

ORDINANCE NO. 107-05

ADOPTION OF CHANGES TO MASON COUNTY TITLE 6 SANITARY CODE RECOMMENDED BY MASON COUNTY DEPARTMENT OF HEALTH SERVICES. AMENDS COUNTY CODE CHAPTER 6.72

WHEREAS, the changes and rewording of the Mason County Code clarifies the legal effect of those regulations and removes ambiguity,

WHEREAS, the amendments provide for changes to the regulations, appeals, enforcement and responsibility relating to solid waste,

WHEREAS, mismanaged solid waste, biosolids, and contaminated properties is a threat to the health, safety and welfare of the people of Mason County,

WHEREAS, the regulation and enforcement of solid waste, biosolids, and contaminated property is of substantial public interest,

WHEREAS, the Commissioners held a duly advertised public hearing on these amendments on November 3, 2005.

WHEREAS, the Commissioners adopted the findings of fact to support its decision as Attachment A.

NOW, THEREFORE BE IT RESOLVED THAT:

The Mason County Board of County Commissioners hereby adopts the Mason County Title 6 (Sanitary Code) amendments as described by Attachment B.

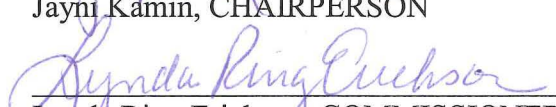
DATED this 22nd day of November, 2005.

BOARD OF COUNTY COMMISSIONERS
MASON COUNTY, WASHINGTON

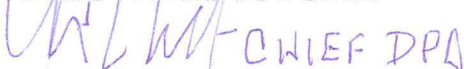
ATTEST:


Clerk of the Board


Jayni Kamin, CHAIRPERSON


Lynda Ring Erickson, COMMISSIONER

APPROVED AS TO FORM:


Prosecuting Attorney


Tim Sheldon, COMMISSIONER

**MASON COUNTY BOARD OF HEALTH
MASON COUNTY COMMISSIONERS**

FINDINGS OF FACT

Title 6 Sanitary Code Changes

- 1) To move wording from 6.72.030(4) under solid waste permit agreements, to 6.72.010(b) to make clear that the Title 6 Sanitary Code applies to both residential and commercial enterprise under Mason Country authority.
- 2) To change wording to indicate that the Hearing Examiner and not the Health Officer shall hear cases of appeal.
- 3) To change a sentence in 6.72.040(1) to read "Allowable hulk vehicles shall be removed from public view by a Health Department approved means". Also under this section the word "stored will be omitted as well as the option for ornamental display. The word "damaged" will be added to this section. These changes clarify confusion over what defines a hulk, "storage" or "ornamental display" and that if any hulk vehicle is allowed according to current regulation (by the size of a property) that the vehicle must be removed from public view.
- 4) Wording will be added where the regulation mentions "person/s" to include other potentially responsible parties, as listed: companies, corporations, trusts and other business entities.
- 5) A portion of 6.72.040 is being deleted as it is repeated in section 6.72.030(3).
- 6) In the current regulation covering contaminated properties (6.73) the violation sited was inadvertently stated incorrectly; it is not 15.11. It will now read 15.13.

CONCLUSIONS

From the preceding findings, the Mason County Board of Health and the Mason County Board of Commissioners finds that the Title 6 additions and revisions are consistent with county-wide policies and finds that the amendments do comply with Washington State law and do clarify and remove ambiguity from the regulations for the enforcement of solid waste vioaltions.

Chairperson, Lynda Ring Erickson
Mason County Board of Health



Date

11/3/05

Solid Waste and Biosolids Handling and Facilities Regulation

6.72.010 Authority and purpose.

(a) This regulation is promulgated under the authority of RCW Chapters 70.05, 70.46, 70.93, 70.95 and 36.58.

(b) Pursuant to RCW Chapter 70.95, the primary responsibility for managing solid waste is assigned to local government. The Mason County Health Department is authorized, by this regulation and by WAC 173-350 as adopted herein, to regulate residential, commercial/business solid waste and biosolids handling activities through use permit requirements, site approval criteria and may require limited purpose permits or agreements between the Health Department and any person, company, corporation, trust or other business entity not required to obtain a permit. The criteria for permits are contained in WAC 173-350-700.

(c) This regulation is promulgated to protect the public health, to prevent land, air, and water pollution, and to conserve Mason County's natural, economic, and energy resources by:

(1) Adopting Washington Administration Code (WAC) Chapter 173-350 Solid Waste Handling Standards and Chapter 173-351, Municipal Landfill Standards.

(2) Controlling the disposal of all non-exempted solid waste generated and collected within Mason County at a site or sites consistent with the Mason County comprehensive solid waste management plan and as approved by the Mason County board of county commissioners.

(3) Providing a framework for interlocal cooperation in the handling of solid waste.

(4) Permitting any incorporated municipality within Mason County to use county solid waste disposal facilities in a manner consistent with this regulation.

(5) This regulation shall be construed liberally to reduce environmental impacts of solid waste. (Ord. 8-04 Attach. B (part), 2004: Res. 93-98 (part), 1998: Res. 68-96 (part), 1996: § 1 of Ord. dated 2/2/95).

6.72.020 Definitions.

The definitions of terms contained in WAC 173-350 and WAC 173-308 are adopted and incorporated by reference. The following definitions shall also apply:

"Health department" means the Mason County department of health services.

"Health director" means the director of the Mason County department of health or his/her authorized representative.

"Health officer" means the Mason County health officer or his/her duly authorized representative.

