annual Budget of the City of Spokane for 2022, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2022, and providing it shall take effect immediately upon passage," and declaring an emergency and appropriating funds in:

MySpokane Fund

1) Decrease the appropriation for a Program Professional position by \$30,000.

2) Increase the appropriation for office supplies by \$12,000.

3) Increase the appropriation for computers by \$18,000.

(A) There is no change to the overall appropriation level in the MySpokane Fund.

(This action arises from the need of additional workstations for new positions.)

**Ayes:** Beggs, Bingle, Cathcart, Kinnear, Stratton, and Wilkerson  
**Nays:** None  
**Abstain:** None  
**Absent:** Zappone

**For Council action on Special Budget Ordinance C36282, see section of minutes under 3:30 p.m. Briefing Session.**

**For Council action on Special Budget Ordinance C36284, see section of minutes under 3:30 p.m. Briefing Session.**

**For Council action on Special Budget Ordinance C36288, see section of minutes under 3:30 p.m. Briefing Session.**

**EMERGENCY ORDINANCES**

**Emergency Ordinance C36289 (Council Sponsors: Council Members Kinnear and Beggs)**

Subsequent to an opportunity for public testimony, with no individuals requesting to speak, and Council commentary, the following action was taken:

**Upon 6-0 Roll Call Vote**, the City Council **passed Emergency Ordinance C36289** relating to regulation of activities under Title 10 of the Spokane Municipal Code; repealing Chapters 10.01 through 10.20 of the Spokane Municipal Code and enacting a new Chapter 10.58 of the Spokane Municipal Code for adopting by reference Revised Code of Washington (RCW) Statutes; recodifying local criminal violations in a new Chapter 10.60 of the Spokane Municipal Code; recodifying regulations pertaining to Code Enforcement and Animal Control in new Chapters 10.62 through 10.74 of the Spokane Municipal Code; and declaring an emergency.

## RESOLUTION

### **Resolution 2022-0088 (Council Sponsors: Council Members Bingle and Cathcart)**

Subsequent to an overview by Council Member Bingle; the opportunity for public testimony, with no individuals requesting to speak; and Council commentary, the following action was taken:

**Upon 6-0 Roll Call Vote**, the City Council **adopted Resolution 2022-0088** recognizing the need to update and expand the Spokane Municipal Code to reflect the growth in the number and kind of Home Occupations and reevaluate the regulations on their Neighborhood impacts.

**Ayes:** Beggs, Bingle, Cathcart, Kinnear, Stratton, and Wilkerson  
**Nays:** None  
**Abstain:** None  
**Absent:** Zappone

## FINAL READING ORDINANCE

### **Final Reading Ordinance C36280 (Council Sponsors: Council Members Stratton and Zappone)**

Subsequent to an opportunity for public testimony, with no individuals requesting to speak, and Council commentary, the following action was taken:

**Upon 6-0 Roll Call Vote**, the City Council **passed Final Reading Ordinance C36280**, updating the duties, and responsibilities, for the Spokane Human Rights Commission; amending section 04.10.040 of the Spokane Municipal Code.

**Ayes:** Beggs, Bingle, Cathcart, Kinnear, Stratton, and Wilkerson  
**Nays:** None  
**Abstain:** None  
**Absent:** Zappone

There were no **First Reading Ordinances**.

There were no **Special Considerations**.

There were no **Hearings**.

## OPEN FORUM

The following individual(s) spoke during Open Forum:

- Rick Bocook
- William Hagy
- Ed Stevenson
- Pam Reynolds
- Roxann Stamps
- Antone Velone
- Justin Haller
- William Hulings
- Justin O'Connell
- Cherrie Barnett
- Patricia Hansen
- Christine Quinn

- Amber Dunfre
- Ryan Bishop (appearing virtually)

**ADJOURNMENT**

There being no further business to come before the City Council, the Regular Legislative Session of the Spokane City Council adjourned at 7:30 p.m.

# General Notices

**AGENDA REGULAR MEETING OF THE CIVIL SERVICE COMMISSION**

9:30 A.M. OCTOBER 17, 2022

CITY HALL – CITY COUNCIL CHAMBERS LOWER LEVEL CITY HALL

808 W. SPOKANE FALLS BLVD., SPOKANE, WA 99201

**1. CALL TO ORDER/ROLL CALL****2. APPROVAL OF MINUTES**

- a. August 16, 2022, Minutes

**3. CHIEF EXAMINER UPDATE****4. NEW BUSINESS**

- a. Resolution 2022-04 Classification Actions (Pearson)
- b. 2023 Budget presentation and adoption (Pearson)
- c. 2021 Annual Report presentation and adoption (Pearson)
- d. Reappointment of Craig Hult for a four-year term from 2023-2026. (Pearson)

**5. OTHER BUSINESS****6. ADJOURN**

**Note:** The meeting is open to the public, with the possibility of the Commission adjourning into executive session.

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**REGULAR MEETING NOTICE/AGENDA****THE CIVIL SERVICE COMMISSION**

**9:30 A.M. – OCTOBER 18, 2022**

NOTICE IS HEREBY GIVEN by the City of Spokane Civil Service Commission, that a regularly scheduled meeting of the Civil Service Commission will be held on September 20, 2022, commencing at 9:30 A.M. in the City Council Chambers – Lower Level of City Hall (808 W. Spokane Falls Blvd., Spokane WA, 99201). The purpose of the meeting is to conduct the monthly commission meeting and to discuss other matters as reflected on the attached agenda.

The meeting will be conducted in-person and open to the public with commission members, staff and presenters attending in-person. All meetings will be streamed live on Channel 5.

Oral public comment will be accepted at the meeting for agenda items to be decided by the Commission, excluding hearing items. Individuals who want to provide oral comment at this time but are unable to physically attend the meeting shall contact the Commission at [civilservice@spokanecity.org](mailto:civilservice@spokanecity.org) to request by 5:00 P.M. the day before the meeting, (Monday, September 19, 2022) so the Commission can make arrangements for you to participate telephonically at the meeting.

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**SPOKANE CITY-COUNTY HISTORIC LANDMARKS AGENDA**

**Wednesday, October 19, 2022**  
**City Council Briefing Center & Webex**  
**808 W. Spokane Falls Blvd.**

- I. Public Hearing: 3:00 P.M.
- A. **Spokane Register Nomination (per SMC 17D.100.020):**
1. Edwin & Dorothy Matthews House – 1326 S Ballou Road
- B. **Special Valuation Application (per SMC 17D.100.310):**
1. Wells Chevrolet – 1229 W First Avenue
  2. Knights of Pythias Hall – 1203 W Riverside Avenue

Members of the general public are encouraged to join the on-line meeting using the following information:

**To participate via video**, on your computer or mobile device, follow the link: <https://bit.ly/3KMEif7>

**To participate by phone**

Dal: 1-408-418-9388

Enter # when prompted for an attendee ID: 2485 759 6416

Password: 783EPyJQvJh

# Ordinances

**These ordinances are published in this issue of the *Official Gazette* pursuant to passage by the Spokane City Council. It should be noted that these ordinances may be subject to veto by the Mayor. If an ordinance is vetoed by the Mayor, the Mayoral veto will be published in a subsequent issue of the *Official Gazette*.**

## **ORDINANCE NO. C36271**

An ordinance relating to the permitted use of forfeiture funds; amending sections 08.19030-040 of the Spokane Municipal Code.

**WHEREAS**, the long and well-established laws of the State of Washington provide for law enforcement agencies to seize and subsequently, through legal process, cause the forfeiture of assets used in, or gained from, illegal activity to be disposed of; and

**WHEREAS**, in 2014, the Spokane Police Department implemented comprehensive policies and ethical standards in regards to seizing property; and

**WHEREAS**, the Spokane Police Department undergoes annual audits by the Washington State Auditor's Office regarding the receipt and use of proceeds of those seizures; and

**WHEREAS**, since 2014 the Spokane Police Department's normal practice of using drug forfeiture funds to buy drugs and then pursue drug dealers has been unsuccessful in preventing a huge rise in the sale of fentanyl and drug overdoses in the City of Spokane, so new additional interventions are required to reduce drug abuse and drug crimes; and

**WHEREAS**, police youth programs are proven methods of expanding and improving law enforcement activity to reduce the crimes targeted by the above forfeiture statutes, particularly youth drug diversion, prevention, and mitigation strategies; and

**WHEREAS**, the Spokane police department has endorsed youth programs and requested that forfeiture funds be used to implement these programs; and

**WHEREAS**, the Spokane City Council intends to ensure that the proceeds legally obtained by the Police Department are used for the “expansion and improvement” of law enforcement within the City of Spokane that is proven to reduce crime and recidivism; and

**WHEREAS**, under Washington State law and Spokane City ordinance the City Council has final authority over the City of Spokane’s budget, including approval of the spending of forfeiture dollars, and the Chief of Police and City Council must work together to determine the best use of these funds; and

**WHEREAS**, the Spokane City Council has not previously turned down any special budget ordinances requested by the Spokane Police Department for use of forfeiture funds in recent history but intends to support the Department’s use of funds to reduce drug crime in Spokane by the most effective means available; and

**WHEREAS**, the collection of state authorized forfeiture funds has continued to reach historical highs despite the Washington Supreme Court’s ruling in *Blake*; and

**WHEREAS**, the regulations regarding the use of state forfeiture funds differ from those regarding the use of federal forfeiture funds.

**NOW THEREFORE**, the City of Spokane does ordain:

**Section 1.** That sections 08.19.030-040 of the Spokane Municipal Code are amended to read as follows:

**Section 08.19.030 Permitted Use of Funds**

- A. No asset forfeiture funds may be expended beyond the purposes allowed under applicable state and federal law and may not supplant existing funding. Limitations on the spending of federally derived forfeiture assets shall not apply to the spending of state derived forfeiture assets.
- B. Asset forfeiture funds under the control of the Police Department may only be spent by appropriation and approval of the Spokane City Council under its applicable policies for approving budgets and expenditures.
- C. The City Council will not approve any special budget ordinance spending ~~((of any))~~ asset forfeiture funds for any purpose absent a current or past request by the Chief of Police for spending for that purpose. ~~((The Chief of Police may request expenditure of asset forfeiture funds as part of the preparation and submission of the annual budget to City Council or by requesting approval of a special budget ordinance.))~~
- D. The Chief of Police may request expenditure of asset forfeiture funds as part of the preparation and submission of the annual budget to City Council or by requesting approval of a special budget ordinance.
- E. The City Council may include expenditure of forfeiture funds in the annual budget for any purpose that the Chief of Police has previously requested funding regardless of whether the Chief is currently requesting funding for that purpose.
- F. The City’s top priorities for spending state authorized forfeiture funds in 2022 and 2023 are as follows. The City will annually fund these two priorities equally from state funds and will not expend additional state forfeiture funds if it would reduce the reserve of state forfeiture funds below \$250,000.
  - a. Payments to confidential informants and for controlled drug purchases; and,
  - b. At-risk youth drug prevention programming and services based on peer support and leadership by individuals who have successfully exited criminal justice involvement.
- G. In 2024, the City Council shall evaluate all evidence of drug forfeiture expenditures in 2023 along with available forfeiture funds and trends and determine in collaboration with the Chief of Police whether the allocation set out in Section F shall continue or be modified to best support police efforts to reduce drug crime in the City of Spokane.

**Section 08.19.040 Reporting on Use of Funds**

The Police Department shall provide to the Spokane City Council Public Safety Committee quarterly and yearly reporting of the receipt of proceeds from all civil forfeiture funds, the specific source of all forfeiture funds and all expenditures of forfeiture funds including the amount paid from the proceeds to the Washington State Treasurer. The reports shall also provide information related to and certification that all seized funds were spent consistent with any limitations imposed by

federal or state law. No forfeiture funds are permitted to be spent in any annual quarter until a written report of the same quarter from the previous year has been submitted to City Council at a standing Public Safety and Community Health Committee meeting.

**Passed by City Council September 26, 2022**  
**Delivered to Mayor September 30, 2022**  
**Mayoral Veto: September 30, 2022**

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### **ORDINANCE NO. C36280**

An ordinance updating the duties, and responsibilities, for the Spokane Human Rights Commission; amending section 04.10.040 of the Spokane Municipal Code.

**NOW THEREFORE**, the City of Spokane does ordain:

**Section 1.** That section 04.10.040 of the Spokane Municipal Code is amended to read as follows:

#### **Section 04.10.040 Duties and Functions**

The commission has the power and duty to:

- A. adopt rules;
- B. hold regular public meetings and keep a written record of its proceedings which is a public record;
- C. serve as a complaint channel to which human rights grievances of all types can be reported;
- D. maintain statistical data on incidents of human rights violations and make appropriate recommendations for correction;
- E. conduct public hearings to receive citizen concerns about issues relating to human rights;
- F. conduct and arrange for surveys, studies, and polls to factually determine problem areas and perceptions;
- G. provide conflict management and dispute resolution services such as conciliation and mediation;
- H. provide and arrange for victim assistance and support groups;
- I. convene and develop work groups such as sub-committees, ad hoc committees, task forces, and coalitions consisting of concerned organizations, agencies, and individuals to achieve coordinated focus on priority problem areas;
- J. provide and develop community education projects such as conferences, forums, and workshops in collaboration and co-sponsorship with organizations and other agencies;
- K. conduct diversity training programs for public and private employers, citizen groups and agencies;
- L. create a speaker's bureau to address cultural diversity issues;
- M. publish a periodic newsletter on current events and special reports on studies and related findings and recommendations;
- N. develop a mass media program consisting of the appropriate use of press releases, press conferences, public service announcements, and production;
- O. make recommendations for public policy relating to human rights;
- P. issue quarterly reports to the City Council concerning the number of complaints received by the City, the number and type of complaints referred to other entities by the name of the entity, the number of complaints dismissed by the City without either investigation or referral, the number of complaints referred by the City to mediation and the number and type of results of those mediations, the number of complaints referred to the City Prosecutor and the resulting outcomes, and any other actions which the City Council determines to be helpful, provided that in no event will such reports contain personally-identifying information; and

- Q. issue an annual report to the mayor and city council on the health of human rights along with achievements for the past year and goals for the coming year((-)); and
- R. provide guidance for the city's anti-discrimination efforts without limitation, including federal Title VI compliance efforts.

**Passed by City Council October 3,, 2022**  
**Delivered to Mayor October 5, 2022**

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### ORDINANCE NO C36283

An ordinance amending Ordinance No. C36161, passed by the City Council December 13, 2021, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2022, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2022, and providing it shall take effect immediately upon passage," and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2022 budget Ordinance No. C-36161, as above entitled, and which passed the City Council December 13, 2021, it is necessary to make changes in the appropriations of the General Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

WHEREAS, this ordinance has been on file in the City Clerk's Office for five days; - Now, Therefore,

The City of Spokane does ordain:

Section 1. That in the budget of the General Fund, and the budget annexed thereto with reference to the General Fund, the following changes be made:

- 1) Decrease the appropriation for a Senior Human Resource Analyst position in the Human Resources Department by \$54,000.
- 2) Increase the appropriation for contractual services by \$54,000.
- (A) There is no change to the overall appropriation level in the General Fund.

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from entering into a contract with Archbright to provide personnel services, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

**Passed by City Council October 3,, 2022**  
**Delivered to Mayor October 5, 2022**

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### ORDINANCE NO C36285

An ordinance amending Ordinance No. C-36161, passed by the City Council December 13, 2021, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2022, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2022, and providing it shall take effect immediately upon passage," and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2022 budget Ordinance No. C-36161, as above entitled, and which passed the City Council December 13, 2021, it is necessary to make changes in the appropriations of the Public Safety & Judicial Grants Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

WHEREAS, this ordinance has been on file in the City Clerk's Office for five days; - Now, Therefore,

The City of Spokane does ordain:

Section 1. That in the budget of the Public Safety & Judicial Grants Fund, and the budget annexed thereto with reference to the Public Safety & Judicial Grants Fund, the following changes be made:

- 1) Increase the appropriation by \$41,400.
- A) Of the increased appropriation, \$41,400 is provided solely for the purchase of twenty-five 40mm launchers and accessories.

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need to procure less-than-lethal equipment, and

because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

**Passed by City Council October 3,, 2022**

**Delivered to Mayor October 5, 2022**

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### ORDINANCE NO C36287

An ordinance amending Ordinance No. C-36161, passed by the City Council December 13, 2021, and entitled, "An ordinance adopting the Annual Budget of the City of Spokane for 2022, making appropriations to the various funds of the City of Spokane government for the fiscal year ending December 31, 2022, and providing it shall take effect immediately upon passage," and declaring an emergency.

WHEREAS, subsequent to the adoption of the 2022 budget Ordinance No. C-36161, as above entitled, and which passed the City Council December 13, 2021, it is necessary to make changes in the appropriations of the MySpokane Fund, which changes could not have been anticipated or known at the time of making such budget ordinance; and

WHEREAS, this ordinance has been on file in the City Clerk's Office for five days; - Now, Therefore,

The City of Spokane does ordain:

Section 1. That in the budget of the MySpokane Fund, and the budget annexed thereto with reference to the Fund, the following changes be made:

- 1) Decrease the appropriation for a Program Professional position by \$30,000.
- 2) Increase the appropriation for office supplies by \$12,000.
- 3) Increase the appropriation for computers by \$18,000.
- (A) There is no change to the overall appropriation level in the MySpokane Fund.

Section 2. It is, therefore, by the City Council declared that an urgency and emergency exists for making the changes set forth herein, such urgency and emergency arising from the need of additional workstations for new positions, and because of such need, an urgency and emergency exists for the passage of this ordinance, and also, because the same makes an appropriation, it shall take effect and be in force immediately upon its passage.

**Passed by City Council October 3,, 2022**

**Delivered to Mayor October 5, 2022**

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### ORDINANCE NO. C36289

An ordinance relating to regulation of activities under Title 10 of the Spokane Municipal Code; repealing Chapters 10.01 through 10.20 of the Spokane Municipal Code and enacting a new Chapter 10.58 of the Spokane Municipal Code for adopting by reference Revised Code of Washington (RCW) Statutes; recodifying local criminal violations in a new Chapter 10.60 of the Spokane Municipal Code; recodifying regulations pertaining to Code Enforcement and Animal Control in new Chapters 10.62 through 10.74 of the Spokane Municipal Code; and declaring an emergency.

WHEREAS, RCW 39.34.180(1) requires each county, city, and town to be responsible for the prosecution, adjudication, sentencing, and incarceration of misdemeanor and gross misdemeanor offenses committed by adults in their respective jurisdictions, and referred from their respective law enforcement agencies, whether filed under state law or city ordinance; and

WHEREAS, the Washington Supreme Court in City of Auburn v. Gauntt, 174 Wash. 2d 321, 324 (2012) held that a city may not enforce a state law without having first adopted the state law by reference or having adopted a compatible ordinance; and

WHEREAS, the City has, for a number of years, based its enforcement of state criminal and other regulatory laws upon compatible local ordinances intended to mirror state law; yet those local ordinances are increasingly the subject of amendment by the City Council on account of the ongoing legislative changes being made to the corresponding state laws; and

WHEREAS, the continual need to amend the Spokane Municipal Code has resulted in an uncoordinated and sometimes confusing patchwork of local ordinances that mix references to the RCW with local municipal codes; and

WHEREAS, the Washington Legislature's complete recodification into a new Chapter 7.105 RCW of domestic violence, stalking, sexual assault, anti-harassment and extreme risk protection orders, including their enforcement provisions, has created an immediate need for the Spokane Municipal Code to come into conformity with several important provisions that provide protection to crime victims and which hold abusers accountable; and

WHEREAS, Municipal Court judges are required to instruct juries based upon the most up-to-date statutory and decisional legal authority concerning crimes and their elements of proof; and yet the Washington Pattern Jury Instructions are specifically designed to address the elements of crimes as set forth in state law and are therefore not always in conformity with local codes; and

WHEREAS, it is the City Council's intent to adopt into the Spokane Municipal Code by reference all provisions of the Revised Code of Washington (RCW), including those that constitute misdemeanors, gross misdemeanors, and Class C felonies for purposes of criminal attempt charges; and to adopt all state law provisions necessary for the investigation, arrest, prosecution, adjudication, sentencing, confinement, and enforcement of those crimes, or which may be necessary for the definition or interpretation of terms used therein; as those provisions were enacted at the time of adoption, or as they are subsequently amended or recodified from time to time; and

WHEREAS, RCW 35.21.180 specifically authorizes cities and towns to adopt Washington state statutes and codes by reference, or portions thereof, together with amendments thereof or additions thereto, on the subject of the ordinance; and that such ordinances and codes adopted by reference "are hereby ratified and validated" under state law; and

WHEREAS, the Supreme Court of Washington in Town of Republic v. Brown, 97 Wash. 2d 915, 917-18 (1982) recognized that an adopting act may evidence the legislative intent to include subsequent amendments in the adoption of Washington state statutes and has held that courts "shall give effect" to the intent that amendments or changes thereto will be held to be within the meaning of the adopting act and govern the subject matter thereof; and

WHEREAS, this broad adoption of state statutes and codes by a municipality is consistent with Washington law and court decisions for purposes of the municipal court's jurisdiction; and

**NOW, THEREFORE**, the City of Spokane does ordain:

**Section 1.** Findings. The recitals set forth above are hereby adopted by the City Council as its findings of fact in support of the collective action it takes through this ordinance.

