

ORDINANCE NO 1063

AN ORDINANCE OF THE CITY OF ROSLYN, WASHINGTON, ENACTING A NEW CODE CHAPTER RELATING TO CODE ENFORCEMENT AND CREATING PROCEDURES FOR ENFORCING THE ROSLYN MUNICIPAL CODE; REPEALING SECTION 18.270.070 (-STOP WORK ORDERS) AND SECTION 18.270.080 (NOTICE OF VIOLATION); AMENDING 18.50.030G BY ADDING A NEW SECTION 18.50.030G(16) TO PROVIDE FOR A SEPARATE ENFORCEMENT PROVISION FOR SIGNS IN CITY RIGHT OF WAYS; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, the City continues to work toward more efficient and effective processing of civil code violations; and

WHEREAS, City staff has proposed the adoption of a Code Enforcement Chapter to ensure greater efficiencies; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ROSLYN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. A new Chapter 8.60 entitled Code Enforcement is added to the Roslyn City Code to read as follows:

Chapter 8.60 CODE ENFORCEMENT

Sections:

- 8.60.010 Purpose
- 8.60.015 Applicability
- 8.60.020 Definitions
- 8.60.030 Voluntary correction
- 8.60.040 Notice of violation and order
- 8.60.050 Stop work order
- 8.60.060 Cease and desist order
- 8.60.065 Notice to vacate
- 8.60.070 Removal of stop work, cease and desist order, or notice to vacate--Misdemeanor
- 8.60.075 Time in which to comply --Final order unless appealed
- 8.60.080 Appeal to hearing examiner
- 8.60.090 Violations--Monetary penalty and costs
- 8.60.100 Subsequent repeat violation--Failure to abate--Misdemeanor
- 8.60.110 Abatement
- 8.60.120 Costs of abatement--Lien
- 8.60.130 Collection of penalties and costs
- 8.60.140 Additional enforcement procedures
- 8.60.150 Conflicting code provisions
- 8.60.160 Duty not creating liability

8.60.010 Purpose.

The purpose of this chapter is to establish an efficient system to enforce the development, land use, and public health regulations of the City; to provide an opportunity for a prompt hearing and decision on alleged violations of these regulations; to establish penalties for violations, including abatement of any affected properties; and to collect all costs associated with abatement. This chapter shall apply to all regulations as defined in RMC Section 8.60.020(M); provided that a regulation that provides for criminal penalties in addition to or as an alternative to enforcement under this chapter may, at the discretion of the city, be prosecuted as a criminal violation.

8.60.015 Applicability.

A. All civil code violations are determined to be detrimental to the public health, safety, and environment, and are declared to be public nuisances. All conditions determined to be civil code violations shall be subject to and enforced pursuant to the provisions of this Chapter, except where specifically excluded by law or regulation. This chapter is applicable to the enforcement of city of Roslyn ordinances and codes, including but not limited to Title 5: Business Licenses and Regulations, Title 8: Health and Safety, Title 12: Streets, Sidewalks and Public Places, Title 13: Public Utilities, Title 15: Buildings and Construction, Title 17: Subdivisions, and Title 18: Zoning and shall be construed as supplemental to any excess provision for criminal penalties contained elsewhere in Roslyn Municipal Code for such violations, in which case this chapter shall be considered supplementary thereto.

B. This Chapter shall be enforced for the benefit of the health, safety, and welfare of the general public, and not for the benefit of any particular person or class of persons.

C. It is the intent of this Chapter to place the obligation for complying with its code enforcement requirements upon the owner, occupier, tenant, manager, agent, or other person responsible for the condition of land and buildings situated within the City of Roslyn and within the scope of the Roslyn Municipal Code.

D. No provision or any term used in this Chapter is intended to impose any duty upon the City or any of its officers or employees which would subject them to damages in a civil action.

8.60.020 Definitions.

As used in this chapter, unless a different meaning is plainly required:

A. "Abate" means to repair, replace, remove, destroy or otherwise remedy a condition that constitutes a civil violation by such means, in such manner, and to such an extent as the code enforcement officer or the administrative hearing examiner determines is necessary in the interest of the general health, safety and welfare of the community.