"Owner" means the taxpayer, title and or contract owner currently on record with the Mason County treasurer's office.

"Public view" includes view from any neighboring properties, private or public right of way, roadway or waterway. (Ord. 8-04 Attach. B (part), 2004: Res. 93-98 (part), 1998: Res. 68-96 (part), 1996: § 2 of Ord. dated 2/2/95).

6.72.030 Solid waste handling.

(a) Washington Administrative Code Chapters (WAC) 173-350, Solid Waste Handling Standards and 173-308, Biosolids Management, as presently constituted and hereafter amended, are adopted and incorporated by reference in this regulation as minimal standards governing solid waste handling practices and facilities in Mason County. Pursuant to WAC 173-350-700(2), the county adopts a more stringent standard than WAC 173-350-025: The owner, operator and or occupant of any premise, business establishment, or industry shall be responsible for the satisfactory and legal arrangement for all of the solid waste handling on the property.

(b) Copies of this regulation shall be maintained in the environmental health office and shall be provided upon request to the public.

(c) No solid waste storage, treatment, processing, handling or disposal facility shall be maintained, established, substantially altered, expanded, or improved until ~~the person operating or owning such site has obtained a permit has been issued for the lawful operation of the facility, a permit deferral has been granted by from the jurisdictional health department or the facility applies for and obtains a beneficial use exemption pursuant to the provisions of WAC 173-350-700, adopted herein by reference.~~ and No biosolids handling facility or operation shall be maintained, established, substantially altered, expanded, or improved until the owner or operator of such site has obtained approval through a state general permit and has obtained site and operation approval from the health director pursuant to the provisions of WAC 173-308. Facilities operating under categorical exemptions established by WAC 173-350-700 shall meet all the conditions of such exemptions or will be required to obtain a permit under WAC 173-350-700.

(1) The Mason County board of health may establish reasonable fees for solid waste permits, exemptions, permit and exemption renewals, and for biosolids site and operation approvals and renewals, following advertised public hearings as required by law.

(2) Request for renewal of all solid waste permits, exemptions and biosolids site and operation approvals shall be made to the health director on or before January 1st of each year or as required by WAC 173-350. Requests are subject to a satisfactory record of operation and compliance with this regulation. Failure to apply for permit and site and operation renewal will render the permit or approval null and void.

(3) When an application for a solid waste exemption, permit or biosolids site and operation approval renewal is denied, suspended, or revoked, the holder of the permit or approval may appeal the health director's decision to the Mason County Hearing Examiner Health Officer, following the procedure outlined in this regulation.

(d) It is unlawful for any person to engage in solid waste or biosolids handling or disposal or to allow such activities to take place except at a facility approved for such use by the health department and consistent with provisions of WAC 173-350.

Unsatisfactory solid waste or biosolids handling or handling beyond normal, residential, storage and off-site disposal activities, by any person, company, corporation, trust or other business entity will be subject to the provisions of this regulation.

(e) This regulation applies to solid waste as that term is defined in WAC 173-350-100 and to biosolids as that term is defined in WAC 173-308-080, incorporated by reference herein, but does not apply to currently exempted solid waste listed under WAC 173-350, incorporated by reference herein.

(f) It is unlawful for any person, company, corporation, trust or other business entity to burn solid waste containing garbage, waste that creates an offensive odor, or waste that violates the State Clean Air Act in other than a facility approved for incineration by the Washington State Department of Ecology and the Health Department. Only natural vegetation can be disposed of by open burning.

(g) Disposal of Feces.

(1) Pet and Animal Feces--General. No person, company, corporation, trust or other business entity shall store or dispose of pet or other animal feces in a manner that creates or contributes to a public nuisance, or that pollutes surface waters of the state. No person shall dispose the wastes in any storm sewer. Disposal shall occur a minimum of once every seven-calendar days or in accordance with acceptable agricultural practices.

(2) Pet and Animal Feces--Kennels/Commercial. No commercial kennel operators shall dispose of pet or other animal feces in containers intended to be transported by commercial collection entities unless a prior written agreement has been established between said operators and said entities.

(3) Human Feces. No person, company, corporation, trust or other business entity shall collect, store, or dispose of any human feces, except at a sewer treatment facility or in an approved on-site sewage disposal system.

(4) Technical Guidance. The health department shall develop guidance for the sanitary disposal of animal waste. This document shall be available to the public during normal working hours at the health department's environmental health office.

(h) Solid Waste.

(1) Unpermitted burial and final or deposition of any solid wastes, by any person, company, corporation, trust or other business entity is prohibited, ~~and may require the filing of waste burial locations and waste descriptions with Mason County auditor property records.~~

(2) Commercial/Business Solid Waste Handling Facilities. When any person, company, corporation, trust or other business entity exceeds normal, residential solid waste handling needs, the activities shall be classified as commercial/business solid waste handling and is subject to WAC 173-350-700. ~~and is subject to full or limited purpose permit requirements or have another legal means for solid waste handling approved by the health officer.~~

(3) It is unlawful to engage in solid waste handling beyond normal residential needs. Such handling is unlawful unless a permit or limited purpose permit has been obtained or is specifically exempt from permit requirements, as provided elsewhere in this chapter. Normal residential handling is: (i) all solid waste except scrap metal and recyclables shall be stored in rigid, water and animal/rodent proof upright containers with tight fitting lids, (ii) removal of solid waste occurring at least twice per month, (iii) recyclables contained in an open or closed container solely dedicated for recycling materials and removed within ninety days, and (iv) scrap metal and construction debris shall be stored in a manner which poses no threat to the environment or the safety of humans and removed within ninety days.

