

1 **PLANNING COMMISSION – PUBLIC HEARING DRAFT**  
2 **Draft Code Compliance Amendment**  
3 **May 21, 2018**  
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6 Chapter 1.16  
7 ENFORCEMENT PROVISIONS

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9 **1.16.020 Violation of ordinance provision – A misdemeanor, gross misdemeanor or traffic**  
10 **infraction.**

11 A. The violation of any provision of any ordinance or code provision is a misdemeanor unless specifically  
12 designated as a gross misdemeanor, [civil violation](#), ~~or~~ traffic infraction, [or civil infraction](#). Each violation  
13 may be prosecuted by the city in the name of the people of the state or the city, or may be redressed by  
14 civil action at the option of the city, or both.

15 B. The maximum penalty for a violation designated as a misdemeanor or as a gross misdemeanor is the  
16 maximum penalty set forth in RCW 35A.11.020, or as amended.

17 C. The maximum penalty for a violation designated as a traffic infraction is a fine not to exceed \$500  
18 except where another penalty is provided for by state statute or city code provision.

19 D. Each day a violation is committed or permitted to continue shall constitute a separate offense and shall  
20 be punishable as such. (Ord. A-87 § 2, 1991; added during 1980 codification).

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10 **[6.10.010](#)**

11 **[A. Purpose and Intent](#)**

12 [The purpose of this title is to ensure compliance with the City’s adopted building, land development,](#)  
 13 [land use, nuisance and related codes as specified in subsection B, enabling the City to fulfil its duty to](#)  
 14 [protect the health, safety and welfare of the public. These regulations establish procedures and](#)  
 15 [mechanisms to resolve violations of the City’s adopted building, land development, land use, nuisance,](#)  
 16 [and related codes. Chapter 6.10 MICC establishes penalties for violations, provides an opportunity for a](#)  
 17 [prompt hearing, decision, and appeal as to alleged code violations, provides for abatement when](#)  
 18 [necessary, and provides a mechanism to recover the City’s costs. This chapter shall be enforced for the](#)  
 19 [benefit of the general public, not for the benefit of any particular person or class of persons.](#)

20 [It is the intent of this title to place the obligation for code compliance on the person responsible for a](#)  
 21 [violation, within the scope of this title, and not to impose any duty upon the City or any of its officers,](#)  
 22 [officials or employees, which would subject them to damages in a civil action.](#)

23 **[B. Scope](#)**

24 [This chapter may be applied for the purposes of enforcing the Mercer Island City Code \(MICC\) Chapter](#)  
 25 [8.24 Nuisance Control Code, Title 15 Water, Sewers and Public Utilities, Title 17 Construction Codes,](#)  
 26 [Title 19 Unified Land Development Code, and other codes, ordinances, resolutions, permit conditions, or](#)  
 27 [public rules that promote or protect the public health, safety or welfare and the environment. The](#)  
 28 [provisions of this chapter are not exclusive and may be used, to the fullest extent permitted by law, in](#)  
 29 [addition to other applicable provisions of the Mercer Island City Code or other applicable law or](#)  
 30 [regulation.](#)

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32 **[6.10.020 GENERAL PROVISIONS](#)**

33 **[A. Declaration of Public Nuisance](#)**

34 [All code violations are determined to be detrimental to the public health, safety, welfare and](#)  
 35 [environment, and are declared to be public nuisances. All conditions determined to be code violations](#)  
 36 [may be subject to and enforced pursuant to the provisions of this title, except where specifically](#)  
 37 [excluded by law or regulation.](#)

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## B. Authority and Approach

The director is authorized to enforce the provisions of the MICC Chapter 8.24 Nuisance Control Code, Title 15 Water, Sewers and Public Utilities, Title 17 Construction Codes, Title 19 Unified Land Development Code, and other codes, ordinances, resolutions, or public rules that promote or protect the public health, safety or welfare and the environment. The violation of any regulation is unlawful, and the director may take reasonable action to bring about compliance through the use of the provisions of this chapter and any other applicable provisions of the Mercer Island City Code, including but not limited to the revocation or modification of permits, and/or through the enforcement, penalty and abatement provisions described in this chapter.

Code compliance actions will be pursued at the discretion of the director primarily in a complaint driven manner. Responses to complaints or evidence of a civil violation shall be prioritized based on significance and severity, with potential violations concerning health, safety and welfare of the public or damage to the environment receiving highest priority.

After a complaint has been investigated, the director will determine the course of action. If a violation is present, the City may pursue compliance with City codes through the provisions of this chapter. The director shall have discretion to follow an incremental approach to securing compliance. This means starting by contacting the person responsible, explaining the violation and requesting voluntary correction. The director has the authority to reasonably determine the level of compliance, mitigation or remediation that is required as well as a reasonable timeline for completing the required actions. When appropriate, the director may secure compliance by proceeding incrementally to higher penalty levels by using the techniques and options in this title. Likewise, the director has the authority to offer reasonable extensions of timelines or other measures as appropriate when extenuating circumstances are present.

Alternatively, in the course of the investigation, the director may determine: a) no violation exists; or b) the basis of the issue is private in nature; or c) the violation is *de minimus*. In which case, the director may decide to take no further action. Further, the director may find that a complaint or series of complaints between two or more individuals are frivolous, excessive and/or a form of harassment. In this case, the director may work with the complainant(s) to identify alternative means of dispute resolution (e.g. mediation), and may, under consultation with the City Attorney, choose to limit communication with complainants and responses to complaints that are frivolous or excessive. The City does not intend to ignore complaints and will continue to investigate subsequent, unrelated complaints from the complainant.

Nothing in this section shall preclude the director from taking other appropriate enforcement action to preclude harm to the health, safety or welfare of the public or the environment.