**Section 2.** That Chapters 10.01 through 10.20 of Title 10 of the Spokane Municipal Code are hereby repealed.

**Section 3.** That there is adopted a new Chapter 10.58 of the Spokane Municipal Code as follows:

Division III    Revised Code of Washington Adopted

## **Chapter 10.58 Revised Code of Washington**

### **Section 10.58.010 Adoption of the Revised Code of Washington**

- A. The City of Spokane adopts by reference all statutes set forth in the Revised Code of Washington (RCW), as now enacted or hereinafter amended or adopted, including their penalties.
- B. The amendment or repeal by the Washington State Legislature of any of the statutes adopted in the SMC by reference shall be deemed to automatically amend or repeal said chapters in conformity therewith, and it shall not be necessary for the legislative authority of the City to take any action with respect to such amendments or repeals.
- C. The adoption of the RCW by reference shall not be construed or interpreted to vest in the City any authority or responsibility to prosecute felony offenses, and the adoption of sections of the RCW which include felony provisions shall be limited to those provisions falling within the City's authority. Such adoption, and the provisions being adopted, shall be construed and interpreted in accordance with the lawful authority of the City. However, at the discretion of the City prosecutor, when appropriate, the City may prosecute attempted C felony offenses that impose gross misdemeanor penalties.
- D. Nothing in this ordinance shall be construed to preclude the enforcement of other local codes contained within the Spokane Municipal Code or to prevent law enforcement officers or other public officials with jurisdiction from charging violations of other local misdemeanor offenses that are codified in other Titles of the Spokane Municipal Code and not addressed in this ordinance.

**Section 10.58.020 Statutes Adopted by Reference**

All statutes within the Revised Code of Washington are hereby adopted by reference. They include, but are not limited to, the following:

**1. RCW Title 7 Special Proceedings and Actions**

RCW 7.21.010	Definitions.
RCW 7.21.020	Sanctions - Who May Impose.
RCW 7.21.030	Remedial Sanctions - Payment For Losses.
RCW 7.21.040	Punitive Sanctions - Fines.
RCW 7.21.050	Sanctions - Summary Imposition - Procedure.
RCW 7.21.070	Appellate Review.
RCW 7.80.120	Monetary Penalties – Restitution.
RCW 7.80.150	Notices - Record Of - Cancellation Prohibited, Penalty – Audit.
RCW 7.80.160	Failure To Exercise Notice Options - Failure To Satisfy Penalty.
RCW 7.84.060	Response to Notice - Contesting Determination - Mitigating Circumstances - Hearing - Failure to Respond Or Appear - Penalty.
RCW 7.84.100	Monetary Penalties.
RCW 7.84.130	Failure to Pay Or Complete Community Restitution – Penalty.
RCW 7.105 Ch.	Civil Protection Orders – Jurisdiction and Venue, Filing, Service, Hearings, Orders, Duration, Relief and Remedies
RCW 7.105.450	Enforcement and Penalties – Other Than Anti-Harassment Protection Orders and Extreme Risk Protection Orders.
RCW 7.105.455	Enforcement and Penalties – Antiharassment Protection Orders.
RCW 7.105.460	Enforcement and Penalties – Extreme Risk Protection Orders – False Petitions.
RCW 7.105.465	Enforcement and Penalties—Knowledge Of Order.
RCW 7.105.470	Enforcement—Prosecutor Assistance.
RCW 7.105.565	Proceedings Additional—Filing of Criminal Charges Not Required.
RCW 7.105.570	Other Authority Retained.
RCW 7.105.575	Liability

**2. RCW Title 9 Crimes and Punishments**

RCW 9.03.010	Abandoning, Discarding Refrigeration Equipment
RCW 9.03.020	Permitting Unused Equipment to Remain on Premises
RCW 9.03.030	Violation of RCW 9.03.010 or 9.03'020.
RCW 9.03.040	Keeping or Storing Equipment for Sale
RCW 9.04.010	False Advertising
RCW 9.04.090	Advertising Fuel Prices By Service Stations
RCW 9.08.030	False Certificate of Registration of Animals—False Representation as to Breed
RCW 9.08.070	Pet Animals-Taking, Concealing, Injuring, Killing, etc.
RCW 9.08.072	Transferring Stolen Pet Animal to a Research Institution
RCW 9.12.010	Barratry
RCW 9.12.020	Buying, Demanding, or Promising Reward by District Judge or Deputy
RCW 9.16.020	Imitating Lawful Brand
RCW 9.16.035	Counterfeiting-Penalties
RCW 9.16.060	Fraudulent Registration of Trademark
RCW 9.16.080	Petroleum Products Improperly Labeled or Graded-Penalty
RCW 9.16.100	Use of the Words “Sterling Silver,” etc.
RCW 9.16.110	Use of the Words “Coin Silver,” etc.
RCW 9.16.120	Use of the Word “Sterling” on Mounting
RCW 9.16.130	Use of the Words “Coin Silver” on Mounting
RCW 9.16.140	Unlawfully Marking Article Made of Gold
RCW 9.18.120	Suppression of Competitive Bidding
RCW 9.18.130	Collusion to Prevent Competitive Bidding-Penalty
RCW 9.24.010	Fraud in Stock Subscription
RCW 9.24.040	Corporation Doing Business Without a License
RCW 9.26A.090	Telephone Company Credit Cards-Prohibited Acts
RCW 9.26A.110	Fraud in Obtaining Telecommunications Service-Penalty
RCW 9.26A.120	Fraud in Operating Coin-Box Telephone or Other Receptacle
RCW 9.26A.130	Penalty for Manufacture of Sale of Slugs to be used for Coin
RCW 9.26A.140	Unauthorized Sale or Procurement of Telephone Records-Penalties-Definitions
RCW 9.27.015	Interference, obstruction of any court, building, or residence—Violations
RCW 9.35.020	Identity Theft

RCW 9.35.030	Soliciting undesired mail
RCW 9.38.010	False representation concerning credit
RCW 9.38.015	False statement by deposit account applicant
RCW 9.38.020	False representation concerning title
RCW 9.40.040	Operating engine or boiler without spark arrester
RCW 9.40.100	Tampering with fire alarm or firefighting equipment—False alarm—Penalties
RCW 9.41.050	Carrying Firearms-Loaded Pistol in Vehicle
RCW 9.41.115	Unlawful Sale or Transfer of Firearm
RCW 9.41.140	Alteration of identifying marks – Exceptions.
RCW 9.41.171	Alien possession of firearms - Requirements – Penalty.
RCW 9.41.173	Alien possession of firearms - Alien firearm license - Political subdivisions may not modify requirements - Penalty for false statement.
RCW 9.41.175	Alien possession of firearms - Possession without license - Conditions
RCW 9.41.230	Aiming or Discharging Firearms, Dangerous Weapons
RCW 9.41.240	Possession of pistol or semiautomatic assault rifle by person from eighteen to twenty-one.
RCW 9.41.250	Dangerous Weapons-Penalty
RCW 9.41.260	Dangerous Exhibitions
RCW 9.41.270	Weapons Apparently Capable of Producing Bodily Harm-Unlawful Carrying or Handling-Penalty-Exceptions
RCW 9.41.280	Possessing Dangerous Weapons on School Facilities
RCW 9.41.282	Possessing dangerous weapons on child care premises—Penalty—Exceptions
RCW 9.41.284	Possessing dangerous weapons at voting facilities - Penalty - Exceptions.
RCW 9.41.300	Weapons prohibited in certain places - Local laws and ordinances - Exceptions - Penalty
RCW 9.41.305	Open carry of weapons prohibited on state capitol grounds and municipal buildings.
RCW 9.41.325	Undetectable or untraceable firearms - Penalties
RCW 9.41.326	Untraceable firearms - Exceptions – Penalties.
RCW 9.41.327	Unfinished frames or receivers - Exceptions – Penalties.
RCW 9.41.335	Failure to register as felony firearm offender
RCW 9.41.360	Unsafe Storage of a Firearm
RCW 9.41.810	Violation of Requirement to Surrender Firearms and other Violations of Chapter 9.41 RCW
RCW 9.44.080	Misconduct in signing a petition
RCW 9.45.060	Encumbered, leased, or rented personal property - Construction
RCW 9.45.070	Mock Auctions
RCW 9.45.080	Fraudulent Removal of Property
RCW 9.45.090	Knowingly Receiving Fraudulent Conveyance
RCW 9.45.100	Fraud in Assignment for Benefit of Creditors
RCW 9.45.270	Fraudulent Filing of Vehicle Report of Sale
RCW 9.46.170	False or misleading entries or statements, refusal to produce records
RCW 9.46.185	Causing person to violate rule or regulation
RCW 9.46.195	Obstruction of public servant - Penalty
RCW 9.46.1962	Cheating in the second degree
RCW 9.46.198	Working in gambling activity without license as violation—Penalty
RCW 9.46.217	Gambling records - Penalty - Exceptions
RCW 9.46.222	Professional gambling in the third degree
RCW 9.47A.050	Offenses Relating to Inhaling Toxic Fumes
RCW 9.51.010	Misconduct of officer drawing jury
RCW 9.51.020	Soliciting jury duty
RCW 9.51.030	Misconduct of officer in charge of jury
RCW 9.51.040	Grand juror acting after challenge allowed
RCW 9.51.050	Disclosing transaction of grand jury
RCW 9.51.060	Disclosure of deposition returned by grand jury
RCW 9.61.230	Telephone harassment
RCW 9.61.240	Telephone harassment - Permitting telephone to be used
RCW 9.62.010	Malicious prosecution
RCW 9.62.020	Instituting suit in name of another
RCW 9.66.030	Maintaining or permitting nuisance
RCW 9.66.050	Deposit of unwholesome substance
RCW 9.68.030	Indecent articles, etc.
RCW 9.68.060	Offenses Related to "Erotic material"—Determination by court—Labeling—Penalties.
RCW 9.68.130	Unlawful display of sexually explicit material
RCW 9.68A.053	Minor dealing in depictions of another minor or selling
RCW 9.68A.080	Failing to report depictions of minor engaged in sexually explicit conduct
RCW 9.68A.090	Communication with minor for immoral purposes-penalties



RCW 9.68A.103	Permitting commercial sexual abuse of a minor - Penalty - Consent of minor does not constitute defense
RCW 9.68A.150	Allowing minor on premises of live erotic performance—Definitions—Penalty
RCW 9.68.100	Duty of witness of offense against child or any violent offense—Penalty.
RCW 9.73.010	Divulging Telegram
RCW 9.73.020	Opening Sealed Letter
RCW 9.73.030	Intercepting, recording, or divulging private communication—Consent required - Exceptions.
RCW 9.73.080	Alteration, erasure or wrongful disclosure of a recording and other penalties for violations of RCW 9.73.030
RCW 9.73.260	Unauthorized use of trap and trace devices, cell site simulator
RCW 9.86.020	Improper use of a flag
RCW 9.86.030	Desecration of flag
RCW 9.91.010	Denial of Civil Rights
RCW 9.91.020	Operating railroad, steamboat, vehicle, etc., while intoxicated
RCW 9.91.025	Unlawful Transit Conduct
RCW 9.91.060	Leaving children unattended in parked automobile
RCW 9.91.130	Disposal of trash in charity donation receptacle
RCW 9.91.140	Unlawful Sale of Food Stamps
RCW 9.91.142	Food Stamps-Trafficking
RCW 9.91.150	Tree spiking
RCW 9.91.170	Violations related to Interfering with dog guide or service animal
RCW 9.91.175	Violations related to Interfering with search and rescue dog
RCW 9.94A.835	Special allegation—Sexual motivation—Procedures

### 3. RCW Title 9A Washington Criminal Code

RCW 9A.36.041	Assault in the fourth degree
RCW 9A.36.050	Reckless Endangerment
RCW 9A.36.070	Coercion
RCW 9A.36.150	Interference with the reporting of domestic violence
RCW 9A.40.070	Custodial interference in the second degree
RCW 9A.42.035	Criminal mistreatment in the third degree
RCW 9A.42.037	Criminal mistreatment in the fourth degree
RCW 9A.42.080	Abandonment of a dependent person in the third degree
RCW 9A.42.110	Leaving a child in the care of a sex offender
RCW 9A.44.096	Sexual misconduct with a minor in the second degree
RCW 9A.44.115	Voyeurism in the second degree
RCW 9A.44.132	Failure to register as sex offender or kidnapping offender
RCW 9A.44.170	Custodial sexual misconduct in the second degree
RCW 9A.46.020	Harassment: Definition-Penalties
RCW 9A.46.040	Court-ordered requirements-person charged with crime.
RCW 9A.46.080	Order restricting contact-Violation
RCW 9A.46.110	Stalking
RCW 9A.48.050	Reckless burning in the second degree
RCW 9A.48.090	Malicious mischief in the third degree
RCW 9A.48.105	Criminal street gang tagging and graffiti
RCW 9A.48.110	Defacing a state monument
RCW 9A.49.030	Unlawful discharge of a laser in the second degree
RCW 9A.50.020	Interference with Health Care Facilities and Providers
RCW 9A.50.030	Interference with Health Care Facilities and Providers-Penalty
RCW 9A.52.060	Making or having burglar tools
RCW 9A.52.070	Criminal Trespass in the first degree
RCW 9A.52.080	Criminal Trespass in the second degree
RCW 9A.52.100	Vehicle prowling in the second degree
RCW 9A.52.115	False Swearing-Penalty
RCW 9A.56.050	Theft in the third degree
RCW 9A.56.060	Unlawful issuance of checks or drafts
RCW 9A.56.063	Making or possessing motor vehicle theft tools
RCW 9A.56.096	Theft of rental, leased, lease-purchased, or loaned property
RCW 9A.56.170	Possessing stolen property in the third degree
RCW 9A.56.180	Obscuring the identity of a machine
RCW 9A.56.220	Theft of subscription television services
RCW 9A.56.270	Shopping cart theft
RCW 9A.56.330	Possession of another's identification
RCW 9A.60.045	Criminal impersonation in the second degree

RCW 9A.60.050	False Certification
RCW 9A.60.070	Offenses related to false academic credentials
RCW 9A.60.080	Impersonating a census taker
RCW 9A.61.050	Defrauding a public utility in the third degree
RCW 9A.72.040	False Swearing
RCW 9A.72.140	Jury Tampering
RCW 9A.72.150	Tampering with physical evidence
RCW 9A.76.020	Obstructing a law enforcement officer
RCW 9A.76.030	Refusing to summon aid for a peace officer
RCW 9A.76.040	Resisting arrest
RCW 9A.76.070	Rendering criminal assistance in the first degree
RCW 9A.76.080	Rendering criminal assistance in the second degree
RCW 9A.76.090	Rendering criminal assistance in the third degree
RCW 9A.76.100	Compounding
RCW 9A.76.130	Escape in the third degree
RCW 9A.76.160	Introducing contraband in the third degree
RCW 9A.76.170	Bail Jumping
RCW 9A.76.175	Making a false or misleading statement to a public servant
RCW 9A.76.190	Failure to appear or surrender—Affirmative defense—Penalty.
RCW 9A.80.010	Official misconduct
RCW 9A.82.160	Criminal profiteering lien—Trustee's failure to comply, evasion of procedures or lien
RCW 9A.82.170	Financial institution records—Inspection and copying—Wrongful disclosure
RCW 9A.84.010	Criminal mischief (riot)
RCW 9A.84.020	Failure to disperse
RCW 9A.84.030	Disorderly conduct
RCW 9A.84.040	False reporting
RCW 9A.86.010	Disclosing intimate images
RCW 9A.88.010	Indecent exposure
RCW 9A.88.030	Prostitution
RCW 9A.88.090	Permitting prostitution
RCW 9A.88.110	Patronizing a prostitute
RCW 9A.90.050	Computer trespass in the second degree
RCW 9A.90.070	Spoofing
RCW 9A.90.090	Electronic data tampering in the second degree
RCW 9A.90.130	Cyberstalking
RCW 13.32A.080	Unlawful harboring of a minor—Penalty—Defense—Prosecution of adult for involving child in commission of offense.

#### 4. RCW Title 10 Criminal Procedure

RCW 10.01	General provisions.
RCW 10.05	Deferred prosecution—Courts of limited jurisdiction.
RCW 10.19	Bail and appearance bonds.
RCW 10.21	Bail determinations under Article I, section 20—Conditions of release.
RCW 10.22	Compromise of misdemeanors.
RCW 10.25	Jurisdiction and venue.
RCW 10.27	Grand juries—Criminal investigations.
RCW 10.29	Statewide special inquiry judge act.
RCW 10.31	Warrants and arrests.
RCW 10.34	Fugitives of this state.
RCW 10.37	Accusations and their requisites.
RCW 10.40	Arraignment.
RCW 10.43	Former acquittal or conviction.
RCW 10.52	Witnesses—Generally.
RCW 10.55	Witnesses outside the state (uniform act).
RCW 10.56	Witnesses—Eyewitnesses and informants.
RCW 10.58	Evidence.
RCW 10.61	Verdicts.
RCW 10.64	Judgments and sentences.
RCW 10.66	Drug traffickers—Off-limits orders.
RCW 10.70	Commitments.
RCW 10.73	Criminal appeals.
RCW 10.77	Criminally insane—Procedures.
RCW 10.79	Searches and seizures.
RCW 10.82	Collection and disposition of fines and costs.

RCW 10.85	Rewards.
RCW 10.88	Uniform criminal extradition act.
RCW 10.89	Uniform act on fresh pursuit.
RCW 10.91	Uniform rendition of accused persons act.
RCW 10.92	Tribal police officers.
RCW 10.93	Washington mutual aid peace officers powers act.
RCW 10.96	Criminal process records.
RCW 10.97	Washington state criminal records privacy act.
RCW 10.98	Criminal justice information act.
RCW 10.99	Domestic violence—Official response.
RCW 10.101	Indigent defense services.
RCW 10.105	Property involved in a felony.
RCW 10.108	Blue alert system.
RCW 10.109	Use of body worn cameras.
RCW 10.110	Individuals in custody—Health care services.
RCW 10.112	Sexual exploitation of children.
RCW 10.114	Use of deadly force by peace officer.
RCW 10.116	Peace officers—Tactics and equipment.
RCW 10.118	Law enforcement—Use of force—Data collection.
RCW 10.120	Law enforcement and correctional officers—Permissible uses of force.
RCW 10.122	Uniform electronic recordation of custodial interrogations act.

