

Chapter 1.25

CIVIL PENALTIES FOR VIOLATIONS

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1.25.010 Purpose.

It is the purpose of this chapter to generally provide civil penalties for non-fire code violations of this title and ACC Titles [5](#), [8](#), [10](#), [12](#), [13](#), [15](#), [16](#), [17](#) and [18](#), all standards, regulations and procedures adopted pursuant to those titles, and the terms and conditions of any permit or approval issued pursuant to those titles which do not involve imminent danger to the public health, safety and welfare of persons or property, and such other code provisions as are specified. Criminal penalties provided in this code for non-fire violation of this title and ACC Titles [5](#), [8](#), [10](#), [12](#), [13](#), [15](#), [16](#), [17](#) and [18](#), and all standards, regulations and procedures adopted pursuant to those titles, and the terms and conditions of any permit or approval issued pursuant to those titles whether contained in Chapter [1.24](#) ACC or in the individual titles are superseded to the extent provided herein. It is the intent of this chapter to permit a timely and efficient means of enforcement, to establish definitions, monetary penalties for violations and a hearing process before the court of limited jurisdiction authorized to hear cases of the city as assigned in the ACC or as otherwise provided by law. (Ord. 6613 § 5, 2016; Ord. 6429 § 1, 2012; Ord. 5966 § 1, 2006; Ord. 5837 § 1, 2004; Ord. 5677 § 2, 2002; Ord. 5667 § 1, 2002; Ord. 5246 § 1 (Exh. B), 1999; Ord. 5212 § 1 (Exh. B), 1999; Ord. 4460 § 1, 1991.)

1.25.020 Definitions.

Except where specifically defined in this section, all words used in this chapter shall carry their customary meanings. The word “shall” is always mandatory, and the word “may” denotes a use of discretion in making a decision.

A. “Act” means doing or performing something.

B. “Code enforcement official” means the director or designee of the director of the department authorized and/or empowered to enforce a violation of ACC Titles [5](#), [8](#), [12](#), [13](#), [15](#), [16](#), [17](#) and [18](#), and Chapter [10.02](#) ACC, or such other provisions of the ACC that are enforceable pursuant to the provisions of this chapter, and all standards, regulations and procedures adopted pursuant to those titles and the terms and conditions of any permit or approval issued pursuant to those titles of this code, and such of the code provisions specifying civil penalties not within the specific or exclusive enforcement responsibility of another official.

C. “Emergency” means a situation or civil violation which in the opinion of the code enforcement official requires immediate action to prevent or eliminate an imminent threat to the public health, safety or welfare of persons or property.

D. “Omission” means a failure to act.

E. “Person” includes any natural person, the heirs, executors, administrators or assigns, and also includes a firm, partnership or corporation, its or their successors or assigns, a governmental body, or the agent of any of the aforesaid.

F. “Stop work order” means the written order issued by the code enforcement official or other authorized enforcement official, or designee, to direct that work or activity shall be stopped until such activity is authorized to resume by the code enforcement official or other authorized enforcement official, or designee.

G. “Violation” means an act or omission contrary to requirements contained in ACC Titles [5](#), [8](#), [12](#), [13](#), [15](#), [16](#), [17](#) and/or [18](#), and Chapter [10.02](#) ACC, or such other provisions of the ACC that are enforceable pursuant to the provisions of this chapter, and/or all standards, regulations and procedures adopted pursuant to those titles and the terms and/or conditions of any permit or approval issued pursuant to those titles, and such other code provisions as are specified.

H. “Court” means the court of limited jurisdiction authorized to hear cases of the city.

I. “Property owner” means any person or persons, having legal right or interest such as a fee owner, contract purchaser, mortgagor or mortgagee, option or optionee, and beneficiary or grantor of a trust or deed of trust, but not including the grantee of an easement. (Ord. 6429 § 2, 2012; Ord. 6328 § 1, 2010; Ord. 5966 § 2, 2006; Ord. 5677 § 2, 2002; Ord. 5667 § 2, 2002; Ord. 5372 § 1, 2000; Ord. 5246 § 1 (Exh. B), 1999; Ord. 5212 § 1 (Exh. B), 1999; Ord. 4460 § 1, 1991.)