(4) ~~Solid Waste Permit Agreements. The health department is authorized, by this regulation and by WAC 173-350 as adopted herein, to regulate commercial/business solid waste and biosolids handling activities through use permit requirements and site approval criteria. The health department is also authorized to require limited purpose permits or agreements between the health department and any person not required to obtain a use permit, when said person is in violation of solid waste handling regulations or creating public and/or environmental health threats. Criteria permits are contained in WAC 173-350. (Ord. 8-04 Attach. B (part), 2004; Res. 93-98 (part), 1998; Res. 68-96 (part), 1996; § 3 of Ord. dated 2/2/95).~~

6.72.031 Waste tire storage and transportation (WAC 173-350-350).

(a) Waste, Tire Storage and Transportation. "Waste tires" means tires or tire materials that are no longer suitable for their original intended purpose because of wear, damage, or defect. Waste tire accumulations result in public and environmental health threats due to the release of contaminants when burned, vector harborage and breeding, and aesthetic nuisance. All persons, companies, corporations, trust or other business entities handling waste tires will be subject to current state and county regulatory codes including RCW 70.95, WAC 173-350, and the provisions of this regulation.

(b) Waste Tire Carriers. "Waste tire carrier" means a person, company, corporation, trust or other business entity who picks up or transports waste tires, excluding the exemptions of WAC 173-314-100(26). Carriers must be licensed and operate in accordance with WAC 173-314 and RCW 70.95.

(c) Waste Tire Accumulations and Storage. "Waste tire storage" means the placing of waste tires at a county permitted facility under conditions established in this regulation, WAC 173-350-350, WAC 173-314 and RCW 70.95. All persons accumulating or storing waste tires in excess of ten are subject to solid waste use permit requirements, limited purpose permits, or health department agreements. According to WAC 173-350-350(5)(c) tire storage shall not be located within ten feet of any property line or building and shall not exceed six feet in height.

(1) Persons, companies, corporations, trust or other business entities with waste tire accumulations not subject to WAC 173-350-350 storage requirements shall be subject to this section, which allows the accumulation of up to eight hundred waste tires, not to exceed ninety days, by licensed businesses, such as service stations, wrecking yards, tire retailers, tire recyclers, and tire processors, which customarily handle tires as a part of their business operations. Licensed businesses not meeting this description will be subject to a health department determination to show that their activities meet the intent of this requirement.

(2) Persons, companies, corporations, trust or other business entities not determined to meet the requirements of subsection (c)(1) above shall not accumulate greater than ten unutilized tires, unless the tires have come from their business vehicles; will be

subject to ninety-day removal or utilization; and are limited to the storage of up to one hundred tires from their business vehicles, with ninety-day removal.

(3) Waste Tire Utilization. "Waste tire utilization" is defined as a valid use of waste tires. Valid utilization may include re-treading; crash barriers; soil erosion control; chopping, shredding or grinding; and agricultural use. Valid utilization, in accordance with county regulatory codes may exempt the user in part or in full from the storage requirements of WAC 173-350-350(5) and RCW 70.95.

(4) No permit is required under this regulation for the utilization of less than fifty waste tires. All persons, companies, corporations, trust or other business entities shall put waste tires in excess of ten to use within ninety calendar days in accordance the provisions of this regulation.

(5) Limited use permits are required for persons, companies, corporations, trust or other business entities utilizing fifty or more waste tires. The permitting process will include review for compliance with this regulation and will also include SEPA review and public notice. The landfilling or burial of whole tires by any person is prohibited.

(6) No person, company, corporation, trust or other business entity may use tires in a manner that creates fire hazards. Tires shall be stored in accordance with the most current Fire Code on file with the Mason County fire marshal. (Ord. 8-04 Attach. B (part), 2004).

6.72.032 Illegal dumping.

(a) Whenever solid wastes dumped in violation of RCW 70.95.240 contain three or more items bearing the name of one individual, there shall be a rebuttable presumption that the individual whose name appears on such items committed the unlawful act of dumping and is responsible for clean-up of the discarded materials. When any other evidence of the individuals identity is found in solid wastes dumped in violation of RCW 70.95.240 the health department may order the persons, companies, corporations, trust or other business entities to remove and legally dispose of the solid waste.

(b) Illegal dumpers, and property owners when illegal dumpers cannot be identified, will be responsible for waste clean-up in accordance with this regulation.

(c) For each offense of illegal dumping a two hundred fifty dollars fine shall be assessed. The fine shall be five hundred dollars for persons, companies, corporations, trust or other business entities to have committed any illegal dumping of garbage or other solid wastes upon the ground at any Mason County recycling drop box. Persons found to have committed repeat violations of illegal dumping shall be assessed a five hundred dollars fine for each offense.

(d) Any violator who commits more than one violation in a two-year period shall be deemed a repeat violator and shall be subject to an additional fine of one hundred dollars. This additional fine shall be payable to the Mason County district court who shall deposit these funds into the Mason County solid waste clean-up account. (Ord. 8-04 Attach. B (part), 2004).

6.72.033 Dead animals.

Dead animals shall be disposed of by their owners and/or by property owners in a manner to protect public health and the environment. Their disposal shall be consistent with local codes. Animals weighing fifteen pounds or greater may be taken to a rendering plant, a veterinary clinic, an animal shelter, pet cemetery, or can be disposed of directly at accepting transfer stations when not creating a nuisance. Property owners may dispose of dead animals on their own property when the animal disposal does not result in a nuisance or public or environmental health threat. (Ord. 8-04 Attach. B (part), 2004).