## 5. RCW Title 16 Animals and livestock

RCW 16.08.100	Dangerous dogs—Confiscation—Conditions—Duties of animal control authority—Penalties and affirmative defenses for owners of dogs that attack.
RCW 16.24.040	Violation of Order re Stock restricted areas
RCW 16.36.110	Animal health violations, gross misdemeanor—Injunction—Denial, revocation, or suspension of license
RCW 16.50.170	Humane slaughter of livestock - Penalty for violations
RCW 16.52.090	Docking horses
RCW 16.52.095	Cutting ears
RCW 16.52.225	Non-ambulatory livestock-transporting or accepting delivery
RCW 16.52.305	Unlawful use of hook
RCW 16.57.120	Removal or alteration of brand—Penalty
RCW 16.52.207	Animal cruelty in the second degree—Penalty.
RCW 16.52.225	Non-ambulatory livestock—Transporting or accepting delivery—Gross misdemeanor—Definition.
RCW 16.57.280	Possession of cattle or horse marked with another's brand—Penalty
RCW 16.57.320	Disposition of proceeds of sale when no proof of ownership—Penalty for accepting proceeds after sale, barter, trade
RCW 16.57.405	Microchip in a horse—Removal with intent to defraud
RCW 16.58.170	Identification of cattle through licensing of certified feed lots General penalties—Subsequent offenses
RCW 16.65.440	Public Livestock Markets – Penalty
RCW 16.68.180	Disposal of Dead Animals
RCW 16.70.050	Control of pet animals infected with diseases communicable to humans - Violations-Penalty

## 6. RCW Title 19 Business Regulations – Miscellaneous

RCW 19.02.115	Licensing information—Authorized disclosure—Penalty
RCW 19.06.040	Blind made products-services – Penalty
RCW 19.09.275	Charitable Solicitations - Violations—Penalties
RCW 19.25.020	Reproduction of sound without consent of owner unlawful—Fine and penalty
RCW 19.25.030	Use of recording of live performance without consent of owner unlawful—Fine and penalty
RCW 19.25.040	Failure to disclose origin of certain recordings unlawful—Fine and penalty
RCW 19.27A.120	Energy-related building standards - Violations—Penalty
RCW 19.29.060	Electrical construction - Violation of rules by agent, employee or officer—Penalty
RCW 19.30.150	Farm Labor Contractors – Penalties
RCW 19.31.080	Employment Agencies - License required—Penalty
RCW 19.48.110	Obtaining hotel, restaurant, lodging house, ski area, etc., accommodations by fraud—Penalty
RCW 19.60.066	Pawnbrokers and secondhand dealers - Prohibited acts—Penalty
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RCW 19.68.010	Rebating by Practitioners of Healing Professions - Rebating prohibited—Disclosure—List of alternative facilities
RCW 19.76.130	Refilling bottles, etc.-Penalty
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RCW 19.86.110	Demand to produce documentary materials for inspection, answer written interrogatories, or give oral testimony—Contents—Service—Unauthorized disclosure—Return—Modification, vacation—Use—Penalty
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RCW 19.105.520	Camping resorts Unlawful to represent director's administrative approval as determination as to merits of resort—Penalty
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## 7. Title 46 Motor Vehicle Dealers and Manufacturers

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## 8. RCW Title 26 Domestic Relations

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RCW 26.44.060	Abuse of Children-False Report of Abuse
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## 9. Miscellaneous Provisions

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## 10. RCW Title 66 Alcoholic Beverage Control

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## 11. RCW Title 68 Cemeteries, Morgues and Human Remains

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RCW 68.28.060	Mausoleums-Improper construction a nuisance—Penalty
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RCW 68.40.090	Endowment and Non-endowment care-Penalty
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## 12. RCW Title 69 Food, Drugs, Cosmetics, and Poisons

RCW 69.04.060	Intrastate Commerce in Drugs and Cosmetics Criminal penalty for violations
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RCW 69.06.060	Food and beverage establishment workers' permits-Penalty
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RCW 69.28.185	Honey-Penalty
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RCW 69.41.030	Legend Drugs-Prescription Drugs- Sale, delivery, or possession of legend drug without prescription or order prohibited—Exceptions—Penalty
RCW 69.41.050	Legend Drugs-Prescription Drugs - Labeling requirements—Penalty
RCW 69.41.170	Coercion of pharmacist prohibited—Penalty
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RCW 69.41.350	Possessing steroid without a valid prescription
RCW 69.50.4011	Possession of Counterfeit Substance
RCW 69.50.4013	Possession of Controlled Substance
RCW 69.50.4014	Possession of forty grams or less of marijuana
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RCW 69.50.475	Marijuana retail outlets—Sale to persons under the age of twenty-one—Penalty
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RCW 69.90.020	Sale of "kosher" and "kosher style" food products prohibited if not kosher—Representations—Penalty

### 13. RCW Title 70 Public Health and Safety

RCW 70.02.330	Obtaining confidential records under false pretenses - Penalty
RCW 70.05.120	Local Health Departments, Boards, Officers-Regulations, Violations—Remedies—Penalties
RCW 70.24.022	Interviews, examination, counseling, or treatment of infected persons or persons believed to be infected—Dissemination of false information—Penalty
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RCW 70.28.033	Treatment, isolation, or examination order of health officer—Violation—Penalty
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RCW 70.54.010	Polluting water supply—Penalty
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RCW 70.54.050	Exposing contagious disease—Penalty
RCW 70.54.065	Ambulances and drivers—Penalty.
RCW 70.54.070	Door of public buildings to swing outward—Penalty
RCW 70.54.080	Liability of person handling steamboat or steam boiler
RCW 70.54.090	Attachment of objects to utility poles—Penalty
RCW 70.54.160	Public restrooms—Pay facilities—Penalty
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RCW 70.58.280	Vital Statistics-Penalty
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RCW 70.74.160	Unlawful access to explosives
RCW 70.74.295	Abandonment of explosives
RCW 70.74.300	Explosive containers to be marked—Penalty
RCW 70.74.310	Gas bombs, explosives, stink bombs, etc.
RCW 70.155.080	Tobacco — Purchasing, possessing by persons under eighteen—Civil infraction—Jurisdiction.
RCW 70.160.030	Smoking prohibited in public places or places of employment.
RCW 70.160.075	Smoking prohibited within twenty-five feet of public places or places of employment—Application to modify presumptively reasonable minimum distance.
RCW 70.345.140	Vapor Products - Purchase or possession by persons under eighteen — Penalty - Jurisdiction.

**Section 4.** That there is adopted a new Chapter 10.60 of the Spokane Municipal Code as follows:

## Division IV Local Criminal Violations

**Chapter 10.60 Local Criminal Code**

SMC 10.60.010 Pedestrian or Vehicular Interference  
SMC 10.60.020 Sitting, Lying on Sidewalk in a Designated Zone  
SMC 10.60.030 Loitering for the Purpose of Engaging in Drug-Related Activity  
SMC 10.60.040 Urinating or Defecating in Public  
SMC 10.60.050 Lewd Conduct  
SMC 10.60.060 Having or Making Vehicle Prowling Tools  
SMC 10.60.070 Interference with Health Care Facilities  
SMC 10.60.080 Graffiti Offenses  
SMC 10.60.090 Abuse of 911 Emergency Reporting Systems

**SMC 10.60.010 Pedestrian or Vehicular Interference**

- A. Consistent with the findings of other Washington State cities, the city council finds that it is important to the general welfare of the citizens and residents of the City to protect and preserve the public safety of pedestrians and to ensure the safe and efficient movement of pedestrian and vehicular traffic in public places. The city council further finds that public places as defined in this section serve the primary purpose of enabling pedestrian and vehicular traffic to safely and efficiently move about from place to place and that public places in the urban core have become increasingly congested and should be maintained to serve their primary purpose. Spokane, as well as other cities in Washington, has experienced an increase in the number of incidents of aggressive solicitation by individuals towards pedestrians and that pedestrian interference in public places deteriorates from the primary purpose and threatens public health, safety and welfare. The City has a compelling interest in protecting its citizens from threatening, intimidating or harassing behavior caused by aggressive solicitations, in preserving the quality of life in its urban center and in protecting and preserving the public health, safety and welfare.
- B. The following definitions apply in this section:
1. "Aggressively solicit" means to solicit anything of value and intentionally engage in conduct that would likely intimidate a reasonable person, including but not limited to touching, following, persistently soliciting anything of value after being refused, using violent or threatening language or gestures, or taking similar actions for the purpose of inducing another person into giving anything of value regardless of the solicitor's purpose.
  2. "Enter" means to cross the vertical plane of the edge of a prohibited roadway, which includes crossing the vertical plane of the roadway by any part of a person's body or any extension thereof or by use of any device used to extend a person's ability to reach into the roadway.
  3. "Intimidate" means to engage in conduct which would make a reasonable person fearful of imminent harm to his person or property or feel threatened.
  4. "Obstruct pedestrian traffic" means to intentionally walk, stand, sit, lie, or place an object in such manner as to obstruct or impede, or a person of ordinary sensibilities would conclude it tends to obstruct or impede, the free passage of pedestrians through the area; or that requires, or would require, evasive action by a pedestrian to avoid physical contact.
    - a. If the impediment or obstruction is caused by the size of a particular group of persons, all persons within the group are equally subject to this section.
    - b. Acts committed as a valid exercise of one's constitutional rights, which incidentally interfere with pedestrian traffic in order to exercise that right, or acts authorized by a special events permit or an obstruction permit issued pursuant to chapter 10.39 SMC, SMC 17G.010.210(D), SMC 12.02.0706, or SMC 12.02.0730 do not constitute obstruction of pedestrian traffic.
  5. "Obstruct vehicular traffic" means:
    - a. To solicit from the occupants of any vehicle and be physically present within or subsequently enter a prohibited roadway; or
    - b. To intentionally engage in any conduct that would obstruct or impede the free flow of vehicular traffic on any public roadways or in a driveway located in the public right-of-way.

The following are not considered obstructing vehicular traffic:

- c. a person summoning aid in an emergency situation;
  - d. solicitation from the occupant of a vehicle that is legally parked.
6. "Prohibited roadway" means all on-ramp or off-ramp to Interstate 90 and all state routes and principal arterials located within the boundaries of the map set forth in Attachment A, and also the first one hundred feet of a road that intersects any on-ramp or off-ramp to Interstate 90, or any state route or principal arterial located within the boundaries of the map set forth in Attachment A, as measured from the edge of the state route, on-ramp or off-ramp to Interstate 90, or principal arterial.
- a. Prohibited roadway:
    - i. includes any portion of a road traveled by vehicles;
    - ii. includes paved shoulders and bike lanes;
    - iii. includes medians, which may be denoted by a physical barrier or solid yellow pavement markings;
    - iv. excludes all sidewalks and curbs; and
    - v. includes both sides of the road.
  - b. Prohibited roadways, with the exception of roadway within one hundred feet of any on-ramp or off-ramp to Interstate 90, or any state route or principal arterial, established herein are delineated upon Attachment A, entitled "Prohibited Roadway," as adopted as part of this section as if contained herein. It shall be the duty of the director of the planning department to cause the official map to be updated and maintained by having changes entered that the city council may approve.
7. "Public place" means an area generally open to the public and includes alleys, bridges, buildings, driveways, parking lots, parks, plazas, sidewalks, and streets open to the general public, including those that serve food or drink or provide entertainment, and the doors and entrances to buildings or dwellings and the grounds enclosing them.
8. "Solicit" and all derivative forms of "solicit" means:
- a. to ask, beg, or plead whether orally, non-verbally or in a written or printed manner, for the purpose of immediately receiving contributions, alms, charity, or gifts of items of value for oneself or another person; or
  - b. either orally, non-verbally or in a written or printed manner, to sell or offer for immediate sale goods, services or publications;
  - c. to distribute without remuneration goods, services, or publications or
  - d. to solicit signatures on a petition or opinions for a survey.
- C. A person is guilty of interference with pedestrian traffic if, in a public place, the person intentionally:
- 1. obstructs pedestrian traffic, or
  - 2. aggressively solicits.
- D. A person is guilty of interference with vehicular traffic if the person intentionally obstructs vehicular traffic except as permitted by state law or chapter 16A.02 of the Spokane Municipal Code.
- E. Interference with pedestrian or vehicular traffic is a misdemeanor.
- F. The provisions of this section are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, section, or portion of this section, or the invalidity of the application thereof to any person or circumstance does not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

#### **SMC 10.60.020 Sitting, Lying on Sidewalk in a Designated Zone**

A. Prohibition.

- 1. No person may sit or lie down upon a public sidewalk, or upon a blanket, chair, stool, or any other object placed upon a public sidewalk, during the hours between six a.m. and midnight in the zone designated in this section.



2. At all times it is unlawful to sit or lie on any drinking fountain, trash container, planter, bicycle rack, or any other sidewalk fixture not designed primarily for the purpose of sitting.
3. At all times it is unlawful to sit or lie in any entrance to or exit from any building or parking lot, or on any loading dock.

**B. Exceptions.**

The prohibition in subsection (A) of this section does not apply to any person:

1. sitting or lying down due to a medical emergency or due to a sensory, mental, or physical disability;
  2. who, as the result of a sensory, mental, or physical disability, utilizes a wheelchair, walker, or similar device to move about the public sidewalk;
  3. operating or patronizing a business with permission to occupy the sidewalk;
  4. participating in or attending a parade, festival, performance, rally, demonstration, meeting, or similar event conducted on the public sidewalk pursuant to a special event or other applicable permit;
  5. sitting on a chair or bench supplied by a public agency or by the abutting private property owner pursuant to the appropriate permit or license; or
  6. sitting within a bus stop zone while waiting for public or private transportation;
  7. sitting on privately-owned sidewalk fixture with the permission of the owner;
  8. engaging in constitutionally protected expressive activities which would otherwise be restricted by the limitations in subsection (A) of this section.
  9. who is homeless during a time frame when shelter space is unavailable.
- C. No person shall be subject to enforcement under this section unless the person engages in conduct prohibited by this section within the entirety of the zone designated in this section after having been notified by a law enforcement officer that the conduct violates this section and has been given a reasonable amount of time to comply or has refused to comply. If the individual fails to comply in a reasonable time or engages in prohibited conduct in another location within the designated zone, a law enforcement officer may then enforce this section.
- D. The zone where such conduct is prohibited is established in the map set forth in Attachment A (PDF 1.2MB).
- E. This section does not permit any conduct which is prohibited by SMC 10.60.010 regarding interference with pedestrian or vehicular traffic.
- F. It is the intent of the city council that homeless individuals subject to enforcement under this section be directed to emergency shelters, community/drug/mental health court, or other interventional services.
- G. A violation of SMC 10.60.020 is a misdemeanor.
- H. The provisions of this section are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, section, or portion of this section, or the invalidity of the application thereof to any person or circumstance does not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

**SMC 10.60.030 Loitering for the Purpose of Engaging in Drug-related Activity**

- A. No person may loiter in or near any thoroughfare, skywalk, park, school or any place open to the public in a manner and under circumstances manifesting a purpose to engage in drug-related activity contrary to any of the provisions of chapter 69.41 RCW, chapter 69.50 RCW or chapter 69.52 RCW.
- B. No arrest may be made under this section unless the arresting officer first affords the subject an opportunity to explain such conduct. It is a defense under this section that the explanation given was true and disclosed a lawful purpose.
- C. Circumstances which may be considered in determining whether a purpose to engage in drug-related activity contrary to any of the provisions of chapter 69.41 RCW, chapter 69.50 RCW or chapter 69.52 RCW is manifested include, but are not limited to, the following:
  1. The person is a known unlawful drug user. A "known unlawful drug user" is a person who:

- a. has, within the knowledge of the arresting officer, been convicted:
  - i. in any court within this state, including a juvenile court, of any violation involving the use, possession or sale of any of the substances referred to in chapter 69.41 RCW, chapter 69.50 RCW and chapter 69.52 RCW; or
  - ii. of any violation of any of the provisions of said chapters of the Revised Code of Washington or substantially similar laws of any:
    - A. political subdivision of this state, or
    - B. other state; or
- b. displays physical characteristics of drug intoxication or usage, such as “needle tracks”; or
  - i. possesses drug paraphernalia as defined in chapter 69.50 RCW; or
  - ii. has, within the knowledge of the arresting officer, used, possessed or sold any controlled substance in violation of any of the provisions of chapter 69.41 RCW, chapter 69.50 RCW or chapter 69.52 RCW, regardless of whether the person was arrested for such use, possession or sale.
2. The person is currently subject to an order prohibiting his presence in a high drug activity geographic area.
3. The area involved is by public repute known to be an area of unlawful drug use and trafficking.
4. The premises involved are known to have been reported to law enforcement as a place suspected of drug activity pursuant to chapter 69.53 RCW.
5. The person behaves in such a manner as to raise a reasonable suspicion that he is about to engage in or is then engaged in an unlawful drug-related activity, including, by way of example only, acting as “lookout.”
6. The person is identified by the officer as a member of an association, group, organization or gang which has illegal drug activity as one of its significant characteristics, history or purpose.
7. The person transfers small objects or packages for currency in a furtive fashion.
8. The person takes flight upon the appearance of a police officer.
9. The person manifestly endeavors to conceal himself or any object which reasonably could be involved in an unlawful drug-related activity.
10. The person refuses to identify himself upon request of an identified police officer.
11. There is being used a vehicle known to be registered to a:
  - a. known unlawful drug user, or
  - b. person for whom there is an outstanding warrant for a crime involving drug-related activity.

D. In determining whether a person is manifesting a purpose to engage in drug-related activity contrary to any of the provisions of chapter 69.41 RCW, chapter 69.50 RCW or chapter 69.52 RCW, the cumulative knowledge of all officers involved may be considered by the arresting officer.

#### **SMC 10.60.040 Urinating or Defecating in Public**

- A. It is unlawful for a person to intentionally urinate or defecate in a public place, other than a washroom or toilet room, under circumstances where such act could be observed by any member of the public.
- B. As used in this section, “public place” means 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 or provide entertainment, and the doorways and entrances to those buildings or dwellings and the grounds enclosing them.
- C. A violation of this section is a misdemeanor.

#### **SMC 10.60.050 Lewd Conduct**

- A. It is unlawful for a person to intentionally perform any lewd act in a public place or at a place and under circumstances where such act could be observed by any member of the public.

B. As used in this section a lewd act is:

1. the touching, caressing or fondling of the genitals or female breast(s); or
2. sexual intercourse; or
3. masturbation

C. This section is not applicable to:

1. classes, seminars, and lectures held for serious scientific, cultural or educational purposes;
2. expressive conduct such as exhibits, performances or dances that are not obscene, subject to time, place and manner restrictions; or
3. the exposure of a female breast while nursing an infant or expressing breast milk.

D. A violation of this section is a misdemeanor.

#### **SMC 10.60.060 Having or Making Vehicle Prowling Tools**

A. Every person who shall make or mend, or cause to be made or mended, or have in his possession, any engine, machine, tool, false key, pick lock, bit, nippers or implement, or any other implement listed in subsection (B) hereof, that is adapted, designed or commonly used for the commission of vehicle prowling, under circumstances evincing an intent to use or employ, or allow the same to be used or employed in the commission of vehicle prowling, or knowing that the same is intended to be so used, shall be guilty of making or having vehicle prowling tools.

B. The following tools are to be considered prohibited implements:

1. Slim jim;
2. False master key;
3. Master purpose key;
4. Altered, filed or shaved key;
5. Trial ("jiggler") keys;
6. Slide hammer;
7. Lock puller; or
8. Any other implement shown by facts and circumstances is intended to be used in the commission of vehicle prowling.

C. For the purposes of this section, the following definitions shall apply:

1. "False Master Key" means any key or other device made or altered to fit locks or ignitions of multiple vehicles, or vehicles other than that for which the key was originally manufactured.
2. "Altered, filed or shaved key" means any key so altered, by cutting, filing, or other means, to fit multiple vehicles, or vehicles other than the vehicle for which the key was originally manufactured.
3. "Trial ("Jiggler") Keys" means keys or sets designed or altered to manipulate a vehicle locking mechanism other than the lock for which the key was originally manufactured.
4. A person is guilty of vehicle prowling in the second degree if, with intent to commit a crime against a person or property therein, he or she enters or remains unlawfully in a vehicle other than a motor home, as defined in RCW 46.04.305, or a vessel equipped for propulsion by mechanical means or by sail which has a cabin equipped with permanently installed sleeping quarters or cooking facilities.

D. It shall be prima facie evidence of circumstances evincing an intent to use for commission of vehicle prowling for a person to be in possession of multiple vehicle keys or altered vehicle keys unless the person is a bona fide locksmith or an employee of a licensed auto dealer or other position for which the possession of such keys is in the performance of the person's duties.

E. Making or having vehicle prowling tools is a misdemeanor. A second or subsequent conviction shall be a gross misdemeanor.

#### **SMC 10.60.070 Interference with Health Care Facilities or Providers**

A. Definitions.

Unless the context clearly requires otherwise, the definitions in this section apply throughout this section.

1. "Aggrieved" means:

- a. A person, physically present at the health care facility when the prohibited actions occur, whose access is or is about to be obstructed or impeded;
  - b. A person, physically present at the health care facility when the prohibited actions occur, whose care is or is about to be disrupted;
  - c. The health care facility, its employees, or agents;
  - d. The owner of the health care facility or the building or property upon which the health care facility is located.
2. "Building" means any structure having a roof or a partial roof supported by columns or walls that is used or intended to be used for shelter or enclosure of persons or objects regardless of the materials of which it is constructed.
  3. "Health care facility" means a facility that provides health care services directly to patients, including but not limited to, a hospital, clinic, health care provider's office, health maintenance organization, diagnostic or treatment center, neuropsychiatric or mental health facility, hospice, or nursing home.
  4. "Health care provider" has the same meaning as defined in RCW 7.70.020 (1) and (2), and also means an officer, director, employee, or agent of a health care facility who sues or testifies regarding matters within the scope of his or her employment.
  5. "Health service" means any medical, surgical, laboratory, testing or counseling service relating to the human body.
  6. "Physical obstruction" means rendering impassable ingress to or egress from a building or rendering passage to or from a building unreasonably difficult or hazardous.