1.25.030 Notice to correct violation.

A. *Authority to Issue.*

1. Whenever the code enforcement official or other authorized enforcement official, or designee, determines that a violation is occurring or has occurred, they may issue a notice to correct the violation, in a form pursuant to subsection [C](#) of this section, to the property owner(s) and/or tenant(s) and/or to any person(s) causing or allowing or participating in the violation.
2. If a notice to correct the violation has been issued, the code enforcement official shall require the violation to be corrected within one to 15 ~~working~~ calendar days from the issuance of the notice to correct. The length of time to correct shall be determined, in the sole discretion of the code enforcement official or other authorized enforcement official, or designee, by the scope of violation, the history of prior violations by the same persons and/or at the same location and method needed to correct violation. All violations, in any event, shall be corrected expediently.

B. *Receipt of Correction Notice.*

1. Upon receipt of notice to correct violation, the violator shall either correct the violation or ask the code enforcement official for a reconsideration of the notice to correct within the time frame set out in subsection [\(B\)\(3\)](#) of this section.
2. If the violator corrects the violation, the code enforcement official shall close the violation file and notify violator of compliance.
3. The property owner and/or tenant may request reconsideration of the notice to correct violation by the code enforcement official. This request must be made in writing prior to the date on which corrections are to be completed as specified in the notice. The code enforcement official shall respond to the request for reconsideration, if timely received, no later than seven calendar days from the date the request for reconsideration was received. The code enforcement official may amend the notice (a) to correct the notice, (b) for good cause to allow for a longer time to correct the violation, (c) to amend the scope of violation, or (d) to rescind the notice. A stay of the time allowed for correction shall be in effect from the date that a request for reconsideration was received, if timely received, until the date a response to the request for reconsideration is sent.
4. If the violator corrects the violation pursuant to the reconsideration determination, the code enforcement official shall close the violation file and notify the violator of compliance.

C. *Content.* The notice to correct violation shall contain the following:

1. The name and address of the property owner and/or tenant and/or other person to whom the notice to correct violation is directed; and

2. The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
3. A description of the violation and a reference to the Auburn City Code or related provision, standard, regulation, procedure or permit which has been violated; and
4. A statement of the action required to be taken to correct the violation as determined by the code enforcement official and a date or time by which correction is to be completed; and
5. A statement that the property owner and/or tenant may request a reconsideration of the notice to correct violation by the code enforcement official and the procedures required for such request; and
6. A statement that the consequences of failing to correct the violation may result in monetary penalties and/or other enforcement requirements; and
7. A statement that the person to whom the notice to correct violation is directed shall inform the code enforcement official of the correction so an inspector can be sent to the violation premises to confirm the correction.

D. *Service of Notice.* The code enforcement official shall cause the notice to correct violation to be served on the person(s) to whom it is directed by personal service or by mailing a copy of the notice to correct violation by regular mail, postage prepaid, to such person(s) at their last known address. If the person's address is unknown, service shall be completed by mailing the notice to the address of the most recent payer of the property tax for the property, as shown in the county's records, and by posting a copy of the notice to correct violation conspicuously on the affected property or structure. Mailed notices shall be deemed received three business days after the postmark.

E. *Extension.* Upon written request received prior to the correction date or time, the code enforcement official may extend the date set for correction for good cause. The code enforcement official may consider but is not limited to the consideration of substantial completion of the necessary correction or unforeseeable circumstances which render completion impossible by the date established as good cause.

