

TITLE 8 HEALTH AND SAFETY

CHAPTER 8.16 NUISANCES

8.16.090 Appeal.

A. Any person notified to abate a public nuisance may appeal the determination of the enforcement officer to the hearing examiner. Appeal shall be made by filing a notice of appeal meeting all the requirements of SMC 2.14.100 within seven calendar days after service of notice to abate. The notice of appeal shall set forth the grounds for the appeal, shall include the address to which further notices are to be mailed, and shall comply with the other requirements of SMC 2.14.100, including payment of the appeal fee.

B. The hearing examiner shall set a hearing on the appeal for a date as soon as may be practical in the circumstances, and notice of the hearing shall be given by mail at least 10 calendar days prior to the date set. Further action on the abatement shall be stayed during the pendency of the appeal.

C. The hearing examiner shall hear and determine the appeal, and shall make findings and conclusions and issue a decision in writing pursuant to SMC 2.14.120, which shall be final and conclusive unless a petition for review is filed in the county superior court within 21 days after the findings, conclusions, and written decision are issued by the hearing examiner and transmitted to the appellant. Notice to the general public of the hearing examiner's decision on the appeal need not be published or posted under SMC 2.14.120.C.

8.16.100 Abatement by the city – Lien authorized.

A. Whenever a notice to abate a public nuisance has been given in accordance with the provisions of this chapter, and 20 days have elapsed from the date of the notice, or 30 days have elapsed from the date of the hearing examiner's decision on appeal, without the owner or responsible person having accomplished the abatement, the city may at its option proceed to abate the public nuisance.

B. In all cases of summary abatement pursuant to SMC 8.16.080 and abatement under subsection A of this section, the city's costs of investigation and abatement of the nuisance, including labor, materials and reasonable value of city equipment employed, and further including all expert consultant fees, attorney fees, hearing examiner fees, and court costs incurred by the city in connection with investigation and abatement of the nuisance, shall be a civil debt owing to the city jointly and severally by all owners or responsible persons to whom notice to abate was given, for which the city shall have a lien. In the event sums due the city under this subsection shall not be paid forthwith, or in the event the owner cannot be found, the enforcement officer shall record a notice of claim of lien in the name of the city. The notice of claim of lien shall be in the same form, and recorded with the same filing officer, and be enforced and foreclosed as provided by law for liens for labor and materials as provided in Chapter 60.04 RCW, as the same exists or may be amended at or after the effective date of the ordinance codified in this chapter.

TITLE 13 WATER, SEWERS AND PUBLIC SERVICES

CHAPTER 13.04 SEWER REGULATION

13.04.590 Sewer superintendent - Authority

The utilities director shall be the administrator of the city's sewerage system, and all instructions and decisions made by him shall be final, but appeals from such instructions or decisions may be made to the hearing examiner in writing pursuant to SMC 2.14.100. All such appeals must be filed within 14 calendar days of the appellant's receipt of the instructions or decision being appealed. The utilities director's instructions and decisions are deemed received immediately when conveyed in person or electronically, or three days after posting if sent by regular U.S. Mail or commercial courier service. Where this chapter requires approval by permission or decision of, or instruction from, the utilities director, the utilities director shall be guided solely by generally recognized engineering standards and practices, the operational demands and requirements of the sewerage system, and the peculiarities of construction, topographies, soil condition, and other relevant special factors affecting specific decisions to be made by the utilities director.

13.04.610 Violator – Subject to expenses.

Any person who violates any provision of this chapter, shall be liable to the city for any expense, loss, damage, cost of inspection, cost of investigation, or cost of correction incurred by the city by reason of such violation, including any expenses incurred by the city in collecting from such person of such loss, damage, expense, cost of inspection, cost of investigation, or cost of correction, and further including the city's reasonable attorney fees and hearing examiner costs.