## C. Duty to Comply

It shall be the responsibility of any responsible person to cure the violation, and if property is involved, to bring the property into compliance. Payment of fines, applications for permits, acknowledgment of stop work orders, and compliance with other remedies does not substitute for performing the corrective work required and having the property brought into compliance to the maximum extent reasonably

1 possible under the circumstances. The date set for compliance in the notice of violation takes  
 2 precedence over any date established for the expiration of any required permit(s) and will be  
 3 subordinate only if modified by a supplemental notice of violation.

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 5 The responsible person has a duty to notify the director of any actions taken to achieve compliance. A  
 6 violation shall be considered ongoing until the responsible person has come into compliance and has  
 7 notified the director of this compliance, and an official inspection has verified compliance and all  
 8 assessed penalties and costs have been paid to the City.

9  
 10 **D. Additional Enforcement Provisions**

11 The procedures set forth in this chapter are not exclusive. These procedures shall not in any manner  
 12 limit or restrict the City from remedying or abating code violations in any other manner authorized by  
 13 law.

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 15 **6.10.030 RIGHT OF ENTRY**

16 The director is authorized to enter any property or premises at any reasonable time to determine  
 17 whether a civil violation has occurred or is occurring, or to enforce any provision of the Mercer Island  
 18 City Code or any City ordinance, violation of which is a civil violation under this title and could be a  
 19 criminal violation under the Mercer Island City Code, or to perform follow up inspections related to such  
 20 a violation. The director may make examinations, surveys, and studies as may be necessary in the  
 21 performance of his or her duties. These may include, but are not limited to, the taking of photographs,  
 22 digital images, videotapes, video images, audio recordings, samples, or other physical evidence. If the  
 23 property or premises is occupied, the director shall first present credentials and request entry. If an  
 24 owner, occupant, or agent refuses entry, the City may apply to a court of competent jurisdiction for a  
 25 search warrant authorizing access.

26 **6.10.040 SERVICE OF WRITTEN NOTICE**

27 Service of a notice of violation, stop work order, infraction or other official written notice of violation  
 28 issued by the director shall be made by one of the following methods:

29 (a) Personal service. By personal service to the person responsible for the code violation, or by leaving a  
 30 copy of the written notice at such person’s place of residence with a person of suitable age and  
 31 discretion who resides therein, or by leaving it at such person’s place of employment with a person in  
 32 charge.

33 (b) Service by posting. By posting the written notice in a conspicuous place on the property where the  
 34 violation occurred and concurrently sending a notice either by electronic mail or by first class mail.

35 (c) Service by mail. By mailing the written notice by regular first class mail, to the person responsible for  
 36 the code violation at his, her or its last known address, at the address of the violation, or at the address  
 37 of the place of business of the person responsible for the code violation. The taxpayer’s address as  
 38 shown on the tax records of the county shall be deemed to be the proper address for the purpose of  
 39 mailing such notice to the landowner of the property where the violation occurred. Service by mail shall  
 40 be presumed effective upon the third business day following the day upon which the official written  
 41 notice of violation was placed in the mail.

1 (d) Service by publication. For notice of violation only, when the address of the person responsible for  
 2 the code violation cannot reasonably be determined, service may be made by publishing the abstract of  
 3 the notice of violation substantially in the manner as set forth in RCW 4.28.110, as currently enacted or  
 4 hereafter amended.

5 The failure of the director to make or attempt service of written notice shall not invalidate any  
 6 proceedings as to any other person duly served.

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 8 **6.10.050 ENFORCEMENT PROVISIONS**

9 Violations may be enforced by issuing one or more civil infractions or one or more notices of violation or  
 10 any combination thereof. The City shall have discretionary authority to enforce a violation by issuing a  
 11 civil infraction or a notice of violation pursuant to this chapter, or prosecuting it as a criminal matter.

12 Each day during which a code violation is committed, occurs or continues shall be considered a separate  
 13 offense for purposes of civil infractions or notices of violation.

14 **A. Misdemeanors**

15 Any person who willfully or knowingly causes, aids or abets a code violation by any act of commission or  
 16 omission is guilty of a misdemeanor, unless specifically designated as a gross misdemeanor, where such  
 17 code violation results, or is likely to result, in a threat to public health, life, or safety or in significant  
 18 harm to the environment. Upon conviction, the person shall be punished by a fine not to exceed \$1,000  
 19 and/or imprisonment in the County jail for a term not to exceed 90 days.

20 **B. Code Violations**

21 Whenever the director has reason to determine that a code violation occurred or is occurring, or that  
 22 the code violations cited in an infraction have not been corrected, or that the terms of a Voluntary  
 23 Correction Agreement have not been met, the director is authorized to issue a notice of violation to any  
 24 person responsible for the code violation.

25 Subsequent violations shall be treated as new violations for purposes of this section.

26 **1. Notice of Violation**

27 A notice of violation shall be completed in a form approved by the director and the City Attorney, and  
 28 shall be served consistent with MICC 6.10.040 and shall, at minimum, include the following:

29 (a) The tax parcel number(s), address, when available, or description sufficient for identification of the  
 30 building, structure, premises or land upon which or within which the violation has occurred or is  
 31 occurring;

32 (b) A statement of each ordinance, regulation, code provision or permit requirement violated, and the  
 33 facts to support that the violation(s) occurred or is occurring;

34 (c) The name of the City official issuing the notice and order and the name(s), if known, of the  
 35 responsible party(ies) to whom the notice and order is being issued;

36 (d) An order requiring corrective action to be taken; description of corrective action that is necessary to  
 37 achieve compliance; and a date by which the correction must be completed;

1 (e) A statement that if the violation is not corrected and the notice is not appealed, the determination is  
 2 final and monetary penalties shall be due;

3 (f) The amount of penalty that will be assessed; and

4 (g) A statement advising of the right to appeal the notice of violation to the hearing examiner,  
 5 instructions on how to file an appeal, and the date by which it must be filed.