6.72.034 Biomedical wastes.

(a) Applicability. This regulation applies to all biomedical waste generators including, but not limited to, hospitals, medical and dental clinics, medical laboratories, nursing or intermediate care facilities, in-home medical waste generators, veterinary facilities and other institutions which may generate biomedical wastes as defined in RCW 70.95K, without regard to the quantity of waste produced per month.

(b) Storage, Handling and Disposal. All persons, companies, corporations, trust or other business entities shall store, handle, and dispose of biomedical wastes in a manner that protects against public exposure and public health threats. Needles and sharps shall be contained in leak-proof, rigid, puncture-resistant, break-resistant containers that are labeled and tightly lidded during storage, handling and transport. Biomedical waste, except for needles and sharps, shall be contained in disposable, leak-proof containers having a strength to prevent ripping, tearing or bursting under normal conditions of use. The containers shall be appropriately marked by the generator as containing biomedical waste. Biomedical wastes shall be disposed of in a manner and at a facility approved by the health director. (Ord. 8-04 Attach. B (part), 2004).

6.72.035 Problem wastes.

Persons, companies, corporations, trust or other business entities handling or disposing of problem wastes in Mason County as defined in WAC 173-350-100 shall notify the health department of their intended activities. Permits or authorizations may be required as determined by the health director. (Ord. 8-04 Attach. B (part), 2004).

6.72.036 Bonds/financial assurance.

When a person's company's, corporation's, trust's or other business entity's utilization or solid waste handling activities present a high degree of public and/or environmental health threat, potential for nuisance, or risk of failure, as determined by the health director, the person shall provide a financial assurance instrument approved by the health director to cover the cost of any

restitution necessary as a result of the activities. Financial assurance instruments will be subject to adequacy reviews with increases or changes in activities. (Ord. 8-04 Attach. B (part), 2004).

6.72.037 Permits.

(a) Limited Purpose Permits. When solid waste handling activities exceed normal residential activities, but do not require use permits, the health department may require a limited purpose permit or a written agreement to address any possible public and environmental health concerns regarding such activities; these instruments can require persons, companies, corporations, trust or other business entities to submit plans for mitigation or for timely removal of the solid waste violations. The Mason County health officer shall review these instruments in accordance with the following criteria:

(1) Persons, companies, corporations, trust or other business entities must demonstrate that the proposed use will be consistent with this regulation; that the proposed use will not be detrimental to public health, safety and welfare; that the proposed use will not have an impact on existing uses on adjacent properties, and that the proposed use will not create or maintain a public nuisance that can not be mitigated through appropriate measures. Persons, companies, corporations, trust or other business entities must also demonstrate that the proposed use will not attract or harbor vectors, such as mosquitoes or rats.

(b) When the criteria are not met for a limited purpose permit or a health department agreement, a solid waste permit will be required pursuant to this regulation and outlined in Section 6.72.030.

(c) When the criteria are met for a limited purpose permit or health department agreement fees may be required according to the current Mason County fee schedule. (Ord. 8-04 Attach. B (part), 2004).

6.72.040 Solid waste management.

~~It is unlawful for any collecting agent or person to deliver or deposit any solid waste generated and collected either outside the borders of Mason County or within Mason County, except at a disposal site consistent with the provisions of this regulation, approved by the Mason County board of commissioners, and permitted under the provisions of this regulation by the health department. All persons shall contain garbage in receptacles that are upright, rigid, water and animal/rodent proof, and that have secure fitting lids. Removal of garbage and other solid wastes shall occur at least twice monthly. When a person does not dispose of solid wastes is not disposed of in a manner consistent with these regulations, the health officer may order mandatory garbage service. When garbage service is ordered, the health officer may also order that receipts for service be provided regularly.~~

(1) Hulk and inoperable vehicles requirements. Hulk vehicles as defined shall be removed to a facility licensed, permitted, auto facility or storage yard to accept hulk vehicles, except properties between one and ten acres may have one stored hulk vehicle removed from public view and properties over ten acres may have up to three hulks vehicles removed from public view.

Inoperable vehicles shall be removed to a licensed, permitted, auto facility or storage, except properties one acre or less, may have one inoperable vehicle within public view and properties one acre or more may store up to three inoperable vehicles within public view.

(A) Definitions. Hulks are defined as vehicles certified as junk vehicles under RCW 46.55.010(4) or those meeting any two of the following criteria:

Damage to the frame, a missing or shattered window or windshield, a missing or damaged wheel, tire, body part panel, a missing, damaged or inoperable door, hood or trunk lid; more than one flat tire; a missing, damaged or inoperable engine or transmission; a missing license plate or plate that has been invalid for more than one year.

(B) Inoperable vehicles are defined as vehicles which are no longer able to operate for their intended use, or any vehicle with a build-up of debris, moss or weeds on, in, under, or around the vehicle, or a vehicle which is not licensed or has not been moved in sixty days.

(C) Storing excess inoperable or allowable hulk vehicles from public view shall take place by health department approved fencing or buffering, which reasonably removes objects from public view.

The accumulation, by any person, company, corporation, trust or other business entity of excess inoperable or hulk vehicles, shall be considered solid waste handling and must take place at a permitted facility.

(D) Applicability. ~~The definitions of hulk and inoperable vehicles do not apply to special interest vehicles that are undergoing or scheduled for restoration or useful farm machinery. Exemptions can be made for ornamental display of machinery or vehicles.~~

These requirements shall apply to single property parcels and adjoining property parcels in single ownership. Property land area shall qualify when it is free of wetlands, steep slopes, or other characteristics limiting property use, as determined by the health department. (Ord. 8-04 Attach. B (part), 2004; Res. 93-98 (part), 1998; Res. 68-96 (part), 1996; § 4 of Ord. dated 2/2/95).