B. Prohibition.

It is unlawful for a person except as otherwise protected by state or federal law, alone or in concert with others, to willfully or recklessly interfere with access to or from a health care facility or willfully or recklessly disrupt the normal functioning of such facility, or to interfere with, or attempt to interfere with, any other person's exercise of rights secured by the United States Constitution or laws or of rights secured by the Constitution or laws of the state of Washington including, without limitation, RCW 9.02.100, by:

1. Physically obstructing or impeding the free passage of a person seeking to enter or depart from the facility or from the common areas of the real property upon which the facility is located;
  2. After having been ordered by a law enforcement officer to cease, making noise that can be heard within a building housing a health care facility and which is intended to cause, or actually causes either:
    - a. Jeopardy to the health of persons receiving health services within the building; or
    - b. interference with the safe and effective delivery of health services within the building.
  3. Trespassing on the facility or the common areas of the real property upon which the facility is located.
  4. Telephoning the facility repeatedly, or knowingly permitting any telephone under his or her control to be used for such purpose; or
  5. Threatening to inflict injury on the owners, agents, patients, employees, or property of the facility or knowingly permitting any telephone under his or her control to be used for such purpose.
- C. A first violation of SMC 10.60.070 (C) is a class 1 civil infraction. A second violation of SMC 10.60.070 (C) within one calendar year of the first violation is a gross misdemeanor punishable as follows.
1. For a first conviction, a fine of not less than five hundred (\$500) dollars and a jail term of not less than twenty-four (24) consecutive hours;
  2. For a second conviction, a fine of not less than seven hundred (\$700) dollars and a jail term of not less than seven (7) consecutive days; and
  3. For a third or subsequent conviction, a fine of not less than one thousand dollars (\$1,000) and a jail term of not less than thirty (30) consecutive days.

D. Nothing in this section shall prohibit either lawful picketing or other publicity for the purpose of providing the public with information.

E. Protection of Health Care Patients and Providers.

A court having jurisdiction over a criminal proceeding under this section shall take all steps reasonably necessary to safeguard the individual privacy and prevent harassment of a health care patient or health care provider who is a party or witness in a proceeding, including granting protective orders and orders in limine.

F. Private right of action. Each person or class of persons aggrieved by a violation of this section by any other person may bring an action against the person(s) violating this section in the Spokane County Superior Court. Upon prevailing, such aggrieved person may be awarded reasonable attorneys' fees and costs, and such other legal and equitable relief as appropriate to remedy the violation including, without limitation, the payment of compensatory damages and injunctive relief.

G. The provisions of this section are declared to be separate and severable. The invalidity of any clause, sentence, paragraph, section, or portion of this section, or the invalidity of the application thereof to any person or circumstance does not affect the validity of the remainder of this section, or the validity of its application to other persons or circumstances.

### **SMC 10.60.080 Graffiti Offenses**

A. Definitions

1. "Abate" means to repair, replace, remove, destroy, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the applicable City department director or designee determines is necessary in the interest of the general health, safety, and welfare of the community.
2. "Graffiti" shall mean the unauthorized writing, painting, drawing, inscription, figure, or mark of any type that has been placed upon any property through the use of paint, ink, chalk, dye, markers, objects, adhesive material, or any other substance capable of marking property.
3. "Graffiti tools" shall mean any tool, instrument, article, substance, solution, or other compound designed or commonly used to etch, paint, cover, draw upon, gouge, or otherwise place a mark upon a piece of property, including paint contained in pressurized containers (spray paint), broad-tipped markers, etching compound, or other spray devices or mechanisms used to propel liquid which contains ink, paint, dye, or other similar substances which can be expelled under pressure, either through the use of aerosol devices, pumps, or similar propulsion devices, and is capable of marking property.
4. "Nuisance activity" is defined in SMC 10.68.020(H).
5. "Owner" shall mean any entity or entities having a legal or equitable interest in real or personal property, including but not limited to, the interest of a tenant or lessee.
6. "Property" shall mean any real or personal property which is affixed, incidental, or appurtenant to real property, including but not limited to, any structure, fence, wall, sign, or any separate part thereof, whether permanent or not.

B. Graffiti Vandalism.

A person is guilty of the offense of graffiti vandalism if the person intentionally defaces public or private property, including any property of the City, by etching, painting, spray painting, covering, gouging, drawing upon or otherwise placing of a mark upon public or private property without authorization of the owner. It is not an offense under this section for a person to engage in expressive conduct on the public right of way using non-permanent, non-toxic means, such as chalk or water-soluble paints, in a manner which does not obstruct or interfere with the public right of way.

C. Graffiti Tools

A person is guilty of possession of graffiti tools when the person possesses any tool(s), as defined in subsection A of this section, other than non-permanent means, such as water-soluble paint or chalk, under circumstances evincing an intent to use the same in order to deface property in violation of this chapter.

D. Penalty

Any person violating subsections B or C of this section shall be guilty of a gross misdemeanor.

**E. Removal of Graffiti**

1. No person owning or in control of any property may allow the property to be used as a location for graffiti or fail or refuse to remove, cover, or grant permission to City personnel, or City's designee, to remove or cover the graffiti from the property when so directed by a duly authorized City employee or its designee.
2. Failure to remove the graffiti within ten days (absent exigent circumstances, i.e., inclement weather, insurance delays, disability, etc.) after receipt of notification is a class 4 civil infraction. Each day of a continuing violation is a separate offense.
3. Notification by deposit in first class mail to the owner shall include the following:
  - a. The street address and legal description of the property sufficient for identification of the property, or where there is no postal address a legal description or parcel number.
  - b. A statement that the property suffers from nuisance activity resulting from graffiti, with a concise description of the conditions leading to the finding.
  - c. A statement that the graffiti must be removed within ten days after the receipt of the notice and that if the graffiti is not abated within that time the person owning or responsible for the property shall be subject to a class 4 civil infraction.
  - d. Notification shall include any graffiti removal assistance programs that may be available.
4. The City may charge the property owner or the person in possession of the property the cost to the City for the removal or covering of the graffiti when the removal or covering is performed by City personnel or City's designee.
5. Any owner or other in possession who fails to comply with City personnel's or City designee's direction under this section violates chapter 10.68 SMC.
6. The parents or legal guardians of any minor child arrested or found committing an act constituting graffiti vandalism may be jointly and severally liable for any damage caused by the minor to real or personal property, whether publicly or privately owned. This may include reimbursement for the removal of graffiti by either the City or the property owner.
7. Nothing in this section shall affect the right of any person to maintain a civil action arising out of graffiti damage to property.
8. Revenue generated to the City pursuant to the civil infractions in subsection B shall be used to fund the Police Department's graffiti abatement program.

**SMC 10.60.090 Abuse of 911 Emergency Reporting Systems**

- A. Every person who knowingly calls a 911 emergency reporting system for a purpose other than to report a situation that requires prompt service in order to preserve or protect human life or health or property commits abuse of 911 emergency reporting systems.
- B. Abuse of 911 emergency reporting systems is a simple misdemeanor. No person shall be cited under this chapter unless the person engaged in the prohibited conduct has been notified by a law enforcement officer that the conduct violates this chapter and has been given an opportunity to comply and has refused to comply. If the individual fails to comply, a law enforcement officer may then issue a citation under this section.
- C. It is the intent of the Spokane City Council that persons with diagnoses of mental illness, and who are charged under this section, be provided interventional services to address behaviors which violate this section.

**Section 5.** That new Chapters 10.62 through 10.74 of the Spokane Municipal Code recodifying Code Enforcement and Animal Regulations are hereby created as follows:

**Division V Code Enforcement and Animal Regulations**

Chapter 10.62	Litter and Rubbish
Chapter 10.64	Fire Hazard from Vegetation and Debris
Chapter 10.66	Junk Vehicle Abatement
Chapter 10.68	Chronic Nuisance Properties
Chapter 10.70	Noise Control

Chapter 10.72      Adult Arcades  
Chapter 10.74      Animal Control

**Chapter 10.62      Litter and Rubbish**

**SMC 10.62.010      Definitions**

The term "litter" as used in this section means and includes refuse, rubbish, garbage, discarded items and all waste material of every kind and description.

**SMC 10.62.020      Litter Violations**

A. No person may place:

1. throw, deposit or otherwise dispose of litter in any public place, public park or in the waters within the City limits, except in accordance with the regulations of the solid waste management department;
2. or deposit litter on the private property of another without the property owner's permission;
3. litter accumulated on private property, or burning or smoldering materials, or dead animals, in any receptacle provided by the City for litter disposal; or remove or disturb the contents of any such receptacle except as authorized by the City;
4. or deposit any litter or any other thing into any garbage can, dumpster or other receptacle located on the property of another, except such containers or receptacles placed in an area open to the public and designated for deposit of litter by the public.

B. No owner or occupant of private property may deposit or accumulate, or permit the deposit or accumulation of, litter upon such private property. This subsection does not prohibit the storage of garbage or rubbish in public or private litter receptacles, or in garbage cans or in securely tied bundles, when such storage meets the requirements of the solid waste management department.

C. No owner or occupant of abutting property may allow the accumulation of litter on sidewalks or planting strips, whether or not such litter is deposited by such owner or occupant.

**SMC 10.62.030      Presumption Created**

The existence among any articles deposited in violation of this section of more than two items which identify a particular person creates a rebuttable presumption that the person so identified is responsible for the unlawful deposit.

**SMC 10.62.040      Penalties**

A violation of this chapter is a:

1. class 3 civil infraction when a person litters in an amount less than or equal to one cubic foot;
2. class 1 civil infraction when a person litters in an amount greater than one cubic foot; or
3. class 1 civil infraction for which the maximum penalty and default amount in five hundred dollars when a person discards a cigarette, cigar or other tobacco product capable of being lit. (RCW 70.93.060)

**Chapter 10.64      Fire Hazard from Vegetation and Debris**

**SMC 10.64.010      Fire Hazard from Vegetation and Debris**

A. Owners and occupants of property within the City must remove or destroy all grass, weeds, shrubs, bushes, trees, and vegetation growing or which has grown and died and all debris which are a fire hazard or a menace to the public health, safety, or welfare.

B. In considering whether such condition is to be declared a nuisance, the fire official, code enforcement officer, or other authorized officer considers whether the:

1. situation is present during the dry season, May 1st through November 30th;
2. lack of rain for ten continuous days has negatively affected soil moisture content;

3. average air temperature has been above seventy degrees Fahrenheit for ten continuous days;
  4. length of the grass or other vegetative material, whether standing or matted, is ten inches or more; and
  5. vegetation is within ten feet of a combustible fence or other structure.
- C. The City may cause the removal or destruction of such vegetation and debris by notice of violation and, as appropriate in each case:
1. issuance of a class 1 civil infraction for the violation; or
  2. direct action by City forces or contract, the cost of which will be billed to the owners of the property or as a utility service to the property. Fees for fire hazard abatement are contained in SMC 8.02.0616.
- D. For large parcels of land exceeding ten thousand square feet, abatement may be by a fuel break of at least ten feet adjacent to any abutting property.

## **Chapter 10.66 Junk Vehicle Abatement**

### **SMC 10.66.010 Definitions**

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

- A. "City" means the City of Spokane.
- B. "Code compliance officer" means a regular or special commissioned officer.
- C. "Director" means the director of the department of licensing or a designee.
- D. "Impound," for purposes of this chapter, means to take and hold a vehicle in legal custody.
- E. "Inoperable" means incapable of being operated legally on a public highway, including but not limited to not having a valid, current registration plate.
- F. "Junk vehicle" means a vehicle certified under RCW 46.55.230 as meeting at least three of the following requirements:
1. Is three years old, or older.
  2. Is extensively damaged, such damage including but not limited to any of the following:
    - a. A broken window or windshield.
    - b. Missing wheels, tires, motor or transmission.
  3. Is apparently inoperable.
  4. Has an approximate fair market value equal only to the approximate value of the scrap in it.
- G. "Vehicle," for the purposes of this chapter, has the same definition as the definition of "vehicle" in RCW 46.04.670.

### **SMC 10.66.020 Abatement and Removal of Junk Vehicles from Private Property**

- A. Except as provided in subsection III of this section, all junk vehicles placed or situated upon private property within the city limits of Spokane are public nuisances to be abated as provided in this chapter.
- B. This section shall apply even in cases where permission has been given for the vehicle to be left on the property.

### **SMC 10.66.030 Exceptions**

This chapter does not apply to a vehicle or part thereof that is:

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



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

**SMC 10.66.040 Violation Notice – Abatement – Service**

- A. A code compliance officer is authorized to issue and serve an abatement notice upon reasonable belief that a violation of one or more provisions of this chapter has occurred.
- B. The abatement notice shall be issued to the property owner of record upon which land a vehicle deemed to be in violation of this chapter is located, as shown on the last equalized assessment roll, and to the last registered and legal owner of record of such vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership.
- C. The abatement notice may be served by means of personal service, or by mailing a copy of the abatement notice to such person at his last known address as determined by the code compliance officer by certified mail, with a five-day return receipt requested.
1. Proof of personal service shall be made by a written declaration under penalty of perjury by the person effecting the service, declaring the time and date of service and the manner by which service was made.
- D. The abatement notice shall contain substantially the following information:
1. The name and address of the person to whom the notice is issued.
  2. The location of the subject property by address or other description sufficient for identification of the subject property.
  3. A description of the vehicle and its location, and the reasons for which the City deems it to be a public nuisance in violation of this chapter.
  4. A description of the corrective action necessary to eliminate the violation.
  5. The date by which the corrective action must be completed.
  6. A statement that the person(s) to whom the notice of violation and abatement is issued, if they wish to appeal the notice, they may submit a written notice of appeal and pay the appeal fee in SMC 8.02.087 to the office of the hearing examiner.
  7. A statement that if any of the persons to whom the notice of violation and abatement is issued fail to submit a notice of appeal within ten calendar days of the date of the notice or fail to voluntarily abate the nuisance by the date required, the City or its designee will abate the nuisance by removing and disposing of the vehicle and will assess all costs of the abatement against the owner of the land upon which the vehicle is located; and/or issue a class 1 civil infraction.
  8. A statement that the owner of the land upon which the vehicle is located may provide a written statement prior to completing the corrective action required by the date set forth in the notice and deny responsibility for the presence of the vehicle on the land, with his reasons for the denial, as provided in subsection VI of this section.

**SMC 10.66.050 Failure to Remove Junk Vehicle**

- A. Failure to remove the junk vehicle as outlined in the notice of abatement may result in a class I civil infraction, and/or the removal and disposal of the vehicle at the expense of the owner of the land upon which the vehicle is located. Additional fees may be assessed against the registered owner of the vehicle or the owner of the land upon which the vehicle is located, by the City or its designee, for all costs required to abate the nuisance per subsection IV of this section.
- B. Failure to remove the junk vehicle as a result of a appeal to the hearing examiner may result in a class I civil infraction. Additional fees may be assessed against the registered owner of the vehicle or the owner of the land upon which the vehicle is located, by the City or its designee, for all costs required to abate the nuisance per subsection IV of this section.

**SMC 10.66.060 Appeal Hearing**

- A. Hearings on contested abatement notices are to be scheduled and heard before the hearing examiner.
- B. The hearing examiner will conduct the hearing required by this chapter no more than eighteen calendar days after the appeal is filed.

- C. If the hearing examiner determines that multiple parties share responsibility for the nuisance, the hearing examiner will allocate the assessment of costs of administration, removal, and disposal among the responsible parties.
- D. An appellant may appear in person at the hearing or present a written statement to explain the grounds for appeal. The hearing examiner must receive the written statement in time for consideration at the hearing. The appellant may be represented by counsel at the hearing, may present evidence and ask questions related to the notice of violation, and may call witnesses to testify on his behalf.
- E. The City shall have the burden of proof to establish by a preponderance of the evidence that a violation has occurred and that the required corrective action is reasonable.
- F. The hearing examiner shall determine whether the City has established, by a preponderance of the evidence that a violation has occurred and that the required corrective action is reasonable and shall affirm, modify, or vacate the decisions regarding the alleged violation and/or the required corrective action.

#### **SMC 10.66.070 Order of the Hearing Examiner**

- A. The order of a hearing examiner shall be served upon the person to whom it is directed, either personally or by mailing a copy of the order by certified mail to such person at his last known address as determined by a code compliance officer.
- B. The hearing examiner may make a determination in the order assessing administrative costs or costs related to the impoundment/abatement of the violator's vehicle.
  - 1. If it is determined at the hearing that the vehicle was placed on the land without the consent of the landowner and that he has not subsequently acquiesced in its presence, then the hearing examiner's order shall not assess costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect the cost from the property owner.

#### **SMC 10.66.080 Removal and Disposal – Costs – Liens**

- A. After notice has been given of the City's intent to dispose of the vehicle through the notice of abatement or after the appeal hearing has been held the vehicle or part thereof shall be removed at the request of a law enforcement officer or limited commission officer and disposed of to a licensed motor vehicle wrecker or hulk hauler with notice to the Washington State patrol and the state department of licensing that the vehicle has been wrecked.
  - 1. Any vehicle or part thereof impounded pursuant to this chapter shall be processed in accordance with the laws of the State of Washington.
- B. Any registered disposer under contract of the City for the impounding of vehicles shall comply with any administrative regulations relative to the handling and disposing of vehicles as may be promulgated by the local authority or the director.
- C. The impounding of a vehicle shall not preclude charging the violator with any violation of the law on account of which such vehicle was impounded.
- D. In addition to, or in lieu of, any other state or local provisions for the recovery of costs, the City may, after removal of a vehicle under this chapter, file for record with the County auditor to claim a lien for the cost of removal and any and all outstanding fines and collection costs, which shall be in substance in accordance with the provision covering mechanics' liens in chapter 60.04 RCW, and said lien shall be foreclosed in the same manner as such liens.

#### **SMC 10.66.090 Severability**

If any section, subdivision, part or word of this chapter or any regulation, rule or order adopted pursuant to the authority thereof be determined invalid, it shall not affect the remainder of the chapter, but be confined to the section, subdivision, part or word directly involved in the controversy with the section, subdivision, part or word severed or stricken.

### **Chapter 10.68 Chronic Nuisance Properties**

#### **SMC 10.68.010 Nuisance Properties - Purpose**

The City of Spokane is committed to protecting its citizens from the dangers of properties that are abandoned, where unsafe conditions exist or where crime repeatedly occurs. Such properties are known as "nuisance properties" because of their adverse impact on the quality of life of Spokane's citizens. Additionally, when owners, financial institutions and persons in charge fail to take responsible action to secure and care for these properties, they deteriorate and become

“chronic nuisance” properties. Chronic nuisance properties create a substantial financial burden, pose a significant strain on city services, interfere with other’s use and enjoyment of their lands, and are a prohibited public nuisance. Persons in charge of such properties have a duty to take all reasonable measures to prevent and abate nuisance activity. It is the purpose of this chapter to hold legally and financially accountable the owners and persons in charge of nuisance and chronic nuisance properties, and to provide for the restoration and abatement of such properties. It is also the purpose of this chapter to provide for the closure of abandoned properties that are not subject to the building official process under Chapter 17F.070 SMC.

### **SMC 10.68.020 Definitions**

For purposes of this chapter, the following words or phrases shall have the meaning prescribed below:

- A. “Abandoned property”, for purposes of defining a chronic nuisance, means a property over which the person in charge no longer asserts control due to death, incarceration, or any other reason, and which is either unsecured or subject to occupation by unauthorized individuals.
- B. “Abate” means to repair, replace, remove, destroy, return to productive use, or otherwise remedy a condition which constitutes a violation of this chapter by such means and in such a manner and to such an extent as the applicable City department director or designee determines is necessary in the interest of the general health, safety and welfare of the community.
- C. “Abatement agreement” means a contract between the City and the person in charge of the chronic nuisance property in which such person agrees to promptly take all lawful and reasonable actions, which shall be set forth in the agreement, to abate the nuisance within a specified time and according to specified conditions.
- D. “Chronic nuisance property” means:
  - 1. a property on which nuisance activity is observed on three or more occasions during any sixty-day period or on which nuisance activity is observed on seven or more occasions during any twelve-month period, or
  - 2. a property where, pursuant to a valid search warrant, evidence of drug-related activity has been identified two or more times, or
  - 3. any abandoned property where nuisance activity exists.
- E. “Control” means the ability to regulate, restrain, dominate, counteract or govern property or conduct that occurs on a property.
- F. “Drug-related activity” means any unlawful activity at a property which consists of the manufacture, delivery, sale, storage, possession, use, or giving away of any controlled substance as defined in chapter 69.50 RCW, legend drug as defined in chapter 69.41 RCW, or imitation controlled substances as defined in chapter 69.52 RCW. Possession of marijuana that is legal under state law shall not result in enforcement action under this ordinance.
- G. “Landlord” means the owner, lessor or sublessor of the dwelling unit or the property of which it is a part, and in addition, means any person designated as a representative of the landlord.
- H. “Nuisance activity” means and includes:
  - 1. Any civil code violation as defined by state law or local ordinance occurring around or near the property, including, but not limited to, the following activities, conditions or behaviors:
    - a. Litter and Rubbish
    - b. Fire Hazard from Vegetation and Debris
    - c. Any dangerous animal violations
    - d. Fire Code Violations
    - e. Alcohol beverage control violations, as defined in RCW 66.44.
    - f. General Nuisance
      - i. any act or omission, as provided in Chapter 7.48 RCW or Chapter 9.66 RCW or which unreasonably:

1. interferes with the comfort, solitude, health or safety of others; or
  2. offends common sensibilities and senses by way of extreme noise, light or odor; or
  3. obstructs or renders hazardous for public passage any public way or place; or
  4. pollutes or renders less usable any watercourse or water body.
- i. maintaining or permitting upon any land:
    1. refrigerator, freezer or other insulated container within which a child could suffocate;
    2. a pit, excavation, swimming pool, well or other uncovered hole into which a person could fall;
    3. lumber, metal, plastic, paper, cardboard, or other scrap material deposited in such place and manner as to constitute a hazardous attraction to children;
    4. unused or junk vehicle or machinery or parts unless enclosed and secured as required by law for wrecking yards or junk yards;
    5. an abandoned or vacant building, structure or part thereof not securely closed to entry;
    6. toxic, radioactive, caustic, explosive, malodorous or septic substances, such as putrescent animal, fish or fowl parts, animal or vegetable waste matter, excrement and any material likely to attract or breed flies or rats, unless kept in proper receptacles as provided by the health and refuse laws; or
    7. structure, collection of wood, cloth, paper, plastic or glass material, vegetation or flammable substances kept in such manner as to create a substantial risk of combustion or spread of fire.
2. Any criminal conduct, including the attempt and/or conspiracy to commit any criminal conduct, as defined by State or local ordinance occurring on, around, near or having a nexus to a property, including but not limited to:
    - a. Stalking
    - b. Harassment
    - c. Failure to disperse
    - d. Disorderly conduct
    - e. Assault including domestic violence assault
    - f. Reckless endangerment
    - g. Prostitution
    - h. Patronizing a prostitute
    - i. Indecent exposure
    - j. Lewd conduct
    - k. Any firearms or dangerous weapons violations
    - l. Noise
    - m. Loitering for the purpose of engaging in drug-related activity
    - n. Drug-related activity.
    - o. Gang-related activity, as defined in: RCW 59.118.030.
    - p. Any crimes of domestic violence.
    - q. Any violation of any protection order.