6 **2. Supplementation, revocation or modification**

7 Whenever there is new information or a change in circumstances, the director may add to, rescind in  
 8 whole or in part or otherwise modify a notice of violation by issuing a supplemental notice of violation.  
 9 The supplemental notice shall be governed by the same procedures applicable to all notices of violation  
 10 contained in this title, including the right to appeal to the hearing examiner. In addition, the director is  
 11 authorized to issue penalties accrued as a part of the supplemental notice of violation. If the deadline to  
 12 appeal the notice of violation has expired, only portions from the notice of violation that are modified in  
 13 the supplemental notice of violation are subject to appeal to the hearing examiner.

14 **3. Failure to correct**

15 Failure to correct the code violation in the manner prescribed in the notice of violation subjects the  
 16 person responsible to any of the following compliance remedies:

- 17 a. civil penalties and costs;
- 18 b. continued responsibility for abatement, remediation and/or mitigation;
- 19 c. permit suspension, revocation, modification and/or denial;
- 20 d. costs of abatement incurred by the City; and/or
- 21 e. other remedies that may be available to the City.

22 **4. Time Limits**

23 (a) Persons receiving a notice of violation shall rectify the code violations identified within the time  
 24 period specified by the director in the notice of violation issued pursuant to this chapter.

25 (b) Unless an appeal is filed with the City for a hearing before the hearing examiner in accordance with  
 26 the provisions of this chapter, the notice of violation shall become the final administrative order of the  
 27 director, and the civil penalties assessed and accrued shall be immediately due and subject to  
 28 collection.

29 **5. Appeals**

30 Any person identified in a notice of violation (or supplemental notice of violation) as a person  
 31 responsible for a violation may appeal the same within 14 days of service, according to the procedures  
 32 described in MICC 6.10.090. Failure to appeal the notice within 14 days shall render the notice a final  
 33 determination that the conditions described therein existed and constitutes a code violation, assessed  
 34 and accrued civil penalties are due, and that the named party is liable as a person responsible.

35 **6. Recording**

(1) Whenever a code violation is related to a condition on real property, and a notice of violation is served on a responsible party who owns said property, the City may record a copy of the notice with the King County recorder’s office, or its successor agency.

(2) When all violations specified in the notice of violation have been corrected or abated, the director shall record within a reasonable time a release of notice with the King County recorder’s office, or its successor agency, if the underlying notice was recorded.

**C. Civil Infractions**

Whenever the director has reason to determine that a civil code violation occurred or is occurring, the director is authorized to issue a civil infraction in accordance with chapter 7.80 RCW, which is incorporated herein by this reference, upon the person responsible for the condition and or who committed the civil code violation. First offenses shall be class 2 civil infractions, for which the maximum penalty and the default amount shall be \$125 for each infraction, and second or subsequent violations shall be class 1 civil infractions, for which the maximum penalty and the default amount shall be \$250 for each infraction, not including fees, costs, and assessments. The Mercer Island Municipal Court shall have jurisdiction over all infractions issued under this chapter.

**D. Civil Penalties**

**1. Civil Penalties**

A civil penalty for violation of the terms and conditions of a notice of violation, stop work order or voluntary correction agreement shall be imposed at the rate of \$100 per day for each violation, accruing for every day after the compliance date listed in the notice of violation. Thirty days after the compliance date, the penalty will increase to a rate of \$250 per day for each violation. Sixty days after the compliance date, the penalty will increase to a rate of \$500 per day for each violation, up to a maximum total penalty of \$50,000 for each violation.

**2. Priority Violations**

In addition to the penalties described above in Section A, any person that is responsible for a violation of the provisions of the following regulations will be subject to additional penalties. These penalties for priority violations will be assessed one time, will not accrue daily and are not subject to any maximum, as described below:

<b>Violation</b>	<b>Penalty</b>
<u>Damage or removal of trees in violation of chapter 19.10 MICC</u>	<u>Triple the value of the cut or damaged tree, plus the cost of remediation. See MICC 19.10.160 for details.</u>
<u>Ecological damage in violation of chapter 19.07 MICC</u>	<u>Up to \$25,000, plus the cost of remediation.</u>
<u>Failure to meet storm water, erosion control requirements in violation of chapter 15.09 MICC</u>	<u>Up to \$10,000, plus the cost of remediation.</u>
<u>Fat, oil, grease discharge in violation of chapter 15.06 MICC</u>	<u>Up to \$10,000, plus the cost of remediation.</u>

<p><u>Violation of stop work order or voluntary compliance agreement in violation of sections 6.10.060 or 6.10.070 MICC</u></p>	<p><u>Up to \$10,000</u></p>
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When the potential penalty amount is listed as a range, the director will set the penalty based on the following criteria:

- a) The significance and severity of the violation and its impact on the public and the environment.
- b) The difficulty and time involved in resolving the violation and mitigating or remediating the area impacted by the violation.
- c) The resulting ill-gotten economic benefit and savings of construction costs realized by the person responsible for the violation.

**3. Repeat Violations**

A repeat violation is a violation that has occurred on the same property or that has been committed by the same person responsible elsewhere within the city, for which voluntary compliance previously has been agreed to or any enforcement action taken that was not timely appealed or if appealed, the appeal was dismissed, within the previous 36-month period. (For purposes of this subsection, repeat violation does not include each day in violation being counted as a separate violation.) To constitute a repeat violation, the violation need not be the same violation as the prior violation. Violation of a written order of the hearing examiner that has been served as provided in this chapter shall also constitute a repeat violation. Repeat violations will incur double the civil penalties set forth in Sections A and B, above. If violations are repeated a third or subsequent time within a 36-month period, the penalties will be five times those set forth above. The City also has authority to suspend or revoke a business license when a responsible party is repeatedly doing work in violation of city regulations (chapter 5.01 MICC).