13.04.640 Violations – Abatement.

Any violation of the provisions of this chapter which in the opinion of the utilities director constitutes a hazard to the public health, safety or welfare, is hereby declared to be a public nuisance, and may be abated pursuant to SMC chapter 8.16 and/or by action in the superior court. The city shall be entitled to recover its costs incurred in pursuing nuisance abatement actions to enforce this provisions of this chapter, including attorney fees and consultant or expert witness fees, in administrative and/or superior court proceedings.

CHAPTER 13.12 WATER SERVICE REGULATIONS AND RATES

13.12.900 Violations.

A. The following are declared to be unlawful and punishable as misdemeanors subject to a penalty of \$1,000 and/or imprisonment for 30 days. Each day of violation shall constitute a separate offense.

1. Making any connection to the municipal water supply system other than under the supervision of the public works department, or without paying the connection charge.
2. Turning on water service after the same has been shut off pursuant to SMC 13.12.040. If water service is turned on after the same has been shut off pursuant to SMC 13.12.040,

there shall be a rebuttable presumption that the person in whose name the utility account was established was the person who turned on the water service.

3. Failing to permit access to a meter by the public works department for the purpose of reading, inspecting or maintaining it.
4. Endangering, threatening or intimidating any public works department employee while the employee is attempting to read, inspect or maintain a meter.
5. Making any connection to or otherwise tampering with any fire hydrant, except by permit issued pursuant to SMC 13.12.025.

B. In addition to the criminal sanctions provided, the foregoing violations may be enforced through civil code enforcement or civil nuisance abatement actions, with civil monetary penalties of \$1,000 per violation. Each day of a continuing violation shall be deemed a separate violation and result in additional monetary penalties. Such violations shall also result in disconnection from the municipal water supply system, and the customer shall not be reconnected until a connection charge and all applicable penalties have been paid; provided, the customer may appeal any civil code enforcement or nuisance abatement action and related civil monetary penalties by filing a notice of appeal to the hearing examiner pursuant to SMC 2.14.100 within 14 calendar days of service of a notice of violation.

TITLE 15 BUILDINGS AND CONSTRUCTION

CHAPTER 15.18 SURFACE WATER AND STORM WATER MANAGEMENT

15.18.200 Enforcement.

The director is authorized to enforce the provisions of this chapter, the ordinances and resolutions codified in it, and any rules and regulations promulgated thereunder pursuant to the enforcement and penalty provisions. The remedies in this chapter are in addition to any other remedy provided by law.

A. General enforcement action shall be in accordance with this chapter whenever a person has violated any provision of this chapter. The choice of the specific enforcement action taken is at the discretion of the city. A progressive approach is typically implemented, but is not required, in order to assist businesses and other entities, persons, and residents in achieving and maintaining compliance with this chapter. A progressive approach emphasizes outreach, education, and technical assistance before taking further enforcement actions or assessment penalties, unless a flagrant, serious, or purposeful violation has occurred.

B. When a violation of this chapter has been committed, the following penalties may be assessed:

1. Corrective Actions. The director shall have the authority to require any and all of the following corrective actions in order to gain compliance with this chapter:

- a. Cease and desist or stop work order;
- b. Elimination of illicit connection;
- c. Abatement of any and all contaminants;
- d. Implementation of source control or treatment BMPs;
- e. Restoration of affected property, waterway, or conveyance;
- f. Other actions deemed necessary by the director.

2. Abatement by City.

a. City Action. If the violation has not been corrected within the time required by the director and pursuant to the requirements set forth in the notice of corrective action, the city may enter upon the subject premises as authorized by law, and is authorized to take any and all measures necessary to abate the violation including maintaining or repairing a component of a stormwater facility or BMP to bring it into compliance with this chapter and the Surface Water Design Manual or the Stormwater Pollution Prevention Manual. It shall be unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the city or designated contractor to enter upon the premises for the purposes set forth above and the city may pursue any lawful remedy at its disposal.

b. Recovering Cost of Abatement. If a person is found in violation of this chapter, the city shall be entitled to recover, in addition to any monetary penalties, all abatement costs, including investigation costs, city staff time, sampling and monitoring costs, attorney's

fees, court costs, expert witness and consultant fees, and other expenses associated with enforcement of the provisions of this chapter.