B. "Act" means doing or performing something.

C. "Administrative hearing examiner" means the code enforcement hearing examiner and the office thereof established pursuant to Chapter 2.13, RMC.

D. "City" means city of Roslyn.

E. "Civil violation" or "violation" means an act or omission contrary to a regulation as defined in subsection M of this section. A violation continues to exist until abated and each day, or a portion thereof, that a violation exists constitutes a separate and distinct offense.

F. "Code enforcement officer" means the city's code enforcement officers or any other person or persons assigned or directed by the mayor, or his or her designee, to enforce the regulations subject to the provisions of this chapter.

G. Costs of Abatement. The costs of any abatement action taken by the city to abate the violation using lawful means in the event that the person responsible for the violation fails to do so. The term includes incidental expenses including, but not limited to, personnel costs, both direct and indirect and includes attorney's fees; costs incurred in documenting the violation; hauling, storage and disposal expenses; and actual costs and expenses of the city in preparing notices, specifications and contracts, and in accomplishing and/or contracting and inspecting the work; the costs of any required printing and mailing; and costs of enforcement.

H. "Costs" or "costs of enforcement" means costs incurred related to enforcement under this chapter, including, but not limited to costs of service of notice, costs of the hearing, attorney fees, administrative costs established by resolution for enforcement of garbage and refuse and nuisance vegetation violations, as well as other administrative costs.

I. "Omission" means a failure to act.

J. "Person" means any individual, firm, associations, partnership, corporation or any entity, public or private.

K. "Person responsible for the violation" or "person who violates" means, unless otherwise defined, any person who has titled ownership of the property or structure which is subject to the regulation, an occupant in control of the property or structure which is subject to the regulation, a developer, builder, or business operator or owner who is developing, building, or operating a business on the property or in a structure which is subject to the regulation, the owner, occupier, tenant, manager, agent, other person responsible for the condition of land and buildings, and/or any person who created the violation or any person who has control over the property and allows the violation to continue.

L. "Property" or "premises" means any building, lot, parcel, real estate or land or portion of land whether improved or unimproved, including adjacent sidewalks, public rights-of-way, and parking strips and any lake, river, stream, drainage way or wetland.

M. "Regulation" means and includes the following, as now enacted or hereafter amended:

1. All Roslyn city code provisions making reference to this chapter;
2. All standards, regulations and procedures adopted by the city that make reference to this chapter; and
3. The terms and conditions of any permit or approval issued by the city, or any concomitant agreement with the city pursuant to code provisions that make reference to this chapter.

N. "Repeat violation" means two or more violations of the same regulation in any location by the same person for which voluntary compliance previously has been sought within two years or for which a notice of violation and order has been issued within two years.

8.60.030 Voluntary correction.

A. **Applicability.** While it is the City's desire to obtain voluntary correction pursuant to this Chapter, compliance is not a prerequisite for pursuing any of the other remedies for correction in this Chapter, or any remedies available in law or equity. The provisions of this section may be utilized whenever the code enforcement officer or administrative hearing examiner determines that a violation of a regulation has occurred or is occurring.

B. **General.** Prior to the issuance of a notice of violation, the code enforcement officer may, at his or her discretion, attempt to secure the voluntary correction of a violation of a regulation by contacting the person responsible for the violation, explaining the violation, and requesting correction.

C. **Issuance of Voluntary Correction and Limited Right of Entry Agreement.** A voluntary correction and limited right of entry agreement may be entered into between the city, acting through the code enforcement officer, and the person responsible for the violation, for resolution of a violation.

D. **Content of Agreement.** A voluntary correction and limited right of entry agreement is a contract between the city and the person responsible for the violation under which that person agrees to abate the violation within a specified time and according to specified conditions. A voluntary correction agreement shall include the following:

1. The name and address of the person responsible for the violation;
2. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring;
3. A description of the violation and a reference to the regulations which have been violated;
4. An acknowledgement by the person responsible for the violation that the violation described in the correction agreement exists;
5. The necessary corrective action to be taken, the date or time by which correction must be completed;
6. An agreement by the person responsible for the violation that the city may inspect the premises as may be necessary, during reasonable times, to determine compliance with the voluntary correction and limited right of entry agreement;
7. An agreement by the person responsible for the violation that the city may abate the violation and recover its costs and expenses of enforcement and abatement and/or a monetary penalty as described in this chapter from the person responsible for the violation if the terms of the voluntary correction agreement are not met; and
8. An acknowledgement that in consideration of the city's agreement to enter into a voluntary correction and limited right of entry agreement, the person(s) responsible for the violation shall have no right to an administrative or judicial hearing, under this Chapter or otherwise, regarding the matter of the violation and/or the required corrective action..