**4. Deliberate Violation**

If a violation was deliberate, the result of blatant disregard for direction from the City or knowingly false information submitted by the property owner, agent or their contractor, civil penalties will be incurred at double those set forth above in Sections A, B and C.

**5. Voluntary compliance**

The director may reduce penalties at their discretion, if voluntary compliance is achieved. The remaining penalty should reflect the significance and severity of the violation, whether or not the violation was deliberate, and the costs incurred by the City in enforcing a notice of violation, stop work order, or voluntary compliance agreement.

**E. Suspension, Revocation or Limitation of a Permit**

The director may suspend, revoke or limit any permit issued whenever:

- a. The permit holder has committed a code violation in the course of performing activities subject to that permit;

1 b. The permit holder has interfered with the director in the performance of his or her duties  
 2 relating to that permit;

3 c. The permit was issued in error or on the basis of materially incorrect information supplied to  
 4 the City by the permit holder; or

5 d. Permit fees or costs were paid to the City by check and returned from a financial institution  
 6 marked nonsufficient funds (NSF) or cancelled.

7 Such suspension, revocation or modification shall be carried out through the civil violation provisions of  
 8 this chapter and shall be effective upon the compliance date established by the notice of violation. Such  
 9 revocation, suspension or cancellation may be appealed to the hearing examiner using the appeal  
 10 provisions of this chapter. Notwithstanding any provision of this chapter, the director may immediately  
 11 suspend operations under any permit by issuing a stop work order.

12 **F. Hold on Future Permits**

13 The director may place a hold on the issuance of future permits on a property if:

14 a. A notice of violation or stop work order has been issued, and

15 b. The appeal period has passed, or an appeal was brought but it was dismissed, and

16 c. The violation has not been corrected and/or penalties or fines have not been paid, and

17 d. The permits relate to the violation.

18 A hold on future permits will prevent the issuance of any land use or building permit for the subject  
 19 property, and for the person responsible on any other property within the City, until the violation is  
 20 resolved, corrective actions are taken and penalties are paid. The director may use their discretion to  
 21 issue exceptions to this subsection for emergencies or hazardous situations, or other situation they  
 22 deem reasonable.

23 **G. Notice on Title**

24 The director may file a notice with the King County recorder’s office, or its successor agency, if:

25 a. A notice of violation or stop work order has been issued, and

26 b. The appeal period has passed, or an appeal was brought but it was dismissed, and

27 c. The violation has not been corrected and/or penalties or fines have not been paid, and

28 d. The violation relates to real property owned by the responsible party.

29 The notice shall inform the public of the presence of an unresolved notice of violation or stop work  
 30 order on the subject property.

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 32 **6.10.060 VOLUNTARY COMPLIANCE AGREEMENTS**

33 **A. Timing**

34 A voluntary compliance agreement (VCA) may be used to resolve code compliance cases, and may be  
 35 entered into at any time before an administrative appeal is decided.

36 **B. Contents**

37 A VCA is a written contract between the person responsible for the violation and the City, where such  
 38 person agrees to abate the violation within a specified time and according to specified conditions. The

VCA shall be completed on a form approved by the director and the City Attorney and shall, at minimum, include the following:

- (1) The name and address of the person responsible;
- (2) The street address or other description sufficient for identification of the building, structure, premises, or land upon which the violation has occurred or is occurring;
- (3) A description of the violation(s) and a reference to the code(s) which has been violated;
- (4) The necessary corrective action to be taken, and the date by which the correction must be completed;
- (5) An agreement by the person responsible that the City may inspect the premises as may be necessary to determine compliance with the VCA;
- (6) The reduced amount of the civil penalty, if any, that the person responsible is agreeing to pay to the City for the violation;
- (7) A statement that the person responsible acknowledges that the violation occurred as described in the VCA and waives the right to an administrative or judicial hearing for appeal purposes; and
- (8) An agreement by the person responsible that if the City determines that such person does not meet his or her obligations specified in the VCA, the City may impose any remedy authorized by this chapter, including, but not limited to:
  - (a) Assessment of civil penalties;
  - (b) Abatement of the violation;
  - (c) Assessment of all costs and expenses incurred by the City to pursue code enforcement and to abate the violation, including legal and incidental expenses; and
  - (d) Suspension, revocation, or limitation of a permit.

**C. Waiver of Appeal**

In consideration of the City’s agreement to enter into a VCA, the person responsible shall completely surrender and have no right to an administrative or judicial hearing, under this chapter or otherwise, regarding the matter of the violation and/or the required corrective action. The VCA is a final, binding agreement, it is not a settlement agreement, and its contents are not subject to appeal.

**D. Amendment**

The director may amend a VCA to grant an extension of the time limit for compliance, or a modification of the required corrective action, if the person responsible has shown due diligence and/or substantial progress in correcting the violation but unforeseen circumstances or circumstances beyond the control of the person responsible, render full and timely compliance under the original conditions unattainable. Such request shall be made in writing by the person responsible and clearly establish the need for such an amendment.

**6.10.070 STOP WORK ORDERS**

**A. Issuance**

The director shall issue a stop work order if the director finds that:

1. The work is not authorized by a valid permit or inaccurate information was used to obtain the permit; or
2. The permittee is not complying with the terms or conditions of the permit or approved plans, including storm water management and erosion control requirements, conditions of a seasonal development deviation, tree protection, construction impact mitigation plan; or
3. Previously unknown contamination of site soils from hazardous materials is encountered and poses a potential risk to human health and the environment; or
4. Adverse weather is causing significant problems on or off site; or
5. The work is adversely affecting the public health, safety, or welfare; or
6. The work is a hazard to property or is adversely affecting, or could adversely affect, adjacent property including: a right-of-way, a drainage way, a watercourse, an environmentally critical area, a storm water facility or a storm water treatment and flow control BMP; or
7. Otherwise materially impairs the director’s ability to secure compliance with the Mercer Island City Code.