3. Civil Penalties. Any person found to be in violation of this chapter shall be liable for cumulative civil penalties in the following amounts: \$250.00 for the first violation; \$500.00 for the second violation; and \$1,000 per violation for the third and all additional violations. Civil penalties shall constitute a personal obligation of the person against whom the penalties were imposed. An assessed civil penalty must be paid to the city. The penalty may be increased by the city if the violation is flagrant, serious, or purposeful or results in an economic benefit to the violator.

4. Criminal Penalties. Any person found to be in violation of this chapter may be subject to criminal penalties, as prescribed by state law, RCW 90.48.140.

C. Any person who objects to a final order of the city under this section may file an appeal to the city hearing examiner. The person shall file an appeal in accordance with SMC 2.14.100 with the city clerk within 14 days of the date of the order.

TITLE 17 ZONING

CHAPTER 17.05 GENERAL PROVISIONS

17.05.100 Administration and enforcement.

The director, as the duly authorized representative of the mayor, is charged with the responsibility of carrying out the provisions of the zoning code. He/she may be provided with the assistance of such other persons as the mayor may direct. The director shall administer the zoning ordinance as follows:

A. Interpretations. All interpretations of this title shall be made by the director or his/her delegate. All interpretations shall be reduced to writing and an orderly, retrievable record shall be kept.

B. Certificate of Zoning Compliance – Performance Bond. No building or structure shall be occupied, and no land shall be used nor shall any use regulated by this code be changed, until the director shall have issued a certificate of zoning compliance, certifying that the use complies with the requirements of this code, and all conditions imposed upon such use have been satisfied or that a bond or other equivalent security has been posted to secure performance of such conditions. The performance bond, or equivalent, shall be in a form acceptable to the city attorney, and shall be in the amount of 150 percent of the estimated cost of satisfying all remaining conditions.

C. Enforcement. The director, or his/her delegate, shall be responsible for taking any action necessary to enforce this title. If the director shall find that any of the provisions are being violated, he/she may notify the person responsible and seek voluntary compliance, or in appropriate cases issue a cease and desist order to the person responsible for such violation, indicating the nature of the violation, ordering the responsible person to cease and desist from such violation, setting forth the action necessary to correct the violation and establishing a date certain for such action to be taken. The cease and desist order shall require the discontinuance of illegal use of land, buildings, or structures; removal of illegal buildings or structures; or of additions, alterations, or structural changes thereto; discontinuance of any illegal work being done; or shall take any other action authorized by this title to ensure compliance with or prevent violations of its provisions. Willful violation of a cease and desist order shall constitute a misdemeanor. Violation of a cease and desist order shall be deemed willful if such violation shall continue with knowledge of the contents of such order, provided, the cease and desist order shall be stayed during the pendency of any appeal thereof as provided in Chapter 14.40 SMC.

D. Filing of Complaints. Whenever a violation of this title occurs, any person may file a complaint in regard thereto. All such complaints must be in writing, and shall be filed with the director who shall properly record such complaint, conduct a preliminary investigation and take such other action as he/she deems necessary.

E. Penalty and Cost Recovery. Any person who violates the provisions of this title or fails to comply with any of its requirements shall be liable for a civil monetary penalty of \$250.00 per violation. Each day such violation continues shall be considered a separate offense and subjects the person to additional penalties. The city shall, in addition to any civil penalties, be entitled to recover its actual costs of investigating, reviewing, processing, and taking measures

to enforce or correct any violations of this chapter, including without limitation all staff time, attorney fees and costs, consultant fees and costs, hearing examiner fees, witness fees and costs, and court costs, and further including all such fees and costs incurred in any administrative, judicial, or appellate proceedings. Nothing herein contained shall prevent the city from seeking such other legal or equitable remedies as may be available to prevent or remedy any violation. Responsibility for violations of this chapter is joint and several, and the code enforcement officer is authorized, but is not required, to take remedial action against any and all persons who may be responsible for a violation.