E. Extension; Modification. An extension of the time limit for correction or a modification of the required corrective action may be granted by the code enforcement officer, at his or her sole discretion, if the person responsible for the violation has shown due diligence and/or substantial progress in correcting the violation but unforeseen circumstances render correction under the original conditions unattainable.

F. Abatement by the City. In addition to any other remedy provided for in this chapter, the city may seek abatement of the violation in accordance with RMC Section 8.60.110 if the terms of the voluntary correction agreement are not met.

G. Penalties and Costs. If the terms of the voluntary correction agreement are not met, the person responsible for the violation may be assessed a monetary penalty plus all costs of enforcement pursuant to RMC Section 8.60.090 and costs of abatement pursuant to RMC Section 8.60.110.

8.60.040 Notice of violation and order.

A. Issuance of Notice of Violation. When the code enforcement officer determines that a violation has occurred or is occurring, and does not secure voluntary correction pursuant to RMC Section 8.60.030, the code enforcement officer may issue a notice of violation and order and order to the person responsible for the violation.

B. Content of Notice. The notice of violation and order shall include the following:

1. The name and address of the person responsible for the violation;
2. The street address or description sufficient for identification of the building, structure, premises, or land, if applicable, upon or within which the violation has occurred or is occurring;
3. A description of the violation and a reference to the code provisions and regulations that have been violated;
4. The required corrective action, if any, that is necessary to comply with the standards, code provisions or requirement;
5. The date and time by which the corrective action must be completed or brought into compliance;
6. An explanation of the appeal process and the specific information required to file an appeal

C. Extension. Extensions of the time specified in the notice of violation and order for correction of the violation may be granted at the discretion of the code enforcement officer; the city attorney, or his or her designee; or by order of the administrative hearing examiner.

D. Service of Notice. The code enforcement officer shall serve or cause to be served the notice of violation and order upon the person responsible for the violation by personal service pursuant to subsection (E)(1) of this section, or by mail pursuant to subsection (E)(2). If the person responsible for the violation cannot be reasonably personally served within the city and if an address for mailed service cannot be ascertained notice shall be served by posting a copy of the

notice of violation and order conspicuously on the affected property or structure pursuant to subsection (E)(3) of this section and/or publication pursuant to subsection (E)(4).

E. Methods of Service Defined. The methods of service of notice as used in this chapter are defined as follows:

1. Personal Service. Personal service on the person responsible for the violation shall mean handing the notice to the person responsible for the violation or leaving it at his or her dwelling house or usual place of abode with some person of suitable age and discretion then residing therein, or leaving it at his or her office or place of employment with a person in charge thereof; or
2. Mailing. Mailing shall mean mailing notice to the last known address of the person responsible for the violation which shall be accomplished by placing one copy of the notice of violation in the mail of the United States by ordinary first class mail, directed to the last known address of the person responsible for the violation, and by placing another copy in the mail of the United States in a form requiring a signed receipt showing when and to whom it was delivered and directed to the last known address of the person responsible for the violation. The last known address shall include the address appearing on the last equalized tax assessment roll of the county assessor; or
3. Posting. Posting shall mean posting a copy of the notice in a conspicuous place on the property, with at least one copy of such notice placed at the entryway to the property or structure, if an entryway exists, or other conspicuous place on the property; or
4. Publication. Publication of notice shall mean publication of the notice once each week for two consecutive weeks in the City's official newspaper.

F. Proof of Service. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made, and if by posting and/or publication in lieu of personal service or mail, the facts showing that due diligence was used in attempting to serve the person personally or by mail.