- r. Warrant arrests, or any instance in which a DOC offender is located at a property while in violation of DOC supervision.
- s. Reckless Driving, Driving Under the Influence, Vehicular Homicide and Assault

EDNA of Noise Source	EDNA of Receiving Property		
	Class A (dBA)	Class B (dBA)	Class C (dBA)
Class A	55	57	60
Class B	57	60	65
Class C	60	65	70
Class A - Residential Zones Class B - Commercial, Office, Retail Zones Class C - Industrial Zones			

- t. Possession of stolen property
  - u. Trafficking in stolen property and/or criminal profiteering
  - v. Theft, trafficking, or unlawful possession of commercial metal property
  - w. Identity theft
  - x. Rendering criminal assistance
  - y. Possession of stolen vehicle
- I. "Owner" means any person having any interest in the real estate in question as indicated in the records of the office of the Spokane County auditor, or who establishes under this chapter, their ownership interest therein.
- J. "Person" means natural person, financial institution, bank, joint venture, partnership, association, club, company, corporation, business trust, organization or the manager, lessee, agent, officer or employee of any of them.
- K. "Person associated with a property" means any person who, on the occasion of a nuisance activity, has entered, patronized, visited, or attempted to enter, patronize or visit, or waited to enter, patronize or visit, a property or a person present on property, including without limitation, any officer, director, customer, agent, employee or any independent contractor of a property, or a person in charge of or owner of a property.
- L. "Person in charge" of a property means any person in actual or constructive possession or control of a property, including, but not limited to, an owner, occupant, agent or property manager of a property under his control, and any bank or financial institution in actual or constructive possession or which possesses any sort of lien or interest in the property. There may be at any one time multiple persons in charge of a property all of which may be jointly and severally liable under this chapter.
- M. "Premises and property" may be used by this chapter interchangeably and means any building, lot, parcel, dwelling, rental unit, real estate or land or portion thereof including property used as residential or commercial property.
- N. "Rental unit" means any structure or that part of a structure including, but not limited to, single-family home, room or apartment, which is rented to another and used as a home, residence or sleeping place by one or more persons.

#### **SMC 10.68.030 General Nuisance – Penalty**

No person in charge may maintain or permit nuisance activity under section 10.68.020.H.1(f) of this chapter upon any land or property within the City of Spokane. Any person in charge who maintains or permits nuisance activity under section 10.68.020.H.1(f), and fails to respond to the City and/or refuses to permit the City to fully abate the property, commits a misdemeanor.

The procedures for chronic nuisance properties which are set out in SMC 10.68.040 for chronic nuisance properties do not apply to this section.

**SMC 10.68.040 Chronic Nuisance Property – Procedure****A. Chronic Nuisance Notice**

1. When documentation confirms a chronic nuisance property, as defined by subsection II of this section, the chief of police, or his designee shall notify the person in charge of the property in writing that the property is in danger of being declared a chronic nuisance property.
2. The notice shall indicate the following:
  - a. the street address or a legal description sufficient for identification of the property;
  - b. a concise description of the nuisance activities that have occurred on the property and whether the property is abandoned;
  - c. a warning that the person in charge of the property may be subject to penalties as set forth in this chapter.
  - d. a demand that the person in charge respond to the chief of police or his designee within ten days of service of the chronic nuisance notice to discuss the nuisance activities and create a plan to abate the nuisance;
  - e. a statement that the person in charge shall have an opportunity to abate the nuisance giving rise to the nuisance; and
  - f. a warning that, if the person in charge does not respond, as required, or if the matter is not voluntarily corrected to the satisfaction of the chief of police, or his designee, the City may file an action to abate the property as a chronic nuisance property pursuant to this chapter and/or take other action against the property or person in charge.
3. Such notice shall be either:
  - a. personally served, or
  - b. delivered by first class mail to the person in charge of the property with a copy mailed to the owner at the address indicated by the Spokane County auditor, if different than the person in charge of the property.

**B. Requirement to Respond**

A person in charge who receives notice pursuant to this section must, within ten days, contact the officer who issued the notice to establish a plan of action to eliminate the conditions, behaviors or activities which constitute a nuisance at the property.

**C. Abatement Agreement/Approved Plan to Abate**

1. The person in charge shall enter into an abatement agreement or otherwise produce a plan approved by the chief of police or his designee to abate the nuisance within fifteen days of the issuance of the chronic nuisance notice.
2. The abatement agreement, or approved plan to abate, shall be signed by the person in charge and shall include the following:
  - a. The name and address of the persons in charge of the property;
  - b. The street address or a description sufficient for identification of the property, building, structure, or land upon or within which the nuisance is occurring;
  - c. A description of the nuisance activities and whether the property is abandoned;
  - d. The necessary corrective action to be taken, and a specific date or time by which correction must be completed.

**D. Corrective Action**

Once the person in charge has entered into an abatement agreement or otherwise produced an approved plan to abate the nuisance, he or she must abide by the approved plan and promptly take corrective action to eliminate the nuisance. Corrective action may include, but is not limited to:

1. Effective tenant screening, leasing and rule enforcement;
  2. Implementing physical improvements for crime prevention;
  3. Providing security for the property;
  4. Evicting persons responsible for the nuisance activity; and
  5. Pursuing other remedies available to the owner pursuant to any lease or other agreement.
- E. The City of Spokane shall offer services to persons in charge with known mental or physical disabilities in order to facilitate such persons taking all lawful and reasonable corrective action necessary to abate the nuisance.

All corrective action must conform to state and local laws, including but not limited to RCW 59.18.580, the Victim Protection Limitation on Landlord's Rental Decisions.

#### **SMC 10.68.050 Penalties**

##### **A. Failure to Respond**

It is a class 1 civil infraction for any person in charge to fail to respond to the chief of police or his designee within ten days of service of the chronic nuisance notice.

##### **B. Failure to Enter Agreement or Produce an Approved Plan to Abate**

It is a class 1 civil infraction for any person in charge to fail to enter into an abatement agreement or otherwise produce an approved plan to abate the nuisance within fifteen days of the issuance of the chronic nuisance notice.

##### **C. Failure to Abate Nuisance**

After the issuance of the chronic nuisance notice, and after the time to enter into an abatement agreement or otherwise produce an approved plan has passed, every subsequent nuisance activity is a class 1 civil infraction.

- D. The penalties and remedies of this chapter are not exclusive and do not affect any other enforcement actions taken by the City under this chapter, or any other section of the municipal code or law or enforcement actions taken by a different jurisdiction.

#### **SMC 10.68.060 Commencement of Abatement Action – Enforcement**

- A. The matter may be referred to the city attorney for review and a determination of whether to initiate legal action.

- B. In any action filed, the City shall have the burden of showing by a preponderance of the evidence that the property is a chronic nuisance property. Police reports, official city reports, and affidavits may be offered as evidence of chronic nuisance. The failure to prosecute an individual, or the fact no one has been convicted of a crime, is not a defense to a chronic nuisance action.

- C. If the superior court determines the property to be a chronic nuisance under this chapter the court may:

1. impose a warrant of abatement ordering the complainant to take all necessary steps to abate, deter and prevent the resumption of such nuisance; which may include but is not limited to, the immediate:
  - a. vacation of the premises;
  - b. closure and securing of the premises;
  - c. removal of litter, rubbish and junk vehicles from the premises;
  - d. safety inspection by Code Enforcement, Building Official, Fire Marshal, or any other government agency;
  - e. removal of personal property subject to seizure and forfeiture pursuant to RCW 69.50.505. or RCW 10.105.010.
2. impose the expenses of abating, or attempting to abate, the nuisance on the property and/or the person in charge;
3. impose a fine, civil penalty or award damages;

4. order the property into receivership in accordance with RCW 7.60 and thereby recover from the property the reasonable, necessary expenses of abating the nuisance and returning the property to productive use;
  5. order the person in charge to pay relocation assistance to any tenant who must relocate because of the order of abatement, and who the court finds not to have caused or participated in nuisance activities at the property; and
  6. any other further relief deemed appropriate by the court.
- D. In assessing the penalties and remedies, the court may consider the following factors:
1. The actions taken by the person in charge to mitigate or correct the nuisance activity.
  2. The financial condition of the person in charge.
  3. Any known mental or physical disabilities of the person in charge.
  4. The repeated or continuous nature of the nuisance activity.
  5. The statements of the neighbors or those affected by the nuisance activity; and
  6. Any other factor deemed relevant by the court.
- E. Any fine, civil penalty and/or expense awarded to the City may be filed with the city treasurer who shall cause the same to be filed as a lien on the property with the county treasurer. Expenses shall be submitted to the court for review and may be collected on execution.
- F. The City shall file a formal lis pendens notice when an action for abatement is filed in the superior court.
- G. The superior court shall retain jurisdiction during any period of closure or abatement of the property.
- H. Spokane municipal court is to have jurisdiction of all civil infractions issued pursuant to this chapter.

#### **SMC 10.68.070      Summary Closure**

Nothing in this chapter prohibits the City from taking any emergency action for the summary closure of such property when it is necessary to avoid an immediate threat to public welfare and safety. The City may take summary action to close the property without complying with the notification provisions of subsection IV of this section, but shall provide such notice as is reasonable under the circumstances.

#### **SMC 10.68.080      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.

### **Chapter 10.70      Noise Control**

#### **SMC 10.70.010      Declaration of Policy**

It is the policy of the City to minimize the exposure of citizens to the harmful physiological and psychological dangers of excessive noise and to protect, promote and preserve the public health, safety and welfare while affording appropriate protection to free speech activity as required by applicable constitutional law. It is the express intent of the City to regulate the level of noise in a manner, which promotes commerce; the use, value and enjoyment of property; sleep and repose; and the quality of the environment. It is the purpose of this section to enable all citizens of the City to peacefully coexist in a manner which is mutually respectful of the interest and rights of others.

#### **SMC 10.70.020      Findings of Special Conditions**

The problem of noise in the City has been a continuous public health, safety and welfare concern for the City of Spokane government and its departments, including the police department. On the basis of this experience and knowledge of conditions within the City, the city council finds that special conditions exist within the City, which makes necessary any and all differences between this chapter and the regulations adopted by the Washington State department of ecology.



**SMC 10.70.030 Definitions**

All terminology used in this chapter which is not defined below shall be interpreted in conformance with the most recent definitions used by the American National Standards Institute (ANSI) or its successor body.

- A. "A-weighted sound level" means the sound pressure level in decibels measured using the A-weighted network on a sound level meter as specified by the American National Standards Institute specification for sound level meters as now existing or as hereafter amended or modified. The level so read is designated dBA.
- B. "Ambient sound" means the sound level at a given location that exists as a result of the combined contribution in that location of all sound sources, excluding the contribution of a source or sources under investigation for violation of this chapter and excluding the contribution of extraneous sound sources.
- C. "Amplified" means to increase a sound level by electronic, mechanical or other means.
- D. "Amplification equipment" means any device, whether mechanical, electrical, or other, used to increase the loudness or volume and intensity of sound.
- E. "Background sound level" means the level of all sounds in a given environment, independent of the specific source being measured.
- F. "Commercial noise" means noise emitted from commercial activities including those noises generated by a combination of equipment, facilities, operations, or activities employed in the production, storage, handling, sale, purchase, exchange, or maintenance of a product, commodity, or service and those noise levels generated in the storage or disposal of waste products.
- G. "dBA" means the sound level as measured with a sound level meter using the A-weighted network. This frequency weighting network for the measurement of sound levels shall comply with standards established by the American National Standards Institute specifications for sound level meters S1.4-1983 (R2006) / S.14A-1985 (R2006), or as amended.
- H. "Decibel" (dB) means the practical unit of measurement for sound pressure level; the number of decibels of a measured sound is equal to twenty times the logarithm to the base ten of the ratio of the sound pressure to the pressure of a reference sound (twenty micropascals); abbreviated "dB."
- I. "EDNA" means environmental designation for noise abatement, which is an area within which maximum permissible noise levels are established by the Washington State department of ecology and this chapter.
- J. "Exterior electrical equipment noise" means noise emitted from electrical equipment located on the exterior of structures in all land use zones including, but not limited to, noise emitted from equipment used for heating and cooling of buildings.
- K. "Law enforcement officer" means a police officer or other officials who have a limited police commission.
- L. "Lmax" means the maximum recorded root mean square (rms) A-weighted sound level for a given time interval or event. Lmax "fast" is defined as a 125-millisecond time-weighted maximum.
- M. "L(n)" means sound level that is exceeded "n" percent of the time. For example a sound that exceeded a certain level eight percent of the time would be designated L08. A level exceeded ninety percent of the time would be designated as L90. The L90 descriptor is used to characterize the ambient condition in environments with extraneous sounds.
- N. "Mosquito device" means an electronic device which emits sound at a frequency of 17 kHz or above.
- O. "Performer" means an artist who engages in any constitutionally-protected expressive activities on a public right-of-way, including but not limited to the following: acting, singing, playing musical instruments, pantomime, juggling, magic, dancing, reading, puppetry, sidewalk art, and reciting.
- P. "Plainly audible" means any sound for which any of the content of that sound, such as, but not limited to, comprehensible musical rhythms, is communicated to a person using his or her unaided hearing faculties. For the purposes of the enforcement of this chapter, the detection of any component of sound, including, but not limited to, the rhythmic bass by a person using his unaided hearing faculties is sufficient to verify plainly audible sound. It is not necessary for the person to determine the title, specific words or artist of music, or the content of any speech.

- Q. "Public disturbance noise" means unreasonable sound a person causes or permits to be caused, either originating from the real or personal property the person possesses or controls, or from the person or his personal property while on public property or the public right-of-way. "Unreasonable sound" is defined in this chapter.
- R. "Public right-of-way" means a public highway, road, street, avenue, alley, driveway, path, sidewalk, roadway, or any other public place or public way.
- S. "Receiving property" means real property, including, but not limited to, buildings, grounds, offices and dwelling units from which sound levels from sound sources outside the property may be measured. Individual offices or dwelling units within a building may constitute a receiving property.
- T. "Sound amplification equipment" means any machine or device for the amplification of the human voice, music or any other noise or sound.
- U. "Sound level" means a weighted sound pressure level measured by the use of a sound level meter using an A-weighted network and reported as decibels, dBA.
- V. "Sound level meter" means any instrument including a microphone, an amplifier, an output meter, and frequency weighting networks for the measurement of noise and sound levels in a specified manner and that complies with standards established by the American National Standards Institute specifications for sound level meters S1.4-1983 (R2006) / S1.4A-1985 (R2006), or as amended.
- W. "Unreasonable sound" means any excessive or unusually loud sound that unreasonably annoys, disturbs, interferes with, injures or endangers the peace, comfort, health, repose or safety of a reasonable person of normal sensitivities, or that causes injury or damage to property or business.

#### **SMC 10.70.040 Exemptions**

- A. The City exempts from the provisions of this chapter those sounds set forth in WAC 173-60-050 unless otherwise specially prohibited under this chapter.
- B. Activities which receive a special event permit under chapter 10.39 SMC and provided the provisions of SMC 10.70.110 are met.
- C. Sounds created by the official operation of public safety emergency equipment.

#### **SMC 10.70.050 Unlawful Sounds – Maximum Permissible Environmental Sound Levels and Prohibited Frequencies**

- A. It is unlawful for any person to cause or permit sound, or for any person in possession or control of real or personal property to permit sound to intrude into the real property of another person whenever the sound exceeds the maximum permissible sound levels set forth in this chapter. Noise violations not otherwise identified in this chapter shall be subject to the sound limitations identified in SMC 10.70.050 through SMC 10.70.080.
- B. It is unlawful for any person to use, deploy, or activate a mosquito device as defined in this chapter which is audible in any public space or right of way in Spokane, or to use, deploy, or activate any device which generates sound at a frequency of 8 kHz to 17 kHz and which is audible in any public space or right of way in Spokane for longer than five (5) minutes in any one-hour period.

#### **SMC 10.70.060 Identification of Environments**

- A. Environmental designations for noise abatement are as follows:
- a. Class A EDNA: Residential land use district:

Residential Agricultural	RA
Residential Single-family	RSF
Residential Two-family	RTF
Residential Multifamily	RMF
Residential High Density	RHD

## b. Class B EDNA: Commercial, Retail and Office land use district:

Office	O
Office Retail	OR
Neighborhood Retail	NR
Neighborhood Mixed Use	NMU
Community Business	CB
General Commercial	GC
Center and Corridor	CC1, CC2, CC3, CC4
Central Business District	CBD-1, CBD-2, CBD-3, CBD-4, CBD-5, CBD-6

## c. Class C EDNA: Industrial land use district:

Light Industrial	LI
Heavy Industrial	HI
Planned Industrial	PI

B. The land use districts listed in the City of Spokane Land Use Code, Title 17C SMC, are classified for the purposes of this chapter as follows:

1. Residential land use district: Residential Agricultural, RA; Residential Single-family, RSF; Residential Two-family, RTF; Residential Multifamily, RMF; Residential High Density, RHD;
2. Commercial, Office and Retail land use district: Office, O; Office Retail, OR; Neighborhood Retail, NR; Neighborhood Mixed Use, NMU; Community Business, CB; General Commercial, GC; Center and Corridor, CC1, CC2, CC3, CC4; Central Business District, CBD-1, CBD-2, CBD-3, CBD-4, CBD-5, CBD-6;
3. Industrial land use district: Light Industrial, LI; Heavy Industrial, HI; Planned Industrial, PI.

**SMC 10.70.070 Maximum Permissible Environmental Sound Levels**

## A. Maximum Permissible Environmental Sounds.

For sound sources located within the city, no sound is permitted to exceed the maximum permissible exterior sound levels established by WAC 173-60. Maximum permissible sound levels are as follows:

## B. The maximum permissible sound levels established by this chapter are modified as follows:

1. Reduce by ten dBA between the hours of ten p.m. to seven a.m. for receiving property in Class A EDNAs; and
2. Increase for short duration for any receiving property at any time:
  - a. Increase by five dBA for fifteen minutes (L08) in any one-hour period; or
  - b. Increase by ten dBA for five minutes (L02) in any one-hour period; or
  - c. Increase by fifteen dBA for one and a half minutes (Lmax) in any one-hour period; and

## C. Where a receiving property lies within more than one EDNA classification, the maximum permissible sound level shall be determined by the most noise sensitive EDNA zone.

## D. The point of measurement shall be at the property boundary of the receiving property.

## E. Enforcing authority: neighborhood services and code enforcement or police department.

**SMC 10.70.080 Commercial Noise**

- A. Commercial and exterior electrical equipment noises are subject to the sound limits of SMC 10.58.080(G).
- B. Enforcing authority: neighborhood services and code enforcement department.

#### **SMC 10.70.090 Public Disturbance Noise**

- A. It is unlawful for any person to knowingly cause or permit sound that is a public disturbance noise defined in SMC 10.58.080(C) and refuse or intentionally fail to cease the noise when ordered to do so by a law enforcement officer. The content of the sound will not be considered in determining any violation of this chapter.

The police department shall develop policy or standard operating procedure to address repeated filings of unfounded complaints by a single individual.