6.72.050 Inspections.

The health director, or other officer or official having jurisdiction, may enter and inspect, as authorized by law, any property, premise, or place at any reasonable time for the purpose of determining compliance with this regulation. (Ord. 8-04 Attach. B (part), 2004; Res. 93-98 (part), 1998; Res. 68-96 (part), 1996; § 5 of Ord. dated 2/2/95).

6.72.060 Duty of health director.

It is the duty of the health director to enforce this regulation, except for criminal violations of this regulation. (Ord. 8-04 Attach. B (part), 2004; Res. 93-98 (part), 1998; Res. 68-96 (part), 1996; § 6 of Ord. dated 2/2/95).

6.72.070 Violations.

It shall be a violation of this regulation for any person, company, corporation, trust or other business entity to:

- (1) Fail or refuse to comply with any of the provisions of this regulation.
- (2) Knowingly obstruct the health director or other officer or official having jurisdiction, in the conduct of any inspection, including a request for operational records.
- (3) Fail to meet the terms and conditions for operation as stated in the appropriate operational permit.
- (4) Continue operations after failing to submit a yearly application renewal for solid waste, biosolids or exemption notification along with the required annual reports by January 1st of each year or after permit suspension or revocation by the health department.
- (5) Fail to comply with a health director order to correct violations of this regulation or fail to comply with a stop work order. (Ord. 8-04 Attach. B (part), 2004: Res. 93-98 (part), 1998: Res. 68-96 (part), 1996: § 7 of Ord. dated 2/2/95).

6.72.080 Criminal penalties.

Any person, company, corporation, trust or other business entity who willfully commits a violation of this regulation shall be deemed guilty of a misdemeanor and shall be subject to a fine of not more than five hundred dollars, or by imprisonment not to exceed ninety days, or by both, unless otherwise required by state laws. Each such person, company, corporation, trust or other business entity is guilty of a separate offense for each and every day during any portion of which any violation of any provision of this regulation is committed, continued or permitted by any such person, company, corporation, trust or other business entity and he shall be punished accordingly. (Ord. 8-04 Attach. B (part), 2004: Res. 93-98 (part), 1998: Res. 68-96 (part), 1996: § 8 of Ord. dated 2/2/95).

6.72.090 Abatement.

No person, company, corporation, trust or other business entity owning, leasing, renting, occupying or having charge or possession of any property in Mason County, including vacant parcels, shall maintain or allow to be maintained on such property the following items including, but not limited to: junk, trash, boxes, litter, discarded lumber, construction debris, salvage materials, scrap metal, recycling or other similar materials, broken or discarded furniture, toys, clothing, household equipment, appliances, vehicle parts or other articles of personal property which are discarded or appear to be discarded or left in a state of partial construction or repair in any front yard, side yard, rear yard, public right of way or vacant lot. These items are herein declared to be a public nuisance and are subject to abatement.

- (1) No person, company, corporation, trust or other business entity owning, leasing, renting, occupying or having charge or possession of any property in the county, including vacant parcels, shall maintain or allow to be maintained on such property any of the following attractive nuisances accessible and dangerous to the public, including children, including, but not limited to: abandoned mobile homes, junk vehicles, including recreational vehicles, broken or neglected equipment, machinery, bathroom fixtures, refrigerators and freezers, in any front yard, side yard, rear yard, public right of way or vacant lot.
- (2) Excess inoperable and junk vehicles as set forth in Title 6 Mason County Sanitary Code Section 6.72.040 in any front yard, side yard, rear yard, public right of way or vacant lot are herein declared to be a public nuisance and are subject to abatement.
- (3) Whenever any declared nuisance, source of filth, or cause or probable cause of injury to health shall be found by the health officer to exist on any private or public property, he/she shall have the power and authority to notify and order in writing the owner, occupant, or user, to correct and remove said nuisance, source of filth or cause or probable cause of injury to health. The notice shall require the owner to make such legal removal, destruction or corrective action and shall be served as set forth in Title 15.
 - (A) The notice shall explain the abatement procedure and include a statement that failure to comply with the regulatory order may result in abatement proceedings and/or other enforcement actions.
 - (B) The notice shall state the specific nuisance that needs to be abated and the time limit for correction.
 - (C) The notice shall be sent by both regular and certified mail to the owner of record and may be served in person or by posting in a conspicuous place on the property if the mail is returned as undeliverable. If the person, company, corporation, trust or other business entity responsible for the violation is a tenant or other occupant, and not the owner of record, said notice shall also be given to the landlord or owner of said property.
 - (D) The owner, occupant or user may make an administrative appeal of this notice within fourteen days as provided by Mason County Development Title 15, Code Section 15.11.020. The request shall state the reason for the request in writing and include the appropriate fees according to the current Mason County health fee schedule.
- (4) In the event of the refusal or failure of such person, company, corporation, trust or other business entity or persons to abate such nuisance within said time, the health officer may cause such nuisance to be abated at the expense of such person or persons, which cost may be recovered by the Mason County department of health from such person or persons, company, corporation, trust or other business entity in an action brought in the name of that person to recover the same in any court of competent jurisdiction. No right of action shall lie against the county or its agents, officers, or employees for actions reasonably taken to prevent or cure any such immediate threats, but neither shall the county be entitled to recover any costs incurred for summary abatement, prior to the time that actual notice of same is provided to the owner of the property.
- (5) Whenever the county is authorized to undertake abatement, the health director, or other officer or official having jurisdiction, may enter and remove or correct the condition that is subject to abatement. The county may seek such judicial process, as it deems necessary to effect the removal or correction of such condition. The official entering onto the property shall document each condition or nuisance requiring abatement by photography and/or by videotaping.
- (6) The county may cause the abatement to be performed by county employees or by private contract under the direction of the county. The county, its employees and agents, using lawful means, are expressly authorized to enter upon the subject property for such purposes. (Ord. 8-04 Attach. B (part), 2004).