8.60.050 Stop work order.

In addition to any remedy provided for in this chapter, the code enforcement officer may issue a stop work order whenever a violation of a regulation will materially impair the code enforcement officer's ability to secure compliance, or when a violation of the regulation threatens the health, safety, or welfare of any member of the public or occupants of the property. The stop work order shall contain substantially the same information as required by RMC Section 8.60.040(B) and may be appended to, or incorporate by reference in, a notice of violation. Notice of the stop work order shall be deemed served upon posting of the notice as required by RMC Section 8.60.040(E)(3), if posting is physically possible, and shall be effective upon service. Nothing herein shall divest the building official of his authority to issue stop work orders under the building codes adopted by the city. Any violation of a stop work order is hereby declared to be a nuisance, and the code enforcement officer is authorized to enjoin or abate such nuisance summarily by any legal or equitable means as may be available. The costs for the injunction or abatement shall be recovered by the City from the owner, tenant, occupant, manager, agent, or other responsible person in the manner provided by law. The violation of a stop work order shall constitute a misdemeanor, punishable by imprisonment in jail for a maximum term fixed by the

court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

8.60.060 Cease and desist order.

In addition to any remedy provided for in this chapter, the code enforcement officer may issue a cease and desist order whenever a violation of a regulation threatens the health, safety, or welfare of any member of the public or occupants of the property. The cease and desist order shall contain substantially the same information as required by RMC Section 8.60.040(B), and may be appended to, or incorporate by reference in, a notice of violation. Notice of the cease and desist order shall be deemed served upon posting of the notice as required by RMC Section 8.60.040(E)(3), and shall be effective upon service. The violation of a cease and desist order shall constitute a misdemeanor, punishable by imprisonment in jail for a maximum term fixed by the court of not more than ninety days, or be a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

8.60.065 Notice to vacate.

In addition to any remedy provided for in this chapter, the code enforcement officer may issue a notice to vacate whenever a violation of a regulation results in a condition as to make it immediately dangerous to life, limb, property or safety of the public or occupants of the property. The notice to vacate shall contain substantially the same information as required by RMC Section 8.60.040(B), and may be appended to, or incorporate by reference in, a notice of violation. Notice of the notice to vacate shall be deemed served upon posting of the notice as required by RMC Section 8.60.040(E)(3), and shall be effective upon service. The violation of a notice to vacate shall constitute a misdemeanor, punishable by imprisonment in jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by such imprisonment and fine.

8.60.070 Removal of stop work, cease and desist order, or notice to vacate--Misdemeanor.

The removal of a stop work order or cease and desist order posted in conformity with the requirements of RMC Section 8.60.050 or RMC Section 8.60.060, without the authorization of the code enforcement officer or administrative hearing examiner, shall constitute a misdemeanor, punishable by imprisonment in jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

8.60.075 Time in which to comply -- Final order unless appealed.

A. Time for Compliance with Notice of Violation and Order. Persons receiving a notice of violation and order shall rectify the code violations identified within the time period specified by the code enforcement officer in the notice of violation and order.

B. Order Becomes Final Unless Appealed. Unless an appeal is filed with the code enforcement officer for a hearing before the Hearing Examiner in accordance with RMC 8.60.080, the notice of violation and order shall become the final administrative order of the code enforcement officer. A copy of the notice may be filed and recorded with the Kittitas County Recorder.

8.60.080 Appeal to Hearing Examiner.

A. Notice. A person to whom a notice of violation and order is issued that desires to file an appeal of the notice of violation and order shall submit an appeal within (14) fourteen calendar days after receiving or otherwise being served with the notice of violation and order in accordance with RMC 8.60.040(E). When the last day of the period so computed is a Saturday, Sunday, or a Federal or City holiday, the period shall run until 4:30 p.m. on the next business day. The appeal shall be in writing and shall include the applicable appeal fee. Upon receipt of the appeal request, the City shall schedule an appeal hearing before the Hearing Examiner. Notice of the hearing shall be sent to the appellant and/or the person(s) named on the Violation Notice and Order under the procedures described in RMC 18.30.140, or as may be otherwise requested in writing by the appealing party.

B. The appeal fee for a Violation Notice and Order shall be \$100.00.

C. At or after the appeal hearing, the Hearing Examiner may:

1. Sustain the Violation Notice and Order;
2. Withdraw the Violation Notice and Order;
3. Continue the review to a date certain for receipt of additional information; or
4. Modify the Violation Notice and Order, which may include an extension of the compliance date.