- B. Unless provided for in subsection (3), public disturbance noises originating from real or personal property possessed or controlled by the person causing or permitting the public disturbance noise are prohibited at all times unless otherwise specified, and include but are not limited to the following sounds if the sound is plainly audible across a real property boundary, or fifty feet from the source, whichever is less:
  - 1. The frequent, repetitive and/or continuous sounding of any horn, siren, or alarm attached to a motor vehicle, except when used as a warning of danger or as specifically permitted or required by law.
  - 2. The frequent, repetitive and/or continuous sounding outdoors of any emergency warning device where an actual emergency does not exist; provided, that sounds created during maintenance or testing of the emergency warning devices does not constitute a noise disturbance.
  - 3. The frequent, repetitive, and/or continuous sounds in connection with the starting, operation repair, rebuilding, and/or testing of any motor vehicle, motorcycle, off-highway vehicle, or internal combustion engine.
  - 4. The frequent, repetitive, and/or continuous sounds, which emanate from real property possessed or controlled by the person causing or permitting the sound, such as sounds from audio equipment, television set, video equipment, musical instruments, band sessions and/or social gatherings.
  - 5. The frequent, repetitive and/or continuous sounds caused by operating or playing, or permitting the operating or playing, of motor vehicle audio equipment such as tape players, radios, and compact disc players, whether portable or stationary or mounted on or within a motor vehicle.
  - 6. The frequent, repetitive and/or continuous sounds caused by the use of fireworks or other blasting devices without the appropriate permit.
- C. Public disturbance noises originating from a person or his personal property while on public property, or a public right-of-way, are prohibited at all times as set forth unless otherwise specified.
  - 1. A person or performer creating a sound, whether amplified or unamplified, between the hours of ten p.m. and seven a.m. on public property or on a public right-of-way so as to be plainly audible across a real property boundary which is not the source of sound unless otherwise permitted; or
  - 2. A person or performer creating a sound, whether amplified or unamplified, between the hours of seven a.m. and ten p.m. on public property or on a public right-of-way so as to be plainly audible one hundred feet or more from the source of the sound.
    - a. In addition to audibility at one hundred feet, the enforcing authority shall use any or all of the following criteria to determine violation:
      - i. whether the sound is loud enough to cause vibration of building elements (i.e. rattling windows),
      - ii. the content of the sound, such as heavy bass frequencies,
      - iii. the background sound level at the location,
      - iv. the duration of the sound at a single location where the sound is audible, and/or
      - v. the location and time of day.

- D. Enforcing authority: police department.

#### **SMC 10.70.100 Entertainment Facilities**

- A. Entertainment facilities and amusement facilities as defined in 10.23A.010(B) SMC and including, adult cabarets and teen clubs must obtain permits and comply with the requirements under chapter 10.23A SMC.

- B. Entertainment facilities and amusement facilities including adult cabarets and teen clubs which are granted a permit for indoor entertainment under chapter 10.23A SMC are prohibited from allowing sound that is plainly audible to a person of normal sensitivities fifty feet from the establishment. Doors to the facilities must remain closed during business hours, except for ingress and egress.
- C. Entertainment facilities which are granted a permit for outdoor entertainment are prohibited from allowing sound that is plainly audible to a person of normal sensitivities more than one hundred feet from the facility.
- D. Enforcing authority: police department.

**SMC 10.70.110 Special Events Permits**

- A. Activities and events which receive a special events permit under chapter 10.39 SMC are exempt from the provisions of this chapter, so long as the sounds are:
  - 1. inherent in the specific activities described in the application for such permit;
  - 2. caused or created at the location described in the application for the permit;
  - 3. caused or created during the time periods described in the application for the permit; and
  - 4. within the sound levels described in the application for the permit, or are at sound levels consistent with those inherent in the specific activities described in the application for the permit.
- B. Enforcing authority: police department.

**SMC 10.70.120 Noise Variance**

- A. A person may request a variance from compliance with this chapter by making an application with the director of public works and utilities at least thirty days before the time period for the variance is to take effect. The variance is limited to one-time activities that do not include concerts or permitted special events and entertainment facilities. The variance may not be used for private activities (weddings, parties etc). The applicant shall explain the:
  - 1. nature of the noise,
  - 2. source of the noise,
  - 3. duration for which the noise shall be created,
  - 4. time period for which the variance will be required,
  - 5. reason why the noise violation cannot be avoided, and
  - 6. mitigating conditions the applicant will implement to minimize the noise level violations.
- B. The application must be submitted at least thirty days before the time period the permit is to take effect. The director, after informing the affected City departments, may issue an excess noise permit if the director determines that the noise level violations:
  - 1. cannot be avoided,
  - 2. will exist for a specific period of time,
  - 3. will not endanger public health, safety or welfare. And
  - 4. have been mitigated to the greatest extent reasonably possible.
- C. The director, after informing the affected City departments, may issue a variance from this chapter if the director determines that the noise level violations cannot be avoided, will exist for a specific period of time, and have been mitigated to the greatest extent reasonably possible. The director shall issue a written decision indicating the time period and location restrictions for the variance.
- D. The person obtaining such written variance must have the written variance posted in a viewable area or on their person when such variance takes place.

- E. A decision of the director of public works and utilities regarding a request for a variance may be appealed to the hearing examiner within ten days of the director's written decision.

#### **SMC 10.70.130 Affirmative Defense**

It is an affirmative defense to any charge of a violation of this chapter that:

- A. The sounds at issue was created and/or caused during a period, at a location and at volume levels pursuant to the terms of a variance granted in accordance with the terms of exemptions set forth in SMC 10.58.080(H); or
- B. The sounds at issue were caused or created pursuant to an approved special events permit issued under chapter 10.39 SMC, or activities authorized by any permit issued by the City of Spokane, so long as the sounds are:
1. inherent in the specific activities;
  2. caused or created at the location specified in the permit;
  3. caused or created during the time periods allowed for by the permit; and
  4. within the sound levels described in the application for such permit, or are at sound levels consistent with those inherent in the specific activities described in the application for the permit.

#### **SMC 10.70.140 Violation – Penalty**

- A. A first violation of this chapter class 1 civil infraction. A third violation within a one-year period shall be a misdemeanor.
- B. No person shall be cited under this chapter unless the person engaged in the prohibited conduct has been notified by a law or code enforcement officer that the conduct violates this chapter, has been given an opportunity to comply, and has refused to comply. If the individual fails to comply, a law or code enforcement officer may then take enforcement action under this section.

#### **SMC 10.70.150 Violation Deemed a Nuisance**

Violation of SMC 10.58.080(E), SMC 10.58.080(G) or 10.70.090 is a nuisance. Any individual who is harmed by the nuisance may file a civil action for abatement pursuant to chapter 7.48, RCW.

#### **SMC 10.70.160 Construction – Severability**

- A. If any provision of this chapter, or its application to any person or circumstances, be declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining portions of this chapter or the application of the provisions to other persons or circumstances.
- B. Nothing in this chapter shall be construed as preventing the adoption of more restrictive provisions set forth in other sections of the Spokane Municipal Code. The more restrictive provisions of the code shall be enforced.

### **Chapter 10.72 Adult Arcades**

#### **SMC 10.72.010 Findings**

- A. Based upon a wide range of evidence presented to the Spokane city council and to other jurisdictions, including but not limited to the testimony of law enforcement officers and members of the public, and on other evidence, information, publications, articles, studies, documents, case law and materials submitted to and reviewed by the city council and staff, the councils of other cities within the region and in other jurisdictions, nonprofit organizations and other legislative bodies, the city council finds that the commercial offering of adult entertainment establishments containing adult arcade devices is a use which, although afforded some constitutional protection, often creates or enhances undesirable secondary effects, which include a wide range of criminal and other unlawful activities that have regularly and historically occurred, including prostitution, narcotics and liquor law violations, breaches of the peace, assaults and sexual conduct and other criminal activity involving contact between patrons and between entertainers and patrons, some of whom have been minors; and
- B. Based upon the specific experiences of Spokane and the adult entertainment establishments containing adult arcade devices currently located within the City of Spokane, the city attorney has advised that the ordinance codified in this chapter be enacted; and

- C. It is not the intent of this chapter to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the adverse secondary effects of adult entertainment establishments containing adult arcade devices; and
- D. The city council, therefore, finds that the protection and the preservation of public health, safety and welfare requires establishment of this chapter.

#### **SMC 10.72.020 Purpose**

This chapter is intended to protect the general public health, safety and welfare of the citizenry of the City of Spokane through the regulation of the operations of adult arcade devices and premises. The regulations set forth herein are intended to prevent health problems, safety problems and the decline in neighborhood conditions in and around adult arcade premises and to prevent dangerous and unlawful conduct in and around adult arcade premises.

#### **SMC 10.72.030 Definitions**

- A. "Adult arcade" or "adult arcade premises" means any premises on which any adult arcade device is located and to which patrons, customers, and/or members of the public are admitted.
- B. "Adult arcade device," sometimes also known as "panoram," "preview," "picture arcade," or "peep show," means any device which, for payment of a fee, membership fee, or other charge, is used to exhibit or display a picture, view, film, videotape, live show, or other graphic display of "specified anatomical areas."
  - 1. All such devices are denominated under this chapter by the term "adult arcade device."
  - 2. The term "adult arcade device," as used in this chapter, does not include games which employ pictures, views or video displays, or gambling devices regulated by the state or by other provisions of the Spokane Municipal Code.
- C. "Adult arcade manager" means any person who manages, operates, directs, administers, or is in charge of the affairs and/or the conduct of any adult arcade premises.
- D. "Adult arcade owner" means any person who owns and/or has a substantial ownership interest in the business.
- E. "Adult arcade station" or "booth" means such an enclosure where a patron, member, or customer would ordinarily be positioned while using an adult arcade device or viewing a live show.
  - 1. "Adult arcade station" or "booth" also refers to the area in which an adult arcade device is located and from which the adult arcade picture, view, live show, or graphic display is to be viewed.
  - 2. The words "adult arcade station" or "booth" do not mean such an enclosure that is a private office used by an owner, manager, or person employed on the premises for attending to the tasks of his employment, which enclosure is not held out to the patron, member, or the public for use, for hire, or for a fee for the purpose of viewing the entertainment provided by the arcade device or live show, and not open to any person other than employees.
- F. "License" or "licensee" is meant to include the words "permit" or "permittee" and means the privilege or the holder of any privilege, respectively, under this chapter or other law or ordinance.
- G. "Licensing administrator" means the director of neighborhood services and code enforcement or designee.
- H. The words "open to an adjacent public room so that the area inside is visible to persons in the adjacent public room" mean that there may be no door, curtain, partition, or other device extending from the floor to the top of the door frame with the exception of a door which is completely transparent and constructed of safety glass as specified in the International Building Code, Section 2406, so that the activity and occupant inside the enclosure may be clearly and easily viewed or seen by persons outside the enclosure from any point in the adjacent public room.
- I. "Person" is meant to include an individual, a natural person, a proprietorship, a partnership, a joint venture, a society, an association, a club, a trustee, a trust, or a corporation.
- J. "Premises" is meant to include the land, structures, places, the equipment, and appurtenances connected or used in any business, and any personal property or fixtures used in connection with any business.
- K. "Specified anatomical areas" means human:
  - 1. genitals, pubic region, buttock, and female breast below a point immediately above the top of the areola when such areas are less than completely and opaquely covered;

2. male genitals in a discernibly turgid state, even if completely and opaquely covered.

L. "Specified sexual activities" means:

1. human genitals in a state of sexual stimulation or arousal;
2. acts of human masturbation, sexual intercourse, or sodomy;
3. fondling or other erotic touching of human genitals, pubic region, buttock, or female breast.

**SMC 10.72.040 Interior Configuration and Operation**

All owners of adult arcade premises must ensure that the premises comply with the criteria set out in subsections (A) through (D) of this section.

A. Premises.

Restrooms may not contain video reproduction equipment.

B. Steps/Risers.

No steps or risers are allowed in any adult arcade booth or station.

C. Ventilation and Other Holes.

1. All ventilation devices between adult arcade booths must be covered by a permanently affixed ventilation cover.
2. Ventilation holes may only be located one foot from the top of the booth walls or one foot from the bottom of the booth walls.
3. There may not be any other holes or openings between the booths.

D. Adult Arcade Booth or Station

1. All adult arcade stations or booths must be open to an adjacent public room so that the area inside is visible by direct line of sight to persons in the adjacent public room.
2. No adult arcade station, booth or viewing area may be obscured by any curtain, door, wall or other nontransparent enclosure.

**SMC 10.72.050 Duties, Standards of Conduct and Operational Requirements**

It is the continuing duty of the owner, manager, operator, agent and employee present in the premises to ensure compliance with subsections (A) through (J) of this section.

- A. There must be at least one employee on duty and situated in the public room adjacent to the adult arcade stations or booths at all times that any patron, member or customer is present inside the premises.
- B. There must be permanently posted and maintained in at least two conspicuous locations on the interior of all adult arcade premises a sign stating substantially the following:
  1. "Occupancy of any station or booth is at all times limited to one person. There may be no acts of lewd conduct (as defined in SMC 10.60.050) in the stations or booths or on the premises. Violators are subject to criminal prosecution under SMC 10.60.050."

Each sign must be conspicuously posted and not screened from the patron's view. The letters and numerals must be on a contrasting background and be no smaller than three-quarters inch in height.

- C. The premises must be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons, members or customers are permitted access at an illumination of not less than ten foot-candles as measured at the floor level at all times while patrons, members or customers are permitted within the premises.
- D. Doors to areas on the premises which are available for use by persons other than the owner, manager, operator or their agents or employees may not be locked during business hours.



- E. The unobstructed view into the adult arcade booths or stations from the adjacent public room by direct line of sight must remain unobstructed by any doors, walls, merchandise, display racks or other materials at all times.
- F. No patron, member or customer may be permitted access to any area of the premises which has been designated as an area in which patrons, members or customers will not be permitted.
- G. No adult arcade booth or station may be occupied by more than one person at any time.
- H. There may be no acts of lewd conduct as defined in SMC 10.60.050 in the adult arcade stations or booths or on the premises.
- I. No person may operate or maintain any warning system or device of any nature or kind for the purpose of warning or aiding and abetting the warning of patrons, members, customers or any other persons occupying adult arcade stations or booths located on the premises that police officers or City health, fire, licensing or building inspectors are approaching or have entered the premises.
- J. No person under the age of eighteen years of age may be on or within an adult arcade premises whether as a patron, member, customer, agent, employee or independent contractor.

**SMC 10.72.060 Adult Arcade Premises License Required**

- A. It is unlawful to display, exhibit, expose or maintain upon any premises to which members of the public are admitted any adult arcade device without a valid and current license for such premises, to be designated an "adult arcade premises license".
- B. A separate license is required for each adult arcade premises and the same shall at all times be conspicuously posted and maintained therein.
- C. The licensing administrator shall prescribe the form of such license, number the same and shall indicate thereon the number of adult arcade devices which may be operated thereunder, and the location at which the adult arcade premises licenses must be displayed.
- D. An application for an adult arcade premises license must be made on a form provided by the licensing administrator.
  - 1. The application shall be accompanied by a sketch or diagram of the premises showing a plan or configuration thereof, including a statement of total floor space occupied by the business which is in compliance with SMC 10.72.040 (A) through (D), Interior Configurations and Operation.
    - a. The sketch or diagram need not be professionally prepared but must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.
- E. The diagram or sketch must specify the configuration of the interior of the business, including but not limited to:
  - 1. the location of all adult arcade devices,
  - 2. the location of all overhead lighting fixtures, and
  - 3. designate any portion of the premises in which patrons will not be permitted.

The diagram shall also designate the place at which the license will be conspicuously posted, if granted.

The license administrator or the administrator's designee may waive the foregoing diagram for renewal applications if the applicant adopts a diagram that was previously submitted and certifies that the configuration of the premises has not been altered since it was prepared.

- F. No alteration in the configuration of the interior of the adult arcade premises may be made without the prior approval of the licensing administrator or the administrator's designee.
- G. The applicant must be qualified according to the provisions of this chapter.

**SMC 10.72.070 Littering Prohibited – Penalties – Litter Cleanup Restitution Payment**

- A. It is a violation of this section to abandon a junk vehicle upon any property. In addition, no person shall throw, drop, deposit, discard, or otherwise dispose of litter upon any public property in the state or upon private property in this state not owned by him or in the waters of this state whether from a vehicle or otherwise including, but not limited to,

any public highway, public park, beach, campground, forest land, recreational area, trailer park, highway, road, street or alley except:

1. when the property is designated by the state or its agencies or political subdivisions for the disposal of garbage and refuse, and the person is authorized to use the property for that purpose;
2. into a litter receptacle in a manner that will prevent litter from being carried away or deposited by the elements upon any part of the private or public property or waters.

**B. Penalties.**

1. Except as provided in subsection (D) of this section, it is a class 3 civil infraction as provided in RCW 7.80.120 for a person to litter in an amount less than or equal to one cubic foot.
  2. It is a misdemeanor for a person to litter in an amount greater than one cubic foot but less than one cubic yard.
    - a. The person shall also pay a litter cleanup restitution payment equal to twice the actual cost of cleanup, or fifty dollars per cubic foot of litter, whichever is greater.
    - b. The court shall distribute one-half of the restitution payment to the landowner and one-half of the restitution payment to the law enforcement agency investigating the incident.
    - c. The court may, in addition to or in lieu of part or all of the cleanup restitution payment, order the person to pick up and remove litter from the property, with prior permission of the legal owner, or in the case of public property, of the agency managing the property.
    - d. The court may suspend or modify the litter cleanup restitution payment for a first-time offender under this section if the person cleans up and properly disposes of the litter.
  3. It is a gross misdemeanor for a person to litter in an amount of one cubic yard or more.
    - a. The person shall also pay a litter cleanup restitution payment equal to twice the actual cost of cleanup, or one hundred dollars per cubic foot of litter, whichever is greater.
    - b. The court shall distribute one-half of the restitution payment to the landowner and one-half of the restitution payment to the law enforcement agency investigating the incident.
    - c. The court may, in addition to or in lieu of part or all of the cleanup restitution payment, order the person to pick up and remove litter from the property, with prior permission of the legal owner, or in the case of public property, of the agency managing the property.
    - d. The court may suspend or modify the litter cleanup restitution payment for a first-time offender under this section, if the person cleans up and properly disposes of the litter.
  4. If a junk vehicle is abandoned in violation of this section, RCW 46.55.230 and Title 16A SMC govern the vehicle's removal, disposal and sale, and the penalties that may be imposed against the person who abandoned the vehicle.
- C. It is a class 1 civil infraction as provided in RCW 7.80.120 and Chapter 10.62 SMC for a person to discard, in violation of this section, a cigarette, cigar or other tobacco product that is capable of starting a fire.

**SMC 10.72.080 Adult Arcade Manager's License Required**

- A. A manager shall be on the premises of an adult arcade premises at all times that the adult arcade premises is open for business.
1. No person shall work as a manager at an adult arcade premises without first having obtained a manager's license pursuant to this chapter.
- B. Any person seeking an adult arcade manager's license shall file a written application with the licensing administrator on a form provided by the administrator for that purpose.
1. All applications for an adult arcade manager's license shall be submitted in the name of the person proposing to work at the business as a manager and shall be signed by such person and notarized or certified as true under penalty of perjury.

2. All application forms shall require the following information:
  - a. The name, home address, home telephone number, date and place of birth and social security number of the applicant.
  - b. The business name, address and telephone number of the establishment.
  - c. The name, address and telephone number of the owner of the property on which the adult arcade manager will be working.
- C. Adult arcade manager's licenses shall be issued for individual managers only and shall not be transferable to other individuals or other premises.
- D. When a manager is on duty, he shall have his license conspicuously displayed at the same location as the premises license as designated by the licensing administrator.

**SMC 10.72.090 Adult Arcade Device License Required**

- A. It is unlawful to exhibit or display for public use any adult arcade device upon any premises without first having obtained a license for each such device, to be designated an "adult arcade device license".
- B. Adult arcade device licenses shall be issued for specific adult arcade premises only and shall not be transferable.
- C. The current adult arcade device license for each device shall be securely attached to such device in a conspicuous place.
- D. Any person seeking an adult arcade device license shall file a written application with the licensing administrator on a form provided by the administrator for that purpose.
  1. All applications for an adult arcade device license shall be submitted in the name of the person or entity proposing to operate or own the devices and shall be signed by such person and notarized or certified as true under penalty of perjury.
  2. All application forms shall require the following information:
    - a. The name, home address, home telephone number, date and place of birth and social security number (if the applicant is an individual) of the applicant.
    - b. The business name, address and telephone number of the establishment.
    - c. If a person who wishes to operate an adult arcade device is an individual, that person must sign the application for the license as applicant.
    - d. The name, address and telephone number of the owner of the property on which the adult arcade devices are to be located.