6.72.095 Abatement costs.

All costs of abatement, including incidental expenses, and a ten-percent administrative charge with a minimum charge of ten dollars shall be billed to the property owner, occupant, or user notified and found to be in violation and shall become due and payable thirty days thereafter. The term "incidental expenses" shall include, but not be limited to, personnel costs, both direct and indirect, including hearing examiner fees or attorney's fees incurred by the county; costs incurred in documenting the violation; the actual expenses and costs to the county in the preparation of notices, cost of any required printing and mailing, specifications and contracts, and in inspecting and re-inspecting the work; and, in the case of vehicles, towing/hauling, storage and removal/disposal expenses.

(1) Where a property owner agrees to abatement and the abatement funds are used to clean up the property the county shall require a payment schedule of all funds expended plus costs. If the property owner fails to make the payments as required the fines shall be assessed as liens as outlined in subsections (2), (3) and (4) of this section.

(2) In the event that the responsible party fails to pay within the thirty-day period, unless a payment schedule has been made, a lien shall be assessed against the property and be recorded on the assessment rolls with the Mason County auditor, and thereafter shall constitute a special assessment lien against the property. Fines not paid within the thirty-day period will accrue interest at the same rate as delinquent property taxes. Fines in excess of the assessed value shall be a personal obligation of the property owner and fines assessed against persons, companies, corporations, trusts or other business entities who are not the property owner shall be personal obligations of those persons, companies, corporations, trusts or other business entities.

(3) All fines assessed as liens against the property shall become the personal obligation of said property owner, company, corporation, trust or other business entity in the event that property ownership is transferred before all fines and interest due are paid in full. The lien shall continue until the fines assessed and all interest due is paid in full.

(4) If an assessment has been placed on the assessment roll and is thereafter paid in full to the health director, the health director shall notify the county auditor by recording a release of lien. The validity of any assessment made under the provisions of this chapter shall not be contested in any action or proceeding unless the same is commenced within fourteen calendar days after the assessment is placed upon the assessment roll as provided herein. Any request for a hearing to contest liens shall be accompanied by a non-refundable fee according to the current Mason County health fee schedule and be filed according to the provisions of Mason County Development Title 15, Code Section 15.11.020.

(A) Budgetary process. Upon certification to the Mason County treasurer of the assessment amount due and owing, the treasurer shall enter the amount of such assessment upon the tax rolls against the property for the current year and the same shall become a part of the general taxes for that year to be collected at the same time and with interest at such rates and in such manner as provided in RCW 84.56.020, as now or hereafter amended, for delinquent taxes, and when collected to be deposited to the credit of the Mason County department of health services solid waste abatement fund. The ten percent or ten dollars charged for administrative fees shall be credited to the health services account to pay for the filing of liens and other expenses billed by the treasurers or auditors office to the Mason County department of health services. The lien shall be of equal rank with the state and county taxes. (Ord. 8-04 Attach. B (part), 2004).

6.72.100 Administrative enforcement.

The health director is authorized to utilize the enforcement procedures of this section in order to enforce this regulation. The health director is authorized to and may bring enforcement action as provided in Chapter 15.13 Mason County Development Code.

(1) Solid Waste Permit or Biosolids Site and Operation Approval Suspension.

(A) The health director may temporarily suspend any permit or approval issued under this regulation for failure of holder to comply with either: (i) the requirements of this regulation, or (ii) any notice and order issued pursuant to this regulation.

(B) Such permit or approval suspension shall be carried out through the notice and order provisions of this section, and the suspension shall be effective for the holder or operator upon service of the notice and order. The holder or operator may appeal such suspension as provided in this chapter.

(C) Notwithstanding any other provision of this regulation, whenever the health director finds a violation of this regulation has created or is creating unsanitary, dangerous, or other condition which, in his or her judgment, constitutes an immediate or irreparable hazard, he may without service of a written notice and order, suspend and terminate operations under the permit immediately.

(2) Permit Revocation. The health director may permanently revoke a permit issued by the health department in the event of: (i) failure of the holder to comply with the requirements of this regulation, or (ii) failure of the holder to comply with any notice and order issued pursuant to this regulation, or (iii) interference with the health director in the performance of the director's duties, or (iv) discovery by the health director that a permit or approval was issued in error or on the basis of incorrect information.

(3) Such permit or approval revocation shall be carried out through the enforcement provisions of this regulation and the revocation shall be effective upon service of the notice of violation upon the holder or operator of the permit. The holder or operator may appeal the revocation, as provided in this section.

(4) A permit or approval may be suspended pending its revocation or a hearing relative thereto. (Ord. 8-04 Attach. B (part), 2004: Res. 93-98 (part), 1998: Res. 68-96 (part), 1996: § 10 of Ord. dated 2/2/95).

6.72.105 Notice of civil infraction.

(a) An authorized representative of the health department may issue a civil infraction for violations of this chapter (see Section 6.72.070). Pursuant to Chapter 7.80 RCW if the authorized representative has reasonable cause to believe that the person,

company, corporation, trust or other business entity has violated any provision of these regulations or has not corrected the violation as required in the written notice and order to correct violation.