The stop work order shall state the reasons for the order, specify the violation(s) and prohibit any work or other activity at the site. The stop work order may be appended to, or incorporate by reference, a notice of violation. However, issuance of a notice of violation is not a condition precedent to the issuance of a stop work order. A stop work order shall be served consistent with MICC 6.10.040 and shall take effect immediately upon service.

**B. Effect**

When a stop work order has been issued, posted and/or served pursuant to this section, it is unlawful to conduct the activity or perform the work covered by the order, even if the order has been appealed, until the director has removed the copy of the order, if posted, and issued written authorization for the activity or work to be resumed. Any violation of a stop work order is hereby declared to be a nuisance and the director is authorized to enjoin or abate such nuisance by any legal or equitable means available. The costs, specifically including reasonable attorney and expert witness fees, for the injunction or abatement, shall be recovered by the City from the person responsible for the code violation in the manner provided by law. Failure to comply with the terms of a stop work order subjects the person responsible for the code violation to civil penalties and costs as set forth in this chapter, including a monetary penalty that shall accrue for each day that a violation of a stop work order occurs.

**C. Appeal**

A stop work order may be appealed according to the procedures prescribed by MICC 6.10.090. During any such appeal, the stop work order shall remain in effect. Failure to appeal the stop work order within the applicable time limits renders the stop work order a final determination that the civil code violation occurred and that work was properly ordered to cease.

**D. Removal of a Stop Work Order**

1 When a stop work order has been posted in conformity with the requirements of this chapter, removal  
 2 of such order without the authorization of the City, or the hearing examiner if the matter has been  
 3 heard by the hearing examiner, is unlawful and a violation. The director will remove the stop work  
 4 order and write a letter of authorization to resume work only when the director finds that the reason for  
 5 the order has been resolved or abated.

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 7 **6.10.080 ABATEMENT**

8 **A. Abatement**

9 Upon consultation with the City Attorney and prior approval by the City Manager, the City may abate a  
 10 condition which was caused by or continues to be a code violation when:

11 (a) The terms of the Voluntary Correction Agreement pursuant to this chapter have not been met;  
 12 or

13 (b) A notice of violation or stop work order has been issued, the period for filing an appeal with  
 14 the hearing examiner has expired, and the required correction has not been completed; or

15 (c) A notice of violation or stop work order has been issued, a timely appeal was filed, the  
 16 appellant failed to appear at the scheduled hearing or a hearing was held as provided in this  
 17 chapter and the required correction has not been completed by the date specified by an order of  
 18 the hearing examiner; or

19 (d) The condition is subject to abatement as provided for in this chapter or other provisions of City  
 20 or state law.

21 **B. Summary Abatement**

22 Other provisions in this chapter notwithstanding, when a code violation causes a condition, the  
 23 continued existence of which constitutes an immediate and emergent threat to the public health, safety,  
 24 or welfare or to the environment, the City may summarily, and without prior notice to the person  
 25 responsible, abate the condition. Notice of such abatement, including the reason for it, shall be given to  
 26 the person responsible for the violation as soon as reasonably possible after the abatement.

27 **C. Authorized Action by the City**

28 Using any lawful means, the City may enter upon the subject property and may remove or correct the  
 29 condition which is subject to abatement. The City may seek judicial process as it deems necessary to  
 30 effect the removal or correction of such condition.

31 **D. No Cause of Action Against City**

32 No cause of action shall lie against the City or its agents, officers, or employees for actions reasonably  
 33 taken, or not taken, to prevent or cure any immediate threats.

34  
 35 **6.10.090 APPEALS**

36 **A. Administrative Appeal – Filing Requirements**

1 Persons named in a notice of violation or stop work order, or any owner of the land where the violation  
2 for which such a notice or order is issued, may file with the City Clerk a notice of appeal within 14 days  
3 of the service of the notice or order. The notice of appeal shall be made in writing using the appropriate  
4 City form, clearly explaining the basis for the appeal, and shall include the applicable appeal fee as  
5 established in a fee schedule adopted by the Mercer Island City Council.

#### 6 **B. Administrative Appeal – Procedures**

- 7 1. Upon receipt of the appeal, the City shall schedule an appeal hearing before the hearing examiner.  
8 The hearing shall be conducted in accordance with the procedures set forth in MICC 3.40 and the  
9 rules of procedure of the hearing examiner.
- 10 2. Enforcement of a notice of violation issued pursuant to this chapter shall be stayed as to the  
11 appealing party during the pendency of any administrative appeal under this section, except when  
12 the director determines that the violation poses a significant threat of immediate and/or irreparable  
13 harm and so states in any notice issued.
- 14 3. Enforcement of a stop work order issued pursuant to this chapter shall not be stayed during the  
15 pendency of any administrative appeal under this section.
- 16 4. When multiple stop work orders or notices of violation have been issued for any set of related facts  
17 constituting various violations, their appeals may be consolidated.

#### 18 **C. Administrative Appeal – Final Order**

- 19 1. Following review of the evidence submitted, if the examiner finds that no violation has occurred, the  
20 hearing examiner shall uphold the appeal and reverse the notice of violation or stop order. If the  
21 hearing examiner finds that a violation has occurred, the hearing examiner shall issue an order to  
22 the person responsible for the violation which includes the following information:
  - 23 (a) The decision regarding the alleged violation including findings of fact and conclusions based  
24 thereon in support of the decision;
  - 25 (b) The required corrective action;
  - 26 (c) The date by which the correction must be completed; and
  - 27 (d) The civil penalties assessed based on the provisions of this chapter and the fee resolution;
- 28
- 29 2. If an owner of property where a violation has occurred has affirmatively demonstrated that the  
30 violation was caused by another person or entity not the agent of the property owner and without  
31 the property owner's knowledge or consent, such property owner shall be responsible only for  
32 abatement of the violation.