D. Prior Correction of Violation. The appeal hearing will be canceled if the code enforcement officer or the city attorney, or his or her designee, approves the completed corrective action at least forty-eight hours prior to the scheduled hearing.

E. Procedure. Except as otherwise provided for herein, the administrative hearing examiner shall conduct a hearing on the civil violation pursuant to Chapter 2.13, RMC. The city and the person to whom the notice of violation and order was directed may participate in the hearing and each party, or its legal representatives, may call witnesses and present evidence. The city shall have the burden of proving, by a preponderance of the evidence, that a violation has occurred and that the corrective action required by the code enforcement officer is reasonably calculated to correct the violation. Formal rules of evidence shall not apply to any such hearing.

F. Decision of the Administrative Hearing Examiner. In the event that the administrative hearing examiner determines that a violation occurred or is occurring, the administrative hearing examiner shall issue an order to the person responsible for the violation which shall contain the following information:

1. The decision regarding the alleged violation including findings of fact and conclusions based thereon in support of the decision;
2. The required corrective action;
3. The date and time by which the correction must be completed;
4. The monetary penalties and costs of enforcement, if any, assessed pursuant to RMC Section 8.60.090 and costs of abatement, if any, assessed pursuant to RMC Section 8.60.110;
5. The date and time after which the city may proceed with abatement of the unlawful condition if the required correction is not completed.

G. Notice of Decision. The administrative hearing examiner shall issue the decision within 10 calendar days of the date of the completion of the appeal hearing, and shall cause the same to be

sent to the person(s) named on the Violation Notice and Order under the same procedures described in RMC 12.30.140 or as otherwise directed in writing by the appealing party, and to the code enforcement officer, unless the administrative hearing examiner determines that more time is necessary.

H. Failure to Appear. If the person to whom the notice of violation and order was issued fails to appear at the scheduled appeal hearing, the administrative hearing examiner may issue at the city's request, or upon his or her own ruling, an order of default, assess the appropriate penalty and costs pursuant to RMC Section 8.60.090 and order abatement of the violation at the expense of the person responsible for the violation. The city may serve notice of the default and penalty and cost assessment on the person responsible for the violation and enforce the administrative hearing examiner's order and recover all costs of abatement, related costs of enforcement, including the cost of the hearing and any monetary penalty from that person. Within seven days after service of the default order, the party against whom it was entered may file a written motion requesting that the order be vacated. The administrative hearing examiner may, at his or her discretion, based upon a showing of good cause, vacate the order of default, and schedule the matter for hearing. In the event that the default order is vacated, the person against whom it was entered shall pay all costs attributable to his or her failure to appear.

I. Appeal to Superior Court. An appeal of the decision of the administrative hearing examiner must be filed with the superior court within twenty-one calendar days of the issuance of the decision.

8.60.090 Violations--Monetary penalty and costs.

A. Assessment of Monetary Penalty. Upon finding that a violation of a regulation has occurred, a monetary penalty in an amount of five hundred dollars for each violation shall be assessed. Each day, or a portion thereof, that a violation exists constitutes a separate and distinct offense for which a monetary penalty may be assessed. The administrative hearing examiner or judge shall have the discretion to assess a lesser amount per day if he or she believes the situation warrants such. The monetary penalty shall, at the discretion of the administrative hearing examiner or court, be assessed as of:

1. The date of the issuance of the notice of violation and order; or
2. The date on which the matter was heard by the administrative hearing examiner; or
3. The date upon which the person responsible for the violation is or was to have corrected the violation.

B. Costs. In addition, violators shall be assessed costs of enforcement as defined in RMC Section 8.60.020(H) and shall be liable for all damage to public or private property arising from such violation, including the cost of restoring the affected area, and the costs of abatement as defined in RMC Section 8.60.020(G).

C. Modification of Monetary Penalty. If the hearing examiner or court finds that the person responsible for the violation will correct the violation within a reasonable time of the hearing, he or she may postpone the assessment of the monetary penalty for a reasonable period. If, prior to the expiration of the period of postponement the code enforcement officer or the city attorney or his or her designee is satisfied that the violation has been corrected, the administrative hearing examiner or the city attorney may relieve the person responsible for the violation of the duty to pay all or a portion of the monetary penalty. If, after the period of postponement, the violation

has not been corrected, the penalties assessed against the person responsible for the violation shall be assessed from the date of the violation, and payment shall be due.