**SMC 10.72.100 License Fees – Term – Assignment – Renewals**

- A. The license year shall be from January 31st to January 30th of the following year. All licenses shall expire on the thirty-first day of January each year.
  1. Except as hereinafter provided, all license fees shall be payable on an annual basis and shall not be refundable.
  2. Annual license fees shall be as follows:
    - a. Adult arcade premises license: Five hundred dollars.
    - b. Adult arcade device license: Fifty dollars for each device.
    - c. Adult arcade manager's license: Thirty dollars.
- B. License fees shall not be prorated, except that if the original application for license is made subsequent to June 30th in any year, the license fee for the remainder of that year shall be one-half of the annual license fee.

1. Licenses issued under this chapter may not be assigned or transferred to other operators, managers, premises or devices.
- C. Applications for renewal of licenses issued under this chapter shall be filed with the licensing administrator on or before the expiration date provided for in this section in the same manner as the original application providing the administrator with current information and accompanied by payment of the same fees as are in effect for an original application for any license.

#### **SMC 10.72.110      Licensing – Compliance with other City Ordinances**

All other City approvals and license issuance other than those specifically set forth herein are separate from the licensing process set forth in this chapter. The granting of any license or the providing of any approval pursuant to this chapter shall not be deemed to be an approval of any City license or approval not specifically set forth in this chapter.

#### **SMC 10.72.120      Inspections**

- A. Prior to the issuance of a license the applicant must be qualified according to the provisions of this chapter and the premises and devices must be inspected and found to be in compliance with the law by the license administrator or his designee.
- B. Licensees operating premises, devices and/or holding manager's licenses under this chapter shall hold those areas upon the premises which are accessible to the public and the devices therein open for routine regulatory inspections by licensing personnel during business hours to ensure compliance with the requirements of this chapter. This section shall not restrict or limit the right of entry vested in any law enforcement agency, health department or the fire department.

#### **SMC 10.72.130      Issuance of License**

- A. The licensing administrator shall approve the issuance of a license to an applicant after receipt of an application unless he finds one or more of the following to be true:
  1. An applicant is under eighteen years of age.
  2. An applicant or an applicant's spouse is overdue in his payment to the City of taxes, fines or penalties assessed against him or imposed upon him in relation to an adult entertainment establishment (regardless of whether the entertainment establishment contains adult arcade devices).
  3. An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form.
  4. An applicant is residing with a person who has been denied a license by the City to operate an adult entertainment establishment (regardless of whether the entertainment establishment contains adult arcade devices) within the preceding twelve months, or residing with a person whose license to operate an adult entertainment establishment (regardless of whether the entertainment establishment contains adult arcade devices) has been revoked within the preceding twelve months.
  5. The premises to be used for the adult arcade premises have been found by the health department, fire department, building official or licensing administrator as not in compliance with applicable laws and ordinances.
  6. The license fee required by this chapter has not been paid.
  7. An application of the proposed adult arcade premises is in violation of or is not in compliance with any of the provisions of this chapter.
- B. The license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date and the address of the adult arcade premises.

#### **SMC 10.72.140      Expiration of License**

- A. Each license shall expire one year from the date of issuance and may be renewed only by making application as provided in this chapter.
- B. Application for renewal should be made at least thirty days before the expiration date, but the pendency of a renewal application will not delay expiration.

**SMC 10.72.150 Application Approval or Denial – Appeal**

- A. The license application shall be approved or disapproved within fifteen working days from the date of filing a completed application which complies with the requirements of this chapter, unless the applicant agrees to an extension of the time period in writing.
- B. In the event that the licensing administrator denies a license, the licensing administrator shall, within the aforesaid fifteen-day period, notify the applicant of the denial in writing and the reasons therefor.
  - 1. At any time before the notice is issued, the applicant may request, in writing, that the period for approval or denial be extended for an additional period of not more than ten days in order to make modifications necessary to comply with this chapter.
- C. An applicant may appeal the decision of the licensing administrator regarding a denial to the hearing examiner by filing a written notice of appeal within fifteen days after the applicant is given notice of the licensing administrator's decision.
  - 1. The applicant may within the time for notice of appeal request a hearing by the hearing examiner to be held within ten days of the request.
  - 2. The notice of appeal shall be accompanied by a memorandum or other writing setting out fully the grounds for such appeal and all arguments in support thereof.
  - 3. The licensing administrator or a representative may submit a memorandum in response to the memorandum filed by the applicant on appeal.
  - 4. After reviewing the relevant information, the hearing examiner shall decide to uphold or overrule the licensing administrator's decision. Such decision shall be made within forty-five calendar days after the date on which the hearing examiner receives the notice of appeal.
  - 5. If a timely request for appeal is not filed by the applicant, the order of denial by the licensing administrator shall be final, provided that the licensing administrator may waive the fifteen-day requirement upon satisfaction that failure to receive notice of the licensing administrator's denial was beyond the control of the applicant.
- D. The applicant may appeal the decision of the hearing examiner by filing a written notice of appeal within thirty days after the applicant is given notice of the hearing examiner's decision.
  - 1. Said appeal is to a court of law.

**SMC 10.72.160 Continuation of Business while Licensing Administrator and Hearing Examiner Decision Pending**

The decision by the licensing administrator or the hearing examiner to deny the renewal of a license, upholding the denial of a license, suspending or revoking a license, or upholding the suspension or renewal of a license must be stayed during the pendency of an appeal to a court for prompt judicial review pursuant to chapter 7.16 RCW.

**SMC 10.72.170 Suspension of Licenses**

The licensing administrator shall suspend any license issued pursuant to this chapter for a period of time not to exceed thirty days where one or more of the following conditions exist:

- A. The license was procured by fraud or false representation of fact in the application or in any report or record required to be filed with the licensing administrator.
- B. The building, structure, equipment, operation or location of the business for which the license was issued does not comply with the requirements or fails to meet the standards of this chapter.
- C. The licensee or his agent or employee has refused to allow an inspection of the premises as authorized by this chapter.
- D. The licensee, his employee, agent, partner, director officer or manager has violated or permitted violation of any provisions of this chapter.

**SMC 10.72.180 Revocation of Licenses**

- A. The licensing administrator shall revoke a license if a cause of suspension in SMC 10.72.170 occurs and the license has been suspended within the preceding twelve months.

B. The licensing administrator shall also revoke a license if he determines that:

1. a licensee or an employee has knowingly allowed possession, use or sale of controlled substances on the premises;
2. a licensee or an employee has knowingly allowed prostitution on the premises;
3. a licensee or an employee has knowingly operated the adult arcade business during a period of time when the licensee's license was suspended;
4. a licensee or an employee has knowingly allowed any act of sexual intercourse, sodomy, oral copulation, masturbation or other sexual conduct to occur in or on the permitted and/or licensed premises;
5. a licensee is delinquent in payment to the City for any taxes or fees;
6. the owner or operator of the adult arcade premises has knowingly allowed a person under eighteen years of age to enter an establishment;
7. there was a change of owner or operator for which a transfer application was not timely filed.

C. When the licensing administrator revokes a license for a violation of subsection (B)(1), (B)(2), (B)(3), (B)(4) or (B)(6) of this section, the revocation shall continue for one year and the licensee shall not be issued a license for adult arcade premises for one year from the date revocation became effective.

1. If, subsequent to revocation, the licensing administrator finds that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least ninety days have elapsed since the date the revocation became effective.

D. For the conviction of the licensee of a crime or offense involving prostitution, promoting prostitution, a liquor law violation or transaction involving controlled substances as defined in chapter 69.50 RCW, or a violation of chapter 9.68 RCW or chapter 9.68A RCW committed on the premises, or the conviction of the licensee's servant, agent or employee of a crime or offense involving prostitution, promoting prostitution, liquor law violations or transactions involving controlled substances as defined in chapter 69.50 RCW, or a violation of chapter 6.68A RCW committed on the premises in which his adult entertainment establishment is conducted when the licensee knew or should have known of the violations committed by the servant, agent or employee.

1. A license may be suspended or revoked under this subsection only if the conviction occurred within twenty-four months of the date of the decision to suspend or revoke the license.

#### **SMC 10.72.190 Procedure for Suspension or Revocation**

The procedure for revoking or suspending a license under this chapter shall be the following:

A. Upon determining that grounds for revocation or suspension exist, the licensing administrator shall notify the licensee of intent to revoke or suspend the license.

B. Said notice shall set forth the grounds for suspension or revocation and schedule a hearing before the hearing examiner. The hearing shall be held not later than ten working days from the date of notice of intent to revoke.

C. The licensee shall be permitted to present evidence in support of his position at the hearing.

D. Within fifteen working days after the hearing, the hearing examiner shall notify the licensee in writing of the hearing examiner's determination and reasons therefor. The hearing examiner's determination shall become final and a suspension or revocation shall be given immediate effect.

#### **SMC 10.72.200 Transfer of License**

A licensee shall not transfer his license to another. The licensee shall not operate an adult arcade premises or device under the authority of a license at any place other than the address designated in the application. A licensee holding a manager's license shall not utilize that license at any place other than the address designated in the application.

#### **SMC 10.72.210 Denial Review**

After denial of an application, or denial of the renewal of an application, or suspension or revocation of a license by the licensing administrator or hearing examiner, the applicant and/or licensee may seek prompt judicial review of such

administrative action in any court of competent jurisdiction. The aggrieved party may appeal the decision of the licensing administrator or hearing examiner to a court in this county within thirty days.

#### **SMC 10.72.220 Notices**

- A. Any notice required or permitted to be given by the licensing administrator, hearing examiner or any other City office, division, department or other agency under this chapter to any applicant, licensee, operator or owner of an arcade premises or device shall be given, either by personal delivery or by certified United States mail, postage prepaid, return receipt requested, addressed to the most recent address as specified in the application for the license, or transfer application which has been received by the licensing administrator, or any notice of address change which has been received by the licensing administrator. Notices mailed as above shall be deemed given upon their deposit in the United States mail. In the event that any notice given by mail is returned by the postal service, the licensing administrator or his designee shall cause it be posted at the principal entrance to the establishment.
- B. Any notice required or permitted to be given to the licensing administrator or hearing examiner by any person under this chapter shall not be deemed given until and unless it is received in the office of the licensing administrator.
- C. It shall be the duty of each owner or operator who is designated on the license application to furnish notice to the licensing administrator in writing of any change of residence or mailing address.

#### **SMC 10.72.230 Civil Remedies**

The violation of or failure to comply with or perform any duty within the provisions of SMC 10.72.040 and SMC 10.72.050 is declared to be unlawful and a public nuisance. The City of Spokane may seek legal or equitable relief to enjoin any act or practice which constitutes or will constitute a violation of any regulation herein adopted.

#### **SMC 10.72.240 Criminal Penalties**

A person having a duty or failing to comply with provisions contained within SMC 10.72.040 and SMC 10.72.050 commits a misdemeanor if the person knowingly fails to fulfill that duty. Each separate day or any portion thereof during which any violation of any provision of this chapter occurs or continues is a separate and distinct offense.

#### **SMC 10.72.250 Code Violations and Enforcement**

The remedies provided herein for violations of or failure to comply with provisions of this chapter, whether civil or criminal, are cumulative and in addition to any other remedy provided by law.

#### **SMC 10.72.260 Conflicting Sections or Provisions**

In the event there is a conflict or inconsistency between the sections and provisions set forth in this chapter and those set forth elsewhere in the Spokane Municipal Code, the sections and provisions of this chapter govern and supersede those set forth elsewhere.

#### **SMC 10.72.270 Time Frame for Compliance of Nonconforming Adult Arcade Devices or Premises**

Any adult arcade premises lawfully operating on July 7, 1993, that is in violation of the configuration or operational requirements of this chapter is a nonconforming use. The nonconforming use is permitted to continue for a period not to exceed sixty days, unless sooner terminated for any reason or voluntarily discontinued for a period of thirty days or more. Such nonconforming uses may not be increased, enlarged, extended or altered except that the use may be changed to a conforming use.

#### **SMC 10.72.280 Ordinance Not Intended Towards Particular Group or Class**

- A. It is 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 who will or should be especially protected or benefited by the terms of this chapter.
- B. Nothing contained in this chapter is intended or shall be construed to create or form the basis for any liability on the part of the City or its officers, employees or agents for any injury or damage:
  - 1. resulting from the failure of any owner, operator, manager or other person in charge of premises to comply with the provisions of this chapter; or
  - 2. by reason or in consequence of any inspection, notice, order, certificate, permission or approval authorized or issued or done in connection with the implementation or enforcement pursuant to this chapter; or

3. by reason of 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.

#### **SMC 10.72.290 Severability Clause**

If any provision of this chapter shall be declared unconstitutional or invalid by any court of competent jurisdiction, it shall be conclusively presumed that the ordinance codified in this chapter would have been enacted without the provision so held unconstitutional or invalid, and the remainder of this chapter shall not be affected as a result of said part being held unconstitutional.

#### **SMC 10.72.300 Adult Retail Use and Adult Entertainment Establishments**

Hours of Operation.

An adult retail use establishment or an adult entertainment establishment may not be operated or otherwise open to the public between the hours of two a.m. and ten a.m.

#### **SMC 10.72.310 Adult Retail Use Establishment and Adult Entertainment Establishment – Operating in Prohibited Area**

An adult retail use establishment or an adult entertainment establishment shall not be operated within the City except for areas specifically zoned to allow such adult retail or entertainment activity pursuant to SMC 11.19.143. Any person failing to comply with the provisions of this section shall be cited with a violation.

### **Chapter 10.74 Offenses Involving Animals**

#### **SMC 10.74.010 Animal Control Regulations**

- A. The City of Spokane adopts by reference chapter 5.04 entitled “Dogs and Cats” and chapter 5.12 entitled “Inherently Dangerous Mammals / Reptiles”, of the Spokane County Code as now in effect and as subsequently amended as the animal control regulations for the City of Spokane except as otherwise provided in the Spokane Municipal Code. Any reference to “Spokane County” in chapters 5.04 and 5.12 of the Spokane County Code shall be construed to refer to the City of Spokane.
- B. One copy of chapters 5.04 and 5.12 of the Spokane County Code (SCC) shall be available in the office of the city clerk for use, inspection and copying by the public.

#### **SMC 10.74.020 Dangerous Dog Declaration and Registration**

- A. When an animal protection officer has probable cause, based upon the officer’s records or investigation of an incident, to believe that a dog is a dangerous dog, the officer declares the dog to be a dangerous dog by the issuance of a dangerous dog declaration.
- B. Upon issuance of the dangerous dog declaration, the animal protection officer shall immediately confiscate the dog and place the dog in the animal control authority’s custody pending final disposition. For the purposes of the City Code, “owner and keeper” has the same definition as the “owner, handler, or keeper as definition in SCC 5.04.020 (20).
  1. The animal protection officer serves the owner or keeper of the dog with notice of the dangerous dog declaration either in person or by regular and certified mail, return receipt requested.
  2. Service, if by mail, shall be considered completed three (3) days after mailing of the notice.
  3. The notice shall state:
    - a. The person receiving the notice is the owner or keeper of a dangerous dog as defined in SCC 5.04.020 (9).
    - b. The breed, color, sex, and license number (if known) of the dog;
    - c. A copy of the records relied upon by the director that forms the basis for declaring the dog to be a dangerous dog; which records may be supplemented with additional information as it becomes available;
    - d. That receipt of the notice renders final the declaration of dangerous dog unless the owner or keeper of the dog submits a request for an administrative appeal hearing before the city hearing examiner in writing to the director on a form provided with the notice within fifteen (15) days of the receipt of the notice;



- e. If an appeal hearing is requested, such appeal will be held and adjudicated pursuant to the requirements set out in this chapter:
    - i. that at the hearing the records of the director and any supplementary material shall be admissible to prove the dog is a dangerous dog;
    - ii. that the owner or keeper of the dog may upon request require the officer compiling the record or alternatively an officer with personal knowledge of the record to be present at the hearing, unless such officer is unavailable;
    - iii. that the owner or keeper of the dog, and the director, may call witnesses, present evidence, examine witnesses present, and be represented by counsel at the hearing; and
    - iv. that the burden shall be on the director to establish by a preponderance of evidence that the dog is a dangerous dog.
  - f. A statement that the dog is subject to registration and controls required by this chapter; and,
  - g. An explanation of the owner's or keeper's rights and the proper procedure to appeal the declaration.
- C. No owner or keeper may keep a dangerous dog, except a dog currently used by law enforcement officers for police work, without a certificate of registration issued under this chapter. The certificate of registration must be acquired within fifteen days of service of the dangerous dog notice unless the owner or keeper has appealed the dangerous dog declaration pursuant to subsection (F) of this section.
- D. The animal control authority of the City issues a certificate of registration to the owner or keeper of a dangerous dog upon payment of the fee set forth in SMC 8.02.081 if the owner or keeper presents to the authority sufficient evidence of:
1. A proper enclosure, approved by SCRAPS, to confine a dangerous dog; and,
  2. The posting of the premises with a clearly visible warning sign that there is a dangerous dog on the property, and the conspicuous display of a sign with a warning symbol that informs children of the presence of a dangerous dog; and
  3. A surety bond or a policy of liability insurance such as homeowner's insurance, as described in this subsection. The surety bond or policy of liability insurance shall be issued by a surety or insurer qualified under chapter 48.28 RCW, be in a form acceptable to the SCRAPS, be in the sum of at least two hundred fifty thousand dollars (\$250,000.00) with a maximum five-hundred dollar (\$500.00) deductible, provide for prior written notification to SCRAPS of cancellation or material change, and be payable to any person for personal injuries or property damage inflicted by the dangerous dog regardless of whether the personal injury or property damage occurs on or off the owner or keeper's premises.
  4. The owner or keeper of a dangerous dog shall furnish to SCRAPS a complete copy of the surety bond of insurance specified in this subsection and shall allow SCRAPS reasonable time to review the bond or policy to determine whether the surety bond or certificate of insurance is sufficient, prior to issuing the certificate of registration.
  5. A permanent microchip implanted and the microchip shall be injected in accordance with policy established by SCRAPS and the owner or keeper will be charged a fee for the microchip; and,
  6. The dangerous dog must be spayed/neutered at the owner's expense in order to complete the registration. Any impounded dangerous dog will be transported to SCRAPS to a veterinarian for spaying/neutering as part of the registration process or documentation demonstrating that the dangerous dog has been spayed or neutered prior to release; and,
  7. A muzzle and leash approved by the animal control authority, as to strength and fit, for the dangerous dog; and
  8. In addition to the regular dog licensing fees set forth in section SCC 5.04.030, the owner or keeper of a dangerous dog shall pay an annual registration and inspection fee as prescribed in the department fee schedule. The registration will be valid for twelve (12) months.
  9. Issuance of a dangerous dog registration or renewal thereof shall be conditioned on the registered owner allowing the Director to inspect the premises at any time to insure compliance with the provisions of this section.
  10. The provisions of this section shall not apply to police dogs as defined in RCW 4.24.410.

11. An owner or keeper of a dog declared, deemed or determined to be a dangerous dog shall be responsible for meeting and maintaining the requirements set forth in this section and section 10.74.040 at all times and at their expense. A violation of conditions imposed under this section is a gross misdemeanor.
  12. Additional conditions determined by the animal control authority to be necessary to protect the public health, safety, and welfare.
- E. Appeal of Dangerous Dog Declaration.
1. A dangerous dog declaration by the animal control authority may be appealed to the City's hearing examiner.
  2. An appeal must be filed with the hearing examiner's office within fifteen (15) days of service of the dangerous dog notice.
  3. An appeal does not proceed until the owner or keeper has complied with the requirements of SMC 10.74.060.
  4. At the appeal hearing, the records of the animal control director, or the director's designee, and any supplemental material shall be admissible to prove the dog is a dangerous dog. The owner or keeper of the dog may present evidence and examine witnesses present.
  5. It is the animal control agency's burden to provide the hearing examiner with evidence which establishes the dangerous dog determination by a preponderance of the evidence. The hearing examiner shall apply a preponderance of the evidence standard at the dangerous dog determination appeal. It is an affirmative defense that the owner must prove by a preponderance of the evidence that the person or domestic animal attacked or bitten by the owner's or keeper's dog provoked the owner's or keeper's dog without justification or excuse.
  6. The hearing examiner will provide upon request to an individual all rules and procedures applicable to the appeal
  7. The hearing examiner either:
    - a. Affirms the decision of the animal control authority in issuing the dangerous dog declaration,
    - b. Dismisses the declaration, or
    - c. Reduces a dangerous dog declaration to a potentially dangerous dog declaration based upon the evidence presented during the appeal.
  8. The hearing examiner's decision may be appealed to the Spokane County superior court within twenty (20) days from the date the decision is issued.
- F. If an owner or keeper fails to register the dog as a dangerous dog within fifteen (15) days of service of the animal control authority's notice, or of the hearing examiner's decision affirming the animal control authority's determination, and no restraining order has been served upon the animal control authority, the dog shall be euthanized.
- G. The animal control director may issue a provisional registration certificate where:
1. the dangerous dog declaration has been appealed, provided all the conditions of maintaining a dangerous dog have been met under this section with the exception of subsection E(5) requiring spay or/neuter; or
  2. the owner is relocating the dangerous dog outside of the City and all conditions of this section have been met with the exception of subsection E(3-5) requiring a surety bond or insurance policy. Any provisional permit issued pursuant to this section shall expire fifteen (15) days following the decision on the appeal of the dangerous dog declaration. Any provisional permit issued under G (b) of this subsection shall be valid for the sole purpose of immediate transport and relocation of the dog from the shelter to a location outside of the City.
- H. Dogs deemed dangerous by other jurisdictions in the State of Washington will be subject to the same regulations as if they have been deemed dangerous in the City. Any owner or keeper of a dog deemed dangerous by jurisdictions outside the State of Washington relocating to the City, Spokane County Washington shall present the dog to SCRAPS within thirty 30 days of their arrival in Spokane to be evaluated by the Director or his/her designee on an individual basis to determine whether the dog should be deemed a dangerous dog, taking into account the criteria set forth in SCC 5.04.020 (12).
- I. An owner or keeper of a dog previously deemed dangerous by the City or SCRAPS and subsequently relocated outside of the City, must register the dog pursuant to section (C) of this section prior to bringing the dangerous dog

into the City; such dogs are prohibited from re-entering the City without prior written consent from SCRAPS and/or full registration.