#### 34 **D. Effect of Decision**

35 The decision of the hearing examiner shall constitute the final decision of the City, and the failure to  
36 comply with the decision of the hearing examiner, unless the decision is appealed to a court of  
37 competent jurisdiction, shall constitute a misdemeanor punishable by a fine of not more than \$1,000 or  
38 up to 90 days' imprisonment, or both. In addition to criminal punishment pursuant to this section, the  
39 City may pursue collection and abatement as authorized by law.

1  
2 **6.10.100 RECOVERY OF PENALTIES AND COSTS**

3 **A. Payment**

4 Any monetary penalties or costs assessed pursuant to this chapter constitute a personal obligation of  
5 the person responsible for the violation. In addition, the monetary penalties or costs assessed pursuant  
6 to this chapter may be assessed against the property that is the subject of the enforcement action. The  
7 City Attorney is authorized to collect the monetary penalty or costs by use of appropriate legal  
8 remedies, the seeking or granting of which shall neither stay nor terminate the accrual of additional per  
9 diem monetary penalties so long as the violation continues.

10 **B. Recovery of Costs**

11 All reasonable expenses incurred by the City in abating a violation shall be billed to the person  
12 responsible for the violation and shall become due and payable to the City within 30 calendar days from  
13 the date of the bill. Such costs may include, but are not limited to, the following:

14 1. "Legal expenses," which shall include, but are not limited to:

15 (a) Personnel costs, both direct and indirect, including attorney's fees and all costs incurred by the  
16 City Attorney's office or its designee;

17 (b) Actual and incidental expenses and costs incurred by the City in preparing notices, contracts,  
18 court pleadings, and all other necessary documents; and

19 (c) All costs associated with retention and use of expert witnesses or consultants.

20 2. "Abatement expenses," which shall include, but are not limited to:

21 (a) Costs incurred by the City for preparation of notices, contracts, and related documents;

22 (b) All costs associated with inspection of the abated property and monitoring of said property  
23 consistent with orders of compliance issued by the City's hearing examiner or a court of competent  
24 jurisdiction;

25 (c) All costs incurred by the City for hauling, storage, disposal, or removal of vegetation, trash,  
26 debris, dangerous structures or structures unfit for occupancy, potential vermin habitat or fire  
27 hazards, junk vehicles, obstructions to public rights-of-way, and setback obstructions;

28 (d) All costs incurred by law enforcement or related enforcement agencies;

29 (e) All costs incurred by the City during abatement of nuisance and code violations may include  
30 interest in an amount as prescribed by law; and

31 The city manager or designee, or the hearing examiner, may in their discretion waive in whole or part  
32 the assessment of any costs upon a showing that abatement has occurred or is no longer necessary or  
33 that the costs would cause a significant financial hardship for the person responsible for the violation.  
34 Any challenge to the amount of the legal or abatement costs must be made within 14 days of issuance  
35 of the bill and shall be heard by the hearing examiner. The hearing examiner shall make a determination  
36 as to whether or not the city's costs were accurate and necessary for correcting the violation.

37 **C. Use of Collection Agency**

1 Pursuant to RCW 19.16.500, as currently enacted or hereafter amended, the City may, at its discretion,  
2 use a collection agency for the purposes of collecting penalties and costs assessed pursuant to this  
3 chapter. The collection agency may add fees or interest charges to the original amount assigned to  
4 collections as allowed by law.

#### 5 **D. Continuing Duty to Abate Violations**

6 Payment of a monetary penalty or costs pursuant to this chapter does not relieve the person  
7 responsible for the violation of the duty to correct or abate the violation. Additional notices of violation  
8 may be issued and/or criminal charges filed for continuing failure to correct or abate a violation.

#### 9 10 **6.10.110 DEFINITIONS**

11 Except where specifically defined in this section, all words used in this title shall carry their customary  
12 meanings. The word “shall” is always mandatory, and the word “may” denotes a use of discretion in  
13 making a decision. The following words and phrases used in this title shall have the following meanings:

14 “Abate” means to take whatever steps are deemed necessary in the interest of the general health,  
15 safety, and welfare of the City by the director to return a property to the condition in which it existed  
16 before a civil code violation occurred or to assure that the property complies with applicable code  
17 requirements. Abatement may include, but is not limited to, rehabilitation, demolition, removal,  
18 replacement or repair.

19 “Appeal hearing” means a hearing requested in response to a notice of violation, stop work order, or  
20 other official written notice of violation issued by the director to contest the finding that a violation  
21 occurred or to contest that the person cited for a violation is responsible for the violation.

22 “Civil penalty” or “monetary penalty,” means a fine or fee levied as a consequence for a civil violation,  
23 civil infraction or stop work order.

24 “Civil violation” or “code violation” or “violation” means and includes one or more of the following:

25 (1) Any act or omission contrary to any ordinance, resolution, regulation or public rule of the City  
26 that regulates or protects public health, the environment or the use and development of land or  
27 water, whether or not the ordinance, resolution or regulation is codified.

28 (2) Any act or omission contrary to the conditions of any permit, violation notice or stop work or  
29 other order issued pursuant to any such ordinance, resolution, regulation or public rule.

30 “Compliance” means the violation has been abated, remediated or otherwise resolved and any  
31 applicable penalties or costs have been paid.

32 “Complainant” means the person that makes a complaint to the City reporting a violation or potential  
33 violation.

34 “Costs” means, but is not limited to, contract expenses and City employee labor expenses incurred in  
35 abating a nuisance; a rental fee for City equipment used in abatement; costs of storage, disposal, or

1 destruction; legal expenses and attorneys' fees associated with civil judicial enforcement of abatement  
2 orders or in seeking abatement orders; and any other costs incurred by the City, excluding fees and  
3 expenses associated with appeals authorized by this code or by state law.