D. Monetary Penalty for Repeat Violations. Upon finding that a repeat violation as defined in RMC Section 8.60.020(N) has occurred, a monetary penalty in an amount of one thousand dollars for each repeat violation, per day, or a portion thereof shall be assessed. The administrative hearing examiner or court shall have the discretion to assess a lesser amount per day if he or she believes the situation warrants such.

E. Collection of Costs and Monetary Penalties. The costs and monetary penalties assessed pursuant to this section constitute a personal obligation of the person to whom the notice of violation and order is directed or the person responsible for the violation. Any costs or monetary penalties assessed must be paid to the city within ten calendar days from the date of mailing of the administrative hearing examiner's decision or a notice from the city that costs or penalties are due. The city attorney, or his or her designee, is authorized to take legal action to collect the costs or monetary penalties including filing civil actions or turning the matter over to collection pursuant to RMC Section 8.60.130.

F. Continued Duty to Correct. Payment of a monetary penalty pursuant to this chapter does not relieve the person responsible for the violation of the duty to correct the violation or preclude the code enforcement officer seeking other legal or equitable relief.

8.60.100 Subsequent repeat violation--Failure to abate--Misdemeanor.

The commission of a subsequent violation or the failure or refusal to abate a violation pursuant to an order of the administrative hearing examiner after receipt of written notice of such order shall constitute a misdemeanor punishable by imprisonment in jail for a maximum term fixed by the court of not more than ninety days or by a fine in an amount fixed by the court of not more than one thousand dollars or by both such imprisonment and fine. The city attorney, or his or her designee, shall, at his or her discretion, have authority to file a subsequent violation as either a civil violation pursuant to this chapter or a misdemeanor. All misdemeanor charges filed under this section shall be filed with the Roslyn Municipal Court and shall bear the signature of the Roslyn city attorney or his or her designee. When the city files a criminal offense pursuant to this subsection, it shall have the burden of proving, beyond a reasonable doubt, that the violation occurred.

8.60.110 Abatement.

A. In General. At the hearing before the administrative hearing examiner or court, the code enforcement officer or the city attorney or his or her designee may request that an order of abatement issue in the event it is determined that a violation of a regulation exists. The order of abatement shall require the person responsible for the violation to abate the violation and permit the city to abate the violation using lawful means in the event that the person responsible for the violation fails to do so. The city may seek such judicial process as it deems necessary to effect the removal or correction of such condition causing the violation.

B. Abatement by the City. The city may abate a condition which was caused by or continues to be a civil violation when:

1. The terms of voluntary correction agreement pursuant to RMC Section 8.60.030 have not been met; or

2. A notice of violation and order has been issued pursuant to RMC Section 8.60.040 and (a) an appeal was not timely filed or an appeal hearing has been held pursuant to RMC Section 8.60.080 and the required correction has not been completed by the date specified in the administrative hearing examiner's order, or (b) a hearing has been held by a court of competent jurisdiction and the required correction has not been completed by the date specified in the court's order; or

3. The condition is subject to summary abatement as provided for in RMC Section 8.60.110(C).

C. **Summary Abatement.** Whenever any nuisance causes a condition, the continued existence of which constitutes an immediate threat to the public health, safety or welfare or to the environment, the city may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it shall be given to the person responsible for the violation as soon as reasonably possible after the abatement. No right of action shall lie against the city or its agents, officers, or employees for actions reasonably taken to prevent or cure any such immediate threats, but neither shall the city be entitled to recover any costs incurred for summary abatement, prior to the time that actual notice of same is provided to the person responsible for the violation.

D. **Authorized Action by the City.** Using any lawful means, the city may enter upon the subject property and may remove or correct the condition which is subject to abatement. The city may seek such judicial process as it deems necessary to effect the removal or correction of such condition.

E. **Interference.** Any person who knowingly obstructs, impedes, or interferes with the city or its agents, or with the person responsible for the violation in the performance of duties imposed by this chapter, shall be guilty of a misdemeanor punishable by imprisonment not exceeding ninety days and a fine not exceeding one thousand dollars.