F. *Repeat Violations.* Notwithstanding the above provisions, in the case of a repeat violation, the code enforcement official or other authorized enforcement official, or designee, may issue a notice of infraction regardless of whether a notice to correct violation has been issued. For the purposes hereof, "repeat violation" means that the same person or property has been the subject of one or more notice to correct violation within the preceding 12 months. (Ord. 6708 § 1, 2018; Ord. 6615 § 5, 2016; Ord. 5966 § 3, 2006; Ord. 5677 § 2, 2002; Ord. 5246 § 1 (Exh. B), 1999; Ord. 5212 § 1 (Exh. B), 1999; Ord. 4460 § 1, 1991.)

1.25.035 Stop work order.

Whenever any work is being done or any activity is occurring which constitutes a “violation” under ACC [1.25.020\(G\)](#), the code enforcement official may order the work or activity stopped by notice in writing served on any persons engaged in the doing or causing of such work to be done or such activity to occur, and any such persons shall forthwith stop such work and/or prevent such activity until authorized by the code enforcement official or designee to proceed with the work or recommence the activity. The issuance of a stop work order is not a prerequisite for the issuance of a notice of infraction or a citation for a violation. However, it shall be a misdemeanor punishable as provided in ACC [1.24.010](#) for a person to willfully engage in the doing or causing of such work to be done after the issuance of a stop work order, until authorized by the code enforcement official or designee to proceed with the work or recommence the activity. (Ord. 5966 § 6, 2006.)

1.25.040 Notice of infraction.

Notwithstanding the provisions of ACC [1.25.030](#), whenever the code enforcement official determines that a violation has occurred, they shall be authorized to issue a notice of infraction to the property owner(s) and/or tenant(s) and/or to any person(s) causing or allowing or participating in the violation. If a violation occurs outside the official’s presence, the official shall file, according to the process described in RCW [7.80.050](#), a notice of infraction with the court of limited jurisdiction for Auburn for the court to issue to the person(s). If a violation occurs in the official’s presence, the official may issue the notice of infraction either directly to the person(s) or by filing it with the court, according to RCW [7.80.050](#). Once issued, the infraction shall be processed for court proceedings in accordance with applicable rules and procedures. (Ord. 6708 § 2, 2018; Ord. 6429 § 3, 2012; Ord. 5677 § 2, 2002; Ord. 5246 § 1 (Exh. B), 1999; Ord. 5212 § 1 (Exh. B), 1999; Ord. 4460 § 1, 1991.)

1.25.050 Penalties for infractions.

Unless otherwise specifically provided in connection with particular sections, chapters or titles of the city code, noncriminal violations of the city code shall be infractions and shall carry a maximum penalty of \$250.00. Each day, location, violator and incident shall constitute a separate civil infraction. In addition to this amount, a court of competent jurisdiction may order a person found to have committed a civil infraction to pay restitution, including the city’s reasonable enforcement and abatement costs.

It is provided, however, that if the same violator has been found, in any court of competent jurisdiction, to have previously committed an infraction violation for the same or similar conduct three or more separate times, with the infraction violations occurring at the same location and involving the same or similar sections of ACC Titles [5](#), [6](#), [8](#), [10](#), [12](#), [13](#), [15](#), [16](#), [17](#) or [18](#), or other similar code(s), any further violations shall constitute misdemeanors, punishable as provided in ACC [1.24.010](#). For the purposes hereof, it shall be prima facie evidence that the same violator has previously been found to have committed any infraction if a certified copy

of the judgment, docket or other court document showing that such violation was found committed is filed with the court. (Ord. 6615 § 6, 2016; Ord. 5837 § 2, 2004; Ord. 5677 § 2, 2002.)

1.25.060 Uncorrected violations.

In addition to any other enforcement actions available to the city, if a violation on a parcel of property is not corrected within the specified time frame of the decision of the court then no further permits or approvals shall be issued by the city on the subject parcel until all violations have been corrected, or brought into compliance with the decision of the court. (Ord. 5966 § 4, 2006; Ord. 5837 § 3, 2004; Ord. 5677 § 2, 2002.)