J. An owner or keeper of a dog declared dangerous shall be responsible for meeting and maintaining the requirements set forth in this section at all times. A violation of conditions imposed under this section is a gross misdemeanor.

K. "Dangerous dog" means any dog that

1. inflicts severe injury or multiple bites on a human being without provocation on public or private property,
2. inflicts severe injury, multiple bites, or kills an animal without provocation while the dog is off the owner's or keeper's property, or
3. has previously been declared potentially dangerous pursuant to SMC 10.74.040, and after the owner or keeper received notice of such declaration the dog engages in behavior that meets the definition of "potentially dangerous dog" in subsection SCC 5.04.020 (22); provided, a declaration of dangerous dog under part (c) of this subsection cannot become a final determination under SMC 10.74.020 unless and until the previous declaration of potentially dangerous dog has become final under this Code or a previous version of this Code. If two or more dogs jointly engage in any conduct described in parts (a) or (b) of this subsection, thereby rendering proof of the individual dog that inflicted any particular injury difficult to ascertain, then regardless of the degree of participation by the individual dog(s), all such dogs shall be deemed dangerous dogs.

#### **SMC 10.74.030 Sections Not Adopted**

The following sections of chapters 5.04 and 5.12 of the Spokane County Code (SCC) are not adopted by reference and are expressly deleted.

5.04.032	Declaration of dangerous dog – Administrative appeal hearing and appeal – Impounding of dog
5.04.033	Determination of potentially dangerous dog – Notice, administrative review, and appeal
5.04.035	Registration of dangerous dogs – Requirements – Annual Fee
5.04.036	Dangerous dog - Identification

#### **SMC 10.74.040 Potentially Dangerous Dog Declaration**

A. When the director or his or her designee has sufficient articulable information to determine that a dog is a potentially dangerous dog as defined in SCC 5.04.020(19), the director or his or her designee shall declare the dog potentially dangerous and shall notify the owner or keeper of the dog in writing of such determination, either in person or by regular mail. Any notice or determination mailed pursuant to this section shall be deemed received by the party to whom it is addressed on the third day after it is placed in the mail, as set forth by declaration of the sender. The notice shall contain the following information:

1. That the person receiving the notice is identified as the owner or keeper of a potentially dangerous dog as defined in SCC 5.04.020 (20);
2. The breed, color, sex, and license number (if known) of the dog;
3. The facts upon which the declaration of potentially dangerous dog is based;
4. That if there are future similar incidents with the dog, the dog could be declared a dangerous dog pursuant to SMC 10.74.020 and required to be registered as provided in SMC 10.74.020;
5. That the owner or keeper must comply with restrictions set forth in the notice as a condition of continued ownership or keeping of the dog and that restrictions may include, but are not limited to, those that may be imposed on the owner or keeper of a potentially dangerous dog pursuant to SCC 5.04.032 (7);
6. That the notice renders a final determination that the dog is a potentially dangerous dog, unless the owner or keeper of the dog requests an administrative review meeting in writing on a form provided with the notice within fifteen days of the receipt of the notice. For purposes of this section, if the notice is mailed, it shall be deemed received on the third day after the notice is placed in the mail.
7. The administrative review meeting shall be informal, open to public view, and at the option of the director or designee, held telephonically and the administrative meeting officer shall be someone who did not participate in making the potentially dangerous dog determination.

8. Following an administrative review meeting, the director or designee may affirm or reverse the original determination that the dog is potentially dangerous. If the determination is affirmed, the director may impose the same reasonable conditions as may be imposed on the owner or keeper of a potentially dangerous dog pursuant to SMC 10.74.040.
  9. That pursuant to this section, a failure by the dog owner or keeper to request and attend an administrative review meeting with the animal control director or designee shall constitute a failure to exhaust all administrative remedies, and that such failure to exhaust all administrative remedies shall preclude any appeal of the administrative determination to the City hearing examiner.
- B. The notice of a potentially dangerous dog declaration constitutes a final determination that the dog constitutes a potentially dangerous dog, unless the owner or keeper requests an appeal hearing before the City hearing examiner within fifteen (15) days of service of the notice.
- C. In the event the owner or keeper requests an appeal hearing before the hearing examiner, the appeal hearing shall be held within thirty days of the request.
1. The City Hearing Examiner's Office will notify the owner or keeper of the date, time and place of the hearing, as well as the right to present evidence as to why the dog should not be found potentially dangerous.
  2. The hearing examiner may affirm, reverse or modify the potentially dangerous dog declaration issued by the director. If the recommendation is to affirm the declaration, the hearing examiner shall recommend requirements listed below be imposed upon the owner or keeper as a condition of continued ownership or keeping of the dog. If the hearing examiner's decision is to modify the declaration, the examiner may determine that the dog be deemed potentially dangerous and that reasonable conditions be imposed on the owner or keeper as a condition of continued ownership or keeping of the dog. Reasonable conditions may include but are not limited to the following measures:
    - a. Erection of new or additional fencing to keep the dog within the confines of the owner's or keeper's premises.
    - b. Construction of a run consistent with the size of the dog within which the dog must be kept.
    - c. Keeping the dog on a leash adequate to control the dog or securely fastened to a secure object when left unattended.
    - d. Keeping the dog indoors at all times, except when on a leash adequate to control the dog and under the actual physical control of the owner or keeper or a competent person at least fifteen years of age.
    - e. Keeping the dog muzzled in a manner that will not cause injury to the dog or interfere with its vision or respiration, but will prevent it from biting any person or animal when outside a proper enclosure.
    - f. Spaying/neutering of the dog.
    - g. Microchip implanting of the dog for identification purposes.
- The hearing examiner may alternatively recommend that the director be given the authority to establish the reasonable conditions from the measures listed above, or from revisions or additions to such measures that the director deems necessary to effectuate the purposes of this chapter.
- D. The City hearing examiner notifies, in writing, the owner or keeper of his decision within twenty (20) days of the hearing. The owner or keeper of the dog may appeal the City hearing examiner's decision on the potentially dangerous dog appeal within fifteen (15) days to the Spokane County superior court.
- E. Conditions imposed on a potentially dangerous dog under this section may be reviewed and modified at the discretion of the Director. Any modification of conditions must be supported by written findings and conclusions issued by the Director, which will become final and effective fifteen days (15) after notice to the owner or keeper of the dog unless appealed. The notice and appeal of any modification of conditions shall be only of the changed conditions and shall follow the notice and appeal procedures contained in the section.
- F. Dogs deemed potentially dangerous by other jurisdictions in the state of Washington shall be subject to the same regulations as if they have been deemed potentially dangerous in Spokane County and the owner or keeper shall present the dog to SCRAPS within thirty (30) days of their arrival in Spokane County in order to allow the Director to evaluate the dog on an individual basis and determine which restrictions authorized under this section to impose. Any owner or keeper of a dog deemed potentially dangerous by a jurisdiction outside of the state of Washington who

is relocating to Spokane County shall present the dog to SCRAPS within thirty (30) days of their arrival in Spokane County in order to allow the Director to evaluate the dog on an individual basis and determine which restrictions authorized under this section to impose.

- G. An owner or keeper of a potentially dangerous dog who violates any of the conditions imposed under this section shall be guilty of a misdemeanor as set forth in SCC 5.04.071(b) and (j).

**SMC 10.74.050 Potentially Dangerous Dog at Large**

- A. No owner may cause or permit a potentially dangerous dog to be or run at large within the City or to roam or stray from the building or enclosure where harbored unless:
1. Restrained by a sufficient collar, harness or halter, and on a leash eight (8) feet or less in length and in the control of a person physically able to restrain the dog; or,
  2. Confined safely within a vehicle.
- B. No person may release, or allow the escape from confinement or the control of another, any potentially dangerous dog.
- C. A violation of this section is a misdemeanor.

**SMC 10.74.060 Dangerous Dog – Confiscation**

- A. An animal protection officer shall immediately confiscate a dangerous dog if:
1. it is not validly registered under SMC 10.74.020; or
  2. it is not maintained in the proper enclosure; or
  3. its owner does not have the surety bond or liability insurance required by SMC 10.74.020; or
  4. it is at large as defined in SCC 5.04.020 (6); or
  5. it, after being declared and registered as a dangerous dog, engages in subsequent conduct that would qualify the dog as a potentially dangerous dog or dangerous dog as prescribed in SCC section 5.04.020.
- B. If a dangerous dog has been confiscated because it is in violation of subsection (A)(4) or (A)(5) of this section, the animal control authority quarantines the dog for fifteen (15) days and thereafter causes the dog to be destroyed in an expeditious and humane manner unless the owner or keeper files an appeal pursuant to subsection (D) of this section. The animal protection officer shall serve the owner or keeper of the dog with notice that the dog has been confiscated, either in person or by regular and certified mail, return receipt requested. Service, if by mail, shall be considered completed three days after mailing of the notice. The notice shall state:
1. the reason(s) for the confiscation,
  2. a statement that the dog will be quarantined for the fifteen (15) days and thereafter euthanized in an expeditious and humane manner, and
  3. an explanation of the owners or keeper's rights and proper procedure to appeal the confiscation and pending euthanasia.
- C. If a dangerous dog is confiscated because it is in violation of subsection (A)(1), (A)(2) or (A)(3) of this section, and if the animal is licensed, the animal control authority shall serve the owner or keeper of the dog with notice that the dog has been confiscated, either in person or by regular and certified mail, return receipt requested. Service, if by mail, shall be considered completed three (3) days after mailing of the notice.

The notice shall state:

1. The reason(s) for the confiscation,
2. That the owner or keeper is responsible for payment of the costs of confinement and control prior to the dog being released,
3. That the dog will be destroyed in an expeditious and humane manner if the deficiencies for which the dog was confiscated are not corrected within fifteen (15) days, and

4. An explanation of the owners or keeper's rights and proper procedure to appeal the confiscation and pending euthanasia.

D. Appeal of Dangerous Dog Confiscation and/or Pending Euthanasia.

1. The owner or keeper of a dangerous dog may appeal the confiscation and/or pending euthanasia of his dog to the City's hearing examiner.
2. An appeal must be filed with the hearing examiner's office within fifteen (15) days of service of notice that the dog has been confiscated.
3. If the confiscation is for violations of subsection (A)(4) or (A)(5) of this section, the sole issue to be appealed to the hearing examiner is whether the dog was in violation of subsection (A)(4) or (A)(5) of this section. It shall not be relevant to the appeal whether the owner has been charged and/or convicted pursuant to RCW 16.08.100(2) or (3).
4. The hearing examiner's decision may be appealed to the Spokane County superior court within twenty (20) days from the date the decision is issued.

- E. If a dangerous dog is at large as defined in SCC 5.04.020 (6) in violation of SCC 5.04.070 (12), in addition to confiscation of the dog as provided in subsection (A) of this section, the owner is guilty of a gross misdemeanor, as set forth in SCC 5.04.071 (12).

- F. In the event the director, or designee, has sufficient information to determine a dog is dangerous and may pose a threat of serious harm to human beings or animals, the director, or designee, shall seize and impound the dog pending notice, hearings, appeals and other determinations hereunder. The owner or keeper of the dog shall be liable to the animal control authority for the costs and expenses of keeping such dog, unless a finding is made that the dog is neither a dangerous dog nor a potentially dangerous dog.

**SMC 10.74.070 Offenses Relating to Safety and Sanitation**

- A. It is unlawful for an owner to fail to:

1. remove the fecal matter deposited by his animal on developed public property or developed private property of another before the owner leaves the immediate area where the fecal matter was deposited;
2. have in his possession the equipment necessary to remove his animal's fecal matter when accompanied by said animal on developed public property or developed public easement.

- B. Owner of duly licensed guide dogs shall be exempted from this section.

- C. For the purposes of this section, the term "developed property" shall mean property areas that have been landscaped, paved, made into sidewalks, made into lawns, swales, play or sports areas and property similarly developed.

- D. For purposes of this section, the term "owner" shall be the actual owner of the animal or any other person by whom the animal was brought to the property.

- E. A violation of this section is a class 4 civil infraction.

**SMC 10.74.080 Animals Prohibited in Riverfront Park and City Streets Authorized to be Used for a Special Event**

- A. The director of the department of parks and recreation and/or the chief of police for the Spokane police department, in approving a special event for Riverfront Park and/or City streets used for special events, may authorize the sponsor of the event to ban animals from the event area during the event when it is determined that the presence of animals would create undue risk to the health or safety of persons or animals attending the event.

- B. Whenever animals have been banned from Riverfront Park and/or event area, which may include designated City streets, no person having custody of an animal may cause or allow the animal to be in the park or designated event area. This section does not apply to:

1. guide or service animals, or
2. animals being used by a public officer in the performance of official duties.

- C. The authority of this section will be exercised for:

1. St. Patrick's Day Parade,
  2. Bloomsday,
  3. Hoopfest,
  4. Jr. Lilac Parade,
  5. Lilac Festival Armed Forces Day Parade,
  6. Fourth of July Celebration,
  7. Royal Fireworks Festival,
  8. Spokane American Music Festival,
  9. Kids' Day,
  10. Spokane Falls Northwest Indian Encampment and Pow Wow,
  11. Pig Out in the Park,
  12. any similar future event which presents a similar threat to health and safety.
- D. The designated area for prohibiting animals in the central business district area during special events shall be defined as: Boone Street (north), Brown Street (east), Second Avenue (south) and Monroe Street (west).

**Section 6.** Severability. If any one or more section, subsection, or sentence of this ordinance is held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this ordinance and the same shall remain in full force and effect.

**Section 7.** Emergency Clause. The City Council declares that an urgency and emergency exists such that this ordinance is needed for the immediate preservation of the public peace, health, or safety, and/or for the immediate support of City government and its existing public institutions, and that because of such need, this ordinance shall be effective immediately, under Section 19 of the City Charter, upon the affirmative vote of one more than a majority of the City Council.

**Passed by City Council October 3, 2022**  
**Delivered to Mayor October 5, 2022**

# Job Opportunities

**We are an equal opportunity employer and value diversity within our organization. We do not discriminate on the basis of race, religion, color, national origin, gender identity, sexual orientation, age, marital status, familial status, genetic information, veteran/military status, or disability status.**

## AMENDMENT

## AMENDMENT

## AMENDMENT

### FIREFIGHTER

SPN 931

(Announcement of 9/13/2021)

The above titled announcement is hereby amended to read:

**Recruitment for this job classification is open until further notice.** Firefighter applicants must pass the Public Safety Testing, Inc., examination to be eligible for hire by the City of Spokane. After you have completed the PST exam, you must apply through the City website for review and placement on the eligible list. PST scores must be less than one year old.

Upon request, at time of application, the City will provide alternative accessible tests to individuals with disabilities that impair manual, sensory or speaking skills needed to take the test, unless the test is intended to measure those skills.

**Sign up through the Public Safety Testing, Inc. website, here: [www.publicsafetytesting.co](http://www.publicsafetytesting.co).**

**NOTE:** The standard PST written test cost is \$54, which allows applicants to choose up to two (2) agencies to receive their results. Applicants may select more agencies, for additional fees. Applicants who apply to agencies other than City of Spokane, or who take the test at a date or location other than the designated free test date in Spokane, are responsible for all costs incurred.

**Upcoming CPAT Spokane Dates:**

- Monday, November 05, 2022 - CPAT Orientation/Practice Test
- Tuesday, November 06, 2022 - CPAT Test

**NOTE:** CPAT costs are the responsibility of the candidate. The standard CPAT fees are as follows:

- CPAT Orientation - FREE
- CPAT Practice Test - \$43
- CPAT Practice Reschedule/Cancel - \$15
- CPAT Test - \$139
- CPAT Test Reschedule/Cancel - \$25

Additional examinations shall be administered as applications are received with results merged into one eligible list according to final ratings, pursuant to the Merit System Rules of the Civil Service Commission: Rule IV, Section 13 – Continuous Examinations.

# Notice for Bids

## Paving, Sidewalks, Sewer, etc.

### FABRICATION OF SUPERHEATER PENDANTS Solid Waste Disposal – Waste to Energy Facility ITB 5754-22

#### INVITATION TO BID NOTICE

**Description:** The City of Spokane is soliciting electronic bids for Fabrication of Superheater Pendants

**Bid Opening:** Electronic Bids will be unsealed at the 1:15 p.m. public bid opening via Microsoft Teams platform on MONDAY, OCTOBER 24, 2022, for fabrication of thirty-two (32) 20-tube wide secondary Superheater pendants fitted with 310 SS rapper bars. Installation of the super heater pendants is not part of this bid. Delivery Needed 10/30/2023. To watch the City of Spokane Bid Opening Meeting, go to our website: <https://my.spokanecity.org/administrative/purchasing> and then click on the “join meeting” link on the right-hand side of the page. Alternatively, it may be simpler to listen by phone which can be done as follows: call (323) 618-1887 then enter the access code 533 854 149 followed by #.

The Invitation to Bid document is available for download through the City of Spokane's online procurement system <https://spokane.procureware.com>. Registration is required to view and download this solicitation. Solicitation documents will not be mailed, e-mailed, or provided in person.

It is the responsibility of Proposers to check the City of Spokane's online procurement system identified above for Addenda or other additional information that may be posted regarding this Invitation for Bids.

Questions from potential Proposers will be accepted through the “Clarifications” tab under the associated project number in the online procurement system.

All Bid documents shall be submitted electronically through the City of Spokane's online procurement system no later than 1:00 p.m. on MONDAY, OCTOBER 24, 2022. Hard copy and/or late submittals will not be accepted. Bids must be sent sufficiently ahead of time to be received by the required date and time. The City of Spokane is not responsible for Bids submitted late.

The right is reserved to reject any and all Bids and to waive any informalities. Special attention will be directed to the qualifications of the proposer when considering this contract

Rick Rinderle  
City of Spokane Purchasing

Publish: October 12 & 19, 2022



# Notice for Bids

## Supplies, Equipment, Maintenance, etc.

### STATE LEGISLATIVE AND LOBBYING SERVICES City of Spokane City Council RFP # 5747-22

**Description:** The City of Spokane is soliciting electronic Proposals for **STATE LEGISLATIVE AND LOBBYING SERVICES**

All Proposal responses shall be submitted electronically through the City of Spokane's online procurement system no later than **1:00 p.m. on MONDAY, OCTOBER 24, 2022**. Hard copy and/or late submittals will not be accepted. Proposals must be sent sufficiently ahead of time to be received by the required date and time. The City of Spokane is not responsible for Proposals submitted late.

Sealed Proposals will be unsealed and acknowledged at the 1:15 p.m. public bid opening meeting via **Microsoft Teams** on **MONDAY, OCTOBER 24, 2022**. To watch the City of Spokane Bid Opening Meeting, go to our City Purchasing Department website: <https://my.spokanecity.org/administrative/purchasing/> then click on the link to the Microsoft Teams meeting on the right-hand side of the page. Alternatively, it may be simpler to listen by phone which can be done as follows: call (323) 618-1887 then enter the access code 533 854 149 followed by #.

The Request for Proposals document is available for download through the City of Spokane's online procurement system <https://spokane.procureware.com>. Registration is required to view and download this solicitation. Solicitation documents will not be mailed, e-mailed, or provided in person.

It is the responsibility of Proposers to check the City of Spokane's online procurement system identified above for Addenda or other additional information that may be posted regarding this Request for Proposals.

Questions from potential Proposers will be accepted through the "Clarifications" tab under the associated project number in the online procurement system.

The right is reserved to reject any and all Proposals and to waive any informalities.

Connie Wahl, C.P.M., CPPB  
City of Spokane Purchasing

Publish: October 5 & 12, 2022