4 "De minimus" means a civil violation that is of very low impact and poses low risk to the health, safety  
5 and welfare of the public and to the environment.

6 "Development" means the erection, alteration, enlargement, demolition, maintenance or use of any  
7 structure or the alteration or use of land above, at, or below ground or water level, and all acts  
8 authorized by a City permit or regulation.

9 "Director" means the director of the development services group, or their designee.

10 "Excessive Complaint" means a complainant that repeatedly reports to the City the same or closely  
11 related issues in a manner that may be intended to harass or antagonize the alleged responsible person.

12 "Found in violation" means that:

13 (1) A notice of violation, stop work order or infraction has been issued and not timely appealed; or

14 (2) The hearing examiner has determined that the violation has occurred and the hearing examiner's  
15 determination has not been stayed or reversed on appeal.

16 "Frivolous complaint" means a complaint that is based on an issue that is not a code violation or is a *de*  
17 *minimus* violation. The complaint may be an attempt to harass or antagonize the alleged responsible  
18 person.

19 "Hearing examiner" means the City of Mercer Island hearing examiner, as provided in chapter 3.40  
20 MICC.

21 "Infraction" or "civil infraction" means any code violation designated as an infraction or civil infraction  
22 by the director pursuant to Chapter 7.80 RCW, incorporated herein by reference.

23 "Mortgagee" means a financial institution, including a bank, credit union or other commercial lender,  
24 which holds mortgaged property as security for repayment of a loan.

25 "Notice of violation" means a written statement, issued by the director, that contains the information  
26 required under MICC 6.10.050 (B)(1) notifying a person that they are responsible for one or more civil  
27 violations of the Mercer Island City Code, orders the timely correction of the same, and/or assesses civil  
28 penalty for failure to timely correct.

29 "Nuisance" (also referred to herein as "violation" or "nuisance violation") means:

30 (1) A violation of any City of Mercer Island development, land use, or public health ordinance;

31 (2) Doing an act, omitting to perform any act or duty, or permitting or allowing any act or omission  
32 that annoys, injures, or endangers the comfort, repose, health, or safety of others, is unreasonably

1 offensive to the senses, or that obstructs or interferes with the free use of property so as to  
2 interfere with or disrupt the free use of that property by any lawful owner or occupant;

3 (3) Potential vermin habitat or fire hazard; or

4 (4) Junk Vehicles. A “junk vehicle” includes apparent inoperable, immobile, disassembled, or  
5 extensively damaged vehicles. In addition, any wrecked inoperable, abandoned, or disassembled  
6 trailer, house trailer, boat, tractor, automobile, other vehicle, or any parts thereof.

7 “Owner” means any owner, part owner, joint owner, tenant in common, tenant in partnership, joint  
8 tenant, or tenant by the entirety, of the whole or of a part of a building or land.

9 “Permit” means any form of certificate, approval, registration, license or any other written permission  
10 issued by the City of Mercer Island. All conditions of approval, and all easements and use limitations  
11 shown on the face of an approved final plat which are intended to serve or protect the general public  
12 are deemed conditions applicable to all subsequent plat property owners and their tenants and agents  
13 as permit requirements enforceable under this chapter.

14 “Person responsible for the violation” or “person responsible” or “violation” means any of the following:  
15 the person doing the work, a person who has titled ownership or legal control of the property or  
16 structure that is subject to the violation; an occupant or other person in control of the property or  
17 structure that is subject to the violation; a developer, builder, business operator, or owner who is  
18 developing, building, or operating a business on the property or in a structure that is subject to the  
19 violation; a mortgagee that has filed an action in foreclosure on the property that is subject to the  
20 violation, based on breach or default of the mortgage agreement, until title to the property is  
21 transferred to a third party; a mortgagee of property that is subject to the violation and has not been  
22 occupied by the owner, the owner’s tenant, or a person having the owner’s permission to occupy the  
23 premises for a period of at least 90 days; or any person who created, caused, participated in, or has  
24 allowed a violation to occur.

25 “Public nuisance” means a nuisance that affects equally the rights of an entire community or  
26 neighborhood, although the extent of the damage may be unequal.

27 “Resolution” means any resolution adopted by the Mercer Island City Council.

28 “Repeat violation” means a violation that has occurred on the same property or that has been  
29 committed by the same person responsible elsewhere within the city, for which voluntary compliance  
30 previously has been agreed to or any enforcement action taken that was not timely appealed or if  
31 appealed, the appeal was dismissed, within the previous 36-month period. (For purposes of this  
32 subsection, repeat violation does not include each day in violation being counted as a separate  
33 violation.) To constitute a repeat violation, the violation need not be the same violation as the prior  
34 violation. Violation of a written order of the hearing examiner that has been served as provided in this  
35 chapter shall also constitute a repeat violation.

36 “Stop work order” means a written order specifying code violations and prohibiting any work or other  
37 activity at a particular site.

1 [“Voluntary compliance agreement” or “VCA” means a written contract between the person responsible](#)  
2 [for the violation and the City, under which such person agrees to abate the violation within a specified](#)  
3 [time and according to specified conditions.](#)

4  
5 ...

6  
7 Title 15  
8 WATER, SEWERS AND PUBLIC UTILITIES

9 ...

10 **15.06.180 Enforcement.**

11 Failure to comply with any applicable provisions under this chapter shall be deemed a violation. Each day  
12 that any violation or failure to comply exists may be construed as a separate offense. Enforcement  
13 proceeds under this chapter shall follow the processes and procedures set forth in [Chapter 6.10](#) MICC  
14 [Title 6 19.15.030\(C\), \(D\), \(E\), \(F\), \(G\) and \(H\). \(Ord. 14C-03 § 2\).](#)

15 ...