1.25.065 Additional penalty and enforcement provisions.

A. *Civil Penalty.* In addition to any other enforcement actions available to the city, if the code enforcement official determines that a violation has not been corrected pursuant to ACC [1.25.030](#) within the time specified in the notice to correct violation or recurs within 60 calendar days of remediation of the same violation, they are authorized to impose a civil penalty against the property owner on whose property the violation exists, and/or the person in possession of the property, and/or the person otherwise causing or responsible for the violation. The penalty shall be up to \$500.00 for the first day and \$100.00 per day for each additional full day the violation continues. In the event a violation is remediated but recurs within 60 calendar days, the city may impose a penalty that is double that of the above listed penalty amounts. Each day on which a violation or recurrence thereof continues shall constitute a separate violation. If unpaid within 14 calendar days of becoming effective, each penalty shall constitute a lien against the property of equal rank with state, county, and municipal taxes.

B. *Notice of Penalty.* The penalty shall be imposed by serving a notice of penalty. Service of the notice shall be made upon all persons identified in the notice either personally or by mailing a copy of such order by regular mail, postage prepaid. If an address for mailed service cannot be ascertained, service shall be accomplished by posting a copy of the notice conspicuously on the affected property or structure. The initial penalty shall be effective and the recurring daily penalty shall commence on the date service is effective. Service by regular mail shall be effective five calendar days after the date of postmark, unless U.S. postal records show actual receipt prior to that date. If service is by personal service, service shall be deemed effective immediately. If service is made by posting, service shall be effective on the third day following the day the notice is posted. Recurring penalties shall become effective every 24 hours after midnight of the effective date of the initial penalty if the violation is not corrected.

The notice shall contain all the information required to be placed in a notice to correct violation, under ACC [1.25.030](#), and in addition the following:

1. The amount of the initial penalty and the amount of the per day penalty for each day the violation(s) continues, and, if applicable, the conditions on which assessment of such civil penalty is contingent.
2. A statement that the recurring penalty accrues each day automatically, without further notice.
3. The procedure for appealing the penalty, as described in this chapter.
4. That if the penalties are unpaid within 10 calendar days of when they become effective, they shall become a lien on the property that shall be of equal rank with state, county and municipal taxes.

C. *Withdrawal.* The code enforcement officer may withdraw a notice of penalty if compliance is achieved, as determined by the officer, within 14 calendar days of the service date of the notice. The officer shall not withdraw a notice of penalty if it is the second notice issued by the officer to the same person for the same or similar violation committed within six months.

D. *Continued Duty to Correct.* Payment of a penalty pursuant to this chapter does not relieve a person of the duty to correct the violation as ordered by the enforcement officer. Correction of the violation does not relieve a person of the obligation to pay the penalty assessed, unless dismissed, withdrawn, or modified by the hearing examiner or the code enforcement officer.

E. *Appeal of Notice of Penalty.*

1. An assessed civil penalty may be appealed to the city hearing examiner within 14 calendar days of the penalty's effective date, in the same manner as determinations of the building official are appealed under ACC [15.07.130](#). After the 14-day period, penalties shall be final and binding. The hearing examiner may grant an extension of time for filing an appeal if the person establishes that they did not receive the notice of penalty due to good cause. The burden of proving such good cause circumstances is on the person making the claim.
2. The appeal shall be processed and the hearing conducted according to the provisions of ACC [15.07.130](#) and the provisions of that section are adopted by reference for the purpose of this chapter. The person appealing may appeal either the determination that a violation exists or the amount of the civil penalty imposed, or both. The person appealing may appeal all penalties that are not final and binding. The hearing examiner has the authority to affirm, dismiss, or modify the civil penalty. The city shall have the burden of proving by a preponderance of the evidence the commission of a violation. If the hearing examiner finds that a violation was not committed at the time the notice of penalty was issued, the examiner shall dismiss all penalties before them that were imposed for the alleged violation and the city shall dismiss all additional penalties, whether effective or final, that were imposed for the alleged violation.
3. The civil penalties for a continuing violation shall not continue to accrue pending determination of the appeal; however, the hearing examiner may impose a daily monetary penalty, to a maximum of \$100.00 per day, from the date of service of the notice of penalty if the hearing examiner finds that the appeal is

frivolous or intended solely to delay compliance. An appeal does not lift or stay a notice to correct violation.