F. **Other Abatement Proceedings Not Precluded.** Nothing in this section shall prohibit the city from pursuing abatement pursuant to any other laws of the state of Washington or the city of Roslyn.

8.60.120 Costs of abatement--Lien.

A. **Costs of Abatement.** The costs and incidental expenses, including attorney fees, of any abatement action taken by the city as defined in RMC Section 8.60.020(G), including costs of enforcement set forth in RMC Section 8.60.020(H), shall become a charge to the person responsible for the violation. These charges may be assessed against the person responsible for the violation or the property upon which the violation occurred. Costs of abatement must be paid to the city within ten calendar days from the date of mailing of notice from the city that the costs are due. The city may use any lawful means to collect charges, including but not limited to those set forth in RMC Section 8.60.130. The city attorney, or his or her designee, is authorized to take legal action to collect the costs of any abatement and all attorney fees. All such costs and expenses shall constitute a lien against the affected property, as set forth in RMC Section 8.60.120(B).

B. **Lien--Authorized.**

1. **Account of Expense.** The code enforcement officer shall keep an itemized account of expense incurred for the cost of abatement of property. Upon completion of the work, the

code enforcement officer shall prepare and file with the city clerk, a report specifying the work done, the itemized total cost of the work, including administrative charge, a description of the property abated, and the name and addresses of the owner or agent, and occupant or tenant if known.

2. Report Transmitted to Council. Upon receipt of the report, the city clerk shall present it to council for consideration. The council shall fix a time, date and place for hearing the report and any protests or objections thereto. The city clerk shall cause notice of said hearing to be posted upon the property involved, and served by certified mail, postage prepaid, addressed to the owner or agent of the owner, and occupant or tenant if known. If the tenant or occupant is not known, notice shall be sent by first class mail to the occupant of the residence subject to the abatement. Such notice will be given at least ten days prior to the date set for hearing and shall specify the date, hour and place when the council will hear and pass upon the code enforcement officer report, together with any objections or protests which may be filed as hereinafter provided by any person interested in or affected by the proposed charge. Notice of the hearing shall also be published in a newspaper of general circulation in the city of Roslyn when required by law.

3. Protests and Objections. Any person interested in or affected by the proposed charge may file written protests or objections with the city clerk prior to the hearing. Each protest must state the grounds of such protest or objection. The clerk shall present such protests and objections to the council at the time of the hearing and no other protests or objections will be considered.

4. Hearing. The council shall hear and pass upon the report of the code enforcement officer, together with objections and protests. The council may revise or modify the report as it may deem just. When the council is satisfied with the correctness of the charge, the report, together with the charge, shall be confirmed or rejected. The decision of the council on the report and the charge, and on all protests or objections, shall be final and conclusive.

C. Assessment Against Property. The city shall have a lien for the costs and incidental expenses of any abatement as defined in RMC Section 8.60.080, for the cost of any abatement action taken by the city, under this chapter, against the real property on which the work of abatement was performed as follows:

1. Unfit Structures. Liens established as the result violations of the Building Code for then Abatement of Dangerous Buildings as adopted pursuant to RMC Chapter 15.06 assessed pursuant to said code. Pursuant to RCW 35.80.030(1)(h) and as supplemented by RMC authorized by RCW 35.80.030(5), both incorporated herein by reference, the lien shall be assessed upon the tax rolls of the subject property and shall be subordinate to all previously existing special assessment liens imposed on the same property and shall be superior to all other liens, except for state and county taxes, with which it shall be on a parity.

2. Garbage. Liens for garbage and rubbish abatement shall be assessed against the subject property pursuant to RCW 35.21.140 and RCW 35.21.150 and shall be prior to all liens filed subsequent to the filing of the notice of lien with the county auditor, except liens of general taxes and local improvements.

3. Nuisance Vegetation. Liens for nuisance vegetation abatement, when initiated by city council resolution, whether or not enforced in conjunction with a hearing before the

administrative hearing examiner pursuant to RMC Section 8.60.080, shall be assessed against the subject property pursuant to RCW 35.21.310 and shall be enforced and foreclosed in the manner as provided by law for liens for labor and materials.