(1) Each civil violation of this Chapter (see Section 6.72.070) shall be subject to a fine of two hundred fifty dollars.

(2) Each and every day during any portion of which any violation of any provision of this regulation is committed, continued or permitted by any such person, company, corporation, trust or other business entity shall be a separate violation and can be fined accordingly.

(3) Any violator who commits more than one violation in a two-year period shall be deemed a repeat violator and shall be subject to an additional fine of one hundred dollars. This additional fine shall be payable to the Mason County district court who shall deposit these funds into the Mason County solid waste clean-up account. (Ord. 8-04 Attach. B (part), 2004).

6.72.110 Waiver and variance.

Whenever a strict interpretation of this regulation would result in extreme hardship, the health director may, upon concurrence of the ~~board of health~~, Hearing Examiner waive the provision(s) causing extreme hardship, provided that any waiver granted must be consistent with the intent of this regulation and shall not result in unsanitary conditions, damage to the environment, create nuisance conditions, or conflict with state solid waste regulatory codes. Information for the submission of a waiver and the notification of potentially impacted parties are contained in WAC 173-350 Variances shall follow the procedures of the Solid Waste Handling Standards 173-350-710(7). (Ord. 8-04 Attach. B (part), 2004; Res. 93-98 (part), 1998; Res. 68-96 (part), 1996; § 11 of Ord. dated 2/2/95).

6.72.120 Appeal.

(a) Any person, company, corporation, trust or other business entity aggrieved by the order of the health director may request in writing within fourteen calendar days of the service of the notice and order an appeal hearing before the ~~health officer~~ Hearing Examiner. The request shall cite requirement or determination appealed and shall contain a brief statement of the reasons for seeking the appeal hearing. The method of appeal as provided in this regulation shall be sole and exclusive, and is subject to a hearing fee charged according to the current fee schedule.

(b) The appeal hearing shall be conducted on the record. Written notice of the time and place of the hearing shall be given at least ten calendar days prior to the date of the hearing to each interested party, to the health director whose order is being appealed, and to other interested persons, companies, corporations, trust or other business entities who have requested in writing that they be so notified.

(c) Following review of the evidence submitted the ~~health officer~~ Hearing Examiner shall make written findings and conclusions, and shall affirm or modify the order previously issued if a violation is found to have occurred. The written decision of the ~~health officer~~ Hearing Examiner shall be mailed by certified mail, postage prepaid, return receipt requested, to all the parties within thirty calendar days of the hearing.

(d) The appeal hearing before the ~~health officer~~ Hearing Examiner shall occur within thirty calendar days following receipt of the written notice of appeal, unless the matter is continued at the discretion of the ~~health officer~~ Hearing Examiner for good cause shown. (Ord. 8-04 Attach. B (part), 2004; Res. 93-98 (part), 1998).

6.72.130 Severability clause.

The provisions, sections and subsections of this chapter, shall be considered to be severable, so that if any provision, section, or subsection, or its application to any person or circumstance, is altered, amended, abrogated, repealed, superseded by constitution, state law or otherwise held invalid, the remainder of the particular provision, section, subsection, or chapter, or the application thereof to other persons, companies, corporations, trust or other business entities or circumstances, shall not be deemed affected. (Ord. 8-04 Attach. B (part), 2004).

Contaminated Properties

6.73.010 Authority.

Mason County adopts this chapter pursuant to its police and sanitary powers, Chapter 70.05 RCW. Mason County adopts the following chapters by reference: Chapter 64.44 RCW and WAC 246-205. This chapter provides the procedures and policies for appeals and enforcement of the Mason County health officer's determinations that property is unfit for use due to contamination from illegal drug manufacturing or storage, and establishes requirements for contamination reduction, abatement and assessment of costs. For the purposes of this chapter, the term "health officer" means the Mason County health officer appointed in accordance with Chapter 70.05 RCW, or his or her designee.

This regulation is promulgated to protect the public health, to prevent land, air, and water pollution, and to conserve Mason County's natural, economic and energy resources by reducing the environmental impacts of contaminated properties. (Ord. 8-04 Attach. C (part), 2004).

6.73.020 Applicability.

This chapter shall apply to all property as defined in RCW 64.44.010 for which the health officer issues or has issued an order prohibiting use of property pursuant to RCW 64.44.030. (Ord. 8-04 Attach. C (part), 2004).

6.73.030 Request for hearing.

Any person, company, corporation, trust or other business entity required to be notified of an order issued by the health officer prohibiting use of property pursuant to RCW 64.44.030 and any person, company, corporation, trust or other business entity to whom the health officer issues an order regarding contaminated property may submit a written request for a hearing regarding the health officer's order. The request for a hearing must be made within ten days of serving the order. The request shall state the reason for the request and include a two hundred dollars hearing fee. Upon receipt by the health officer of the request and the required fees, the hearing shall be held by the Mason County board of health Hearing Examiner. The hearing shall occur within not less than twenty days or more than thirty days. (Ord. 8-04 Attach. C (part), 2004).

6.73.040 Stay of corrective action.

The filing of a request for hearing pursuant to the section above shall operate as a stay from the requirement to perform corrective action ordered by the health officer while the hearing is pending, except there shall be no stay from the requirement for immediate compliance with an emergency order issued by the health officer or from the requirements of an unfit for use order prohibiting the use, occupancy, or the moving of any property. (Ord. 8-04 Attach. C (part), 2004).