4. A person is precluded from appealing a penalty if the hearing examiner finds that it has determined in a prior appeal all the issues of fact and law raised by the person appealing.

5. At their discretion, the hearing examiner may consolidate appeals of penalties imposed on the same property for the same violations.

F. *Cost Recovery and Lien.*

1. Any monetary penalty imposed under this chapter constitutes a personal obligation of the person served the notice of penalty. The city attorney is authorized to collect the monetary penalty by use of appropriate legal remedies, the seeking of which shall neither stay nor terminate the accrual of additional per-day penalties so long as the violation continues.

2. The city may authorize the use of collection agencies to recover monetary penalties, in which case the cost of the collection process shall be assessed in addition to the monetary penalty.

3. Once civil penalties are effective and due, pursuant to this section, the code enforcement officer may file a lien with the county auditor on the property where the violation exists for the amount of the unpaid civil penalties. The lien shall be of equal rank with state, county and municipal taxes, and shall be in similar form, be filed with the same county office, be enforced and foreclosed in the same manner, and subject to the same exemptions as state law provides for the foreclosure of labor and material liens. The claim of lien shall contain the following:

- a. The authority for imposing a civil penalty;
- b. A brief description of the civil penalty imposed, including the violations charged and the duration thereof;
- c. A legal description of the property to be charged with the lien;
- d. The name of the known or reputed owner; and
- e. The amount, including lawful and reasonable costs, for which the lien is claimed. (Ord. 6708 § 3, 2018; Ord. 6647 § 2, 2017; Ord. 6615 § 7, 2016; Ord. 6328 § 4, 2010.)

1.25.070 Abatement.

Repealed by [Ord. 6615](#). 1.25.080 Interpretation.

The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter. (Ord. 5677 § 2, 2002; Ord. 5246 § 1 (Exh. B), 1999; Ord. 5212 § 1 (Exh. B), 1999; Ord. 4460 § 1, 1991. Formerly 1.25.090.)

1.25.090 Hearing examiner.

Repealed by [Ord. 5966](#). 1.25.100 Collection enforcement and/or abatement.

In the event of failure to comply with any notice and/or stop work order, the city, at its option, may enforce collection through the civil execution process as provided in this chapter or by any method provided by law and/or ordinance and/or may abate the use of the property which is the subject of the violation through the abatement process as provided by law or ordinance. (Ord. 5677 § 2, 2002; Ord. 5246 § 1 (Exh. B), 1999; Ord. 5212 § 1 (Exh. B), 1999; Ord. 4460 § 1, 1991. Formerly 1.25.120.)

1.25.110 Additional enforcement procedures.

The provisions of this chapter are additional to other enforcement provisions authorized by state law and/or city ordinance and are additional to any other remedy available to the city for damages, redress or relief, whether in equity or law, including but not limited to actions for injunctive relief and/or abatement, to ensure and/or protect the public health, safety and welfare. (Ord. 5677 § 2, 2002; Ord. 5246 § 1 (Exh. B), 1999; Ord. 5212 § 1 (Exh. B), 1999; Ord. 4460 § 1, 1991. Formerly 1.25.130.)

1.25.120 Constitutionality or invalidity.

If any section, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of the sections, subsections, clauses or phrases. It is hereby expressly declared that each section, subsection, sentence, clause and phrase hereof would have been prepared, proposed, adopted and approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional. (Ord. 5677 § 2, 2002; Ord. 5246 § 1 (Exh. B), 1999; Ord. 5212 § 1 (Exh. B), 1999; Ord. 4460 § 1, 1991. Formerly 1.25.140.)

The Auburn City Code is current through Ordinance 6842, passed November 15, 2021.

Disclaimer: The city clerk's office has the official version of the Auburn City Code. Users should contact the city clerk's office for ordinances passed subsequent to the ordinance cited above.

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