4. Other. Other liens shall be assessed against the subject property as authorized by law or court order.

8.60.130 Collection of penalties and costs.

A. Collection. In addition to, or in lieu of the provisions set forth in this chapter, the city may, at its option, turn the matter over to collection or commence a civil action in any court of competent jurisdiction to collect costs and expenses of enforcement, costs of abatement incurred by the city to obtain compliance pursuant to this chapter and/or to collect any penalties that have been assessed. Further, the city administration, upon concurrence of the city attorney, may file for injunctive or other civil relief in superior court regarding code violations.

B. Use of Collection Agency. The city, at its discretion, may, pursuant to Chapter 19.16 RCW, use a collection agency for the purposes of collecting penalties assessed pursuant to this chapter. The city shall add a reasonable fee, payable by the person responsible for the debt, to the outstanding debt for the collection agency fee incurred or to be incurred as a result of the use of the collection agency. No debt may be assigned to a collection agency until at least thirty days have elapsed from the time that the city attempts to notify the person responsible for the debt of the existence of the debt and that the debt may be assigned to a collection agency for collection if the debt is not paid.

8.60.140 Additional enforcement procedures.

A. The provisions of this chapter are not exclusive, and may be used in addition to or in conjunction with other enforcement and penalty provisions authorized by the Roslyn City Code or state law.

B. In lieu of a hearing before the administrative hearing examiner pursuant to RMC Section 8.60.080, the city may file an action in a court of competent jurisdiction to seek enforcement of a notice of violation issued pursuant to RMC Section 8.60.040, abatement of the violation pursuant to RMC Section 8.60.110 and assessment and collection of penalties, costs, including attorney fees, and abatement as provided for in this chapter.

8.60.150 Conflicting code provisions.

In the event a conflict exists between the enforcement provisions of this chapter and the enforcement provisions of any uniform code, statute, or regulation that is adopted in the Roslyn City Code that are subject to the enforcement provisions of this chapter, the enforcement provisions of this chapter will prevail, unless the enforcement provisions of this chapter are preempted or specifically modified by said code, statute, or regulation.

8.60.160 Duty not creating liability.

No provision or term used in this title is intended to impose any duty upon the city or any of its officers or employees which would subject them to damages in a civil action.

Section 2. Amendment. RMC 18.50.030G (Architectural Design Review Standards --Signage) Amended. Roslyn Municipal Code Section 18.50.030G (Signage) is hereby amended by adding a new subsection (16) to read as follows:

(16) Signs in City Right of Way. In addition, or as an alternative to the procedures set out in Chapter 8.60, the city, or any of its authorized agents, may summarily remove any sign placed on a right-of-way or public property in violation of the terms of this chapter. All signs removed by the city shall be available for recovery by the owner of such sign for a period of two weeks, after which the signs will be destroyed. The city shall not be responsible for damages or loss during removal or storage of any signs. Recovery of any sign removed by the city shall be subject to payment of an administrative fee to cover the city's cost in removing and storing the sign as set forth in the adopted fee schedule of the city. This administrative fee shall be in addition a civil penalty as follows:

- a) First violation fee: \$25.00 per sign
- b) Subsequent violations fee: \$50.00 per sign.

Section 3. Repealer. RMC 18.270.070 (Stop Work Orders) Repealed. Roslyn Municipal Code Section 12.270.070 (Stop Work Orders) is hereby repealed.

Section 4. Repealer. RMC 18.270.080 (Notice of Violation) Repealed. Roslyn Municipal Code Section 12.270.070 (Notice of Violation) is hereby repealed.

Section 5. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

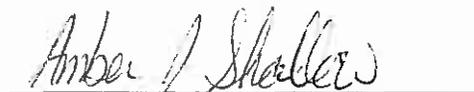
Section 6. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON THE 14th DAY OF SEPTEMBER, 2010.

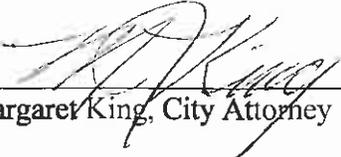
CITY OF ROSLYN


Jeri B. F. Porter, Mayor

ATTEST/AUTHENTICATED:


Amber Shallow, Clerk-Treasurer

Approved as to form:


Margaret King, City Attorney

Filed with the City Clerk: September 14, 2010
Passed by the City Council: September 14, 2010
Date of Publication: September 23, 2010
Effective Date: September 28, 2010