6.73.050 Inspections and right of entry.

(a) The health officer, fire marshal and building official and/or their designees are authorized to make such inspections and take action as may be required to enforce the provisions of this chapter.

(b) When it is deemed necessary to make an inspection to enforce the provisions of this chapter, or when the health officer, building official or fire marshal or their designees have reasonable cause to believe that there exists within any property a condition which is contrary to or in violation of this chapter, the health officer, building official, fire marshal or their designee may enter the property at reasonable times to inspect or perform the duties authorized by this chapter; provided, that the official shall first make a reasonable effort to notify the owner or other person, company, corporation, trust or other business entity in control of the property and request entry. If entry is refused, the health officer, building official, fire marshal or their designees shall have recourse to the remedies provided by law to obtain entry. (Ord. 8-04 Attach. C (part), 2004).

6.73.060 Securing property designated unfit for use.

(a) The owner of record shall be responsible for securing the premises against unauthorized entry by closing, boarding up, fencing, barricading, locking or otherwise securing the property.

(b) In the event that the owner does not take necessary action to maintain the property against entry, the health officer, building official and or their designees are authorized to secure the property against unauthorized entry by closing, boarding up, fencing, barricading, locking or otherwise securing the property to prevent entry. All costs for securing the property will be the responsibility of the owner of record.

(c) The health officer may prohibit the moving or removal of vehicles or any other personal property subject to an unfit for use order without prior written approval. The health officer may secure such property by attachment of a locking device or any other means to prevent the property from being moved.

(d) The health officer may order the Mason County sheriff's office to impound vehicles designated as unfit for use until such time as the vehicle is either released for reuse or destroyed. (Ord. 8-04 Attach. C (part), 2004).

6.73.070 Other powers reserved--Emergency orders.

Nothing in this chapter shall limit the authority for Mason County or the Mason County health officer to act under any other legal authority. The powers conferred by this chapter shall be in addition to and supplemental to the powers conferred by any other law. If the health officer determines immediate action is necessary to protect public or environmental health and safety, any person, company, corporation, trust or other business entity to whom such an order is directed shall be required to comply with the order immediately. (Ord. 8-04 Attach. C (part), 2004).

6.73.080 Notice to utility purveyors.

The health officer is authorized to notify purveyors of utility services to any property declared unfit for use that use or occupancy of the premises is prohibited. The health officer may order purveyors of utilities to discontinue the provisions of their services. (Ord. 8-04 Attach. C (part), 2004).

6.73.090 Violations.

(a) It is unlawful and a violation of this chapter to:

- (1) Occupy or permit or authorize the occupation of any structure, premises or property posted as unfit for use or ordered vacated pursuant to this chapter or Chapter 64.44 RCW;
- (2) Enter or authorize or allow another person, company, corporation, trust or other business entity to enter any property declared unfit for use or otherwise ordered vacated pursuant to this chapter or Chapter 64.44 RCW without approval of the health officer;
- (3) Willfully fail to comply with any order issued pursuant to this chapter or Chapter 64.44 RCW;
- (4) Obstruct any officer, employee or agent of Mason County or other governmental unit in the enforcement or carrying out of the duties prescribed in this chapter or Chapter 64.44 RCW;
- (5) Remove, deface, obscure or otherwise tamper with any notice posted pursuant to this chapter or Chapter 64.44 RCW.
- (6) Maintain any property in violation of an order issued by the health officer pursuant to this chapter.
- (7) Fail or refuse to comply with any order or decision of the health officer, hearing officer or appeals commission pursuant to this chapter.

(b) Violations of this chapter are punishable and shall be enforced pursuant to the penalties prescribed in Chapter ~~15.11~~ 15.13 Mason County Development Code. The Hearing Examiner, law enforcement officers, or the health officer or his or her designee, who shall be enforcement officers as defined by RCW 7.80.040 may enforce this chapter. (Ord. 8-04 Attach. C (part), 2004).

6.73.100 Penalties.

Each violation of this chapter shall be a separate and distinct offense and in the case of a continuing violation, each day's continuance shall be a separate and distinct violation.

- (1) Every violation of this chapter shall be unlawful and a public nuisance.
- (2) The violation of any provision of this chapter is designated as Class 1 civil infraction pursuant to Chapter 7.80 RCW. Civil infractions shall be heard and determined according to Chapter 7.80 RCW, as amended, and any applicable court rules. The penalty for such violation shall be two hundred and fifty dollars per violation.
- (3) Any person, company, corporation, trust or other business entity intentionally, recklessly or negligently violating any provision of this chapter shall be, upon conviction, guilty of a misdemeanor and shall be subject to a fine of not more than five hundred dollars or to imprisonment in the county jail not to exceed ninety days or to both fine and imprisonment.
- (4) The prosecuting attorney is authorized to institute legal action to enforce compliance with the provisions of this chapter and may seek legal or equitable relief to enjoin any acts or practices or abate any conditions that constitute a violation of this chapter.
- (5) The health officer and his or her designee are authorized to bring enforcement action as provided in Chapter ~~15.11~~ 15.13 Mason County Development Code. (Ord. 8-04 Attach. C (part), 2004).

6.73.110 Severability clause.

The provisions, sections and subsections of this chapter, shall be considered to be severable, so that if any provision, section, or subsection, or its application to any person, company, corporation, trust or other business entity or circumstance, is altered, amended, abrogated, repealed, superseded by constitution, state law or otherwise held invalid, the remainder of the particular provision, section, subsection, or chapter, or the application thereof to other persons, companies, corporations, trusts or other business entities or circumstances, shall not be deemed affected. (Ord. 8-04 Attach. C (part), 2004).