16 **15.14.080 Enforcement.**

17 A. The city shall have the authority to terminate water service, take abatement action as set forth in MICC  
18 15.14.090 and impose monetary penalties for violations of the inspection, testing and installation  
19 requirements in this chapter.

20 B. Water Service Termination and Monetary Penalties. In the event that the water purveyor, or his/her  
21 designee, determines that an unlawful cross-connection exists and/or that the consumer has failed to  
22 meet the inspection and testing requirements for backflow preventers, the consumer shall be subject to  
23 the following penalties:

24 1. Warning. Written notice shall be sent to the consumer or, alternatively, a copy of such written  
25 notice shall be posted on the premises involved. The notice shall provide that the unlawful cross-  
26 connection shall be corrected by testing or installation within 30 days of the date the notice is  
27 mailed or posted on the premises.

28 2. First Violation. If the consumer does not correct the violation by testing or installation within 30  
29 days of the first written notice, the consumer shall ~~receive a \$100 penalty~~ [be issued an infraction as](#)

1 [provided in MICC 6.10.050 \(C\) and a](#) notice that water service to the premises may be  
2 terminated after 30 days.

3 3. Second Violation. If the consumer does not correct the violation by testing or installation within  
4 30 days of the issuance of the first [penalty infraction](#), the consumer shall [be issued a second](#)  
5 [infraction as provided in MICC 6.10.050 \(C\)](#) ~~receive an additional \$150 penalty~~ and water service to  
6 the premises may be shut off immediately.

7 4. If the water purveyor determines that service should not be interrupted, the city may hire a  
8 contractor to abate the unlawful cross-connection as set forth in MICC 15.14.090. (Ord. 15C-09 § 1;  
9 Ord. A-38 § 1, 1985).

10  
11 ...

12  
13 Chapter 19.15  
14 ADMINISTRATION

15 **19.15.030 Enforcement.**

16 A. Violations.

17 1. It is a violation of the development code, MICC Title 19, for any person to initiate or maintain or  
18 cause to be initiated or maintained the use of any structure, land or real property within the city of  
19 Mercer Island without first obtaining proper permits or authorizations required for the use by the  
20 development code.

21 2. It is a violation of the development code for any person to use, construct, locate, demolish or  
22 cause to be used, constructed, located, or demolished any structure, land or property within the city  
23 of Mercer Island in any manner that is not permitted by the terms of any permit or authorization  
24 issued pursuant to the development code or previous codes.

25 3. It is a violation of the development code to misrepresent any material fact in any application,  
26 plans or other information submitted to obtain any land use authorization.

27 4. It is a violation of the development code for anyone to fail to comply with the requirements of the  
28 development code, as set out in the specific sections of the code.

1 5. Any person who violates any provision of this chapter may be issued a civil infraction, civil  
 2 violation and order correct, or other penalties as authorized by Chapter 6.10 MICC-Title 6.

3 ~~B. Duty to Enforce.~~

4 ~~1. It shall be the duty of the director of the development services group to enforce the development~~  
 5 ~~code. The director may call upon the police, fire, health or other appropriate city departments to~~  
 6 ~~assist in enforcement.~~

7 ~~2. Upon presentation of proper credentials, the director or duly authorized representative of the~~  
 8 ~~director may, with the consent of the owner or occupier of a building or premises, or pursuant to a~~  
 9 ~~lawfully issued inspection warrant, enter at reasonable times any building or premises subject to the~~  
 10 ~~consent or warrant to perform the duties imposed by the development code.~~

11 ~~3. The development code shall be enforced for the benefit of the health, safety and welfare of the~~  
 12 ~~general public, and not for the benefit of any particular person or class of persons.~~

13 ~~4. It is the intent of the development code to place the obligation of complying with its requirements~~  
 14 ~~upon the owner, occupier or other person responsible for the condition of the land and buildings~~  
 15 ~~within the scope of this code.~~

16 ~~5. No provisions or term used in this code is intended to impose any duty upon the city or any of its~~  
 17 ~~officers or employees, which would subject them to damages in a civil action.~~

18 ~~C. Investigation.~~

19 ~~1. The director or his/her designee, shall investigate any structure or use which the director~~  
 20 ~~reasonably believes does not comply with the standards and requirements of this development~~  
 21 ~~code.~~

22 ~~2. If, after investigation, the director determines that the standards or requirements have been~~  
 23 ~~violated, the director shall serve a notice of violation upon the owner, tenant or other person~~  
 24 ~~responsible for the condition. The notice of violation shall state separately each standard or~~  
 25 ~~requirement violated; shall state what corrective action, if any, is necessary to comply with the~~  
 26 ~~standards or requirements; and shall set a reasonable time for compliance. The notice shall state~~  
 27 ~~that any further violation may result in criminal prosecution and civil penalties.~~

28 ~~3. The notice shall be served upon the owner, tenant or other person responsible for the condition~~  
 29 ~~by personal service, registered mail, or certified mail with return receipt requested addressed to the~~

1 ~~last known address of such person. If, after a reasonable search and reasonable efforts are made~~  
2 ~~to obtain service, the whereabouts of the person or persons is unknown or service cannot be~~  
3 ~~accomplished and the director makes an affidavit to that effect, then service of the notice upon such~~  
4 ~~person or persons may be made by publication and mailing to the last known address.~~

5 ~~D. Stop Work/Emergency Orders.~~

6 ~~1. Stop Work Order. Whenever a continuing violation of the development code will materially impair~~  
7 ~~the director's ability to secure compliance with this code, or when the continuing violation threatens~~  
8 ~~the health or safety of the public, the director may issue a stop work order specifying the violation~~  
9 ~~and prohibiting any work or other activity at the site. A failure to comply with a stop work order shall~~  
10 ~~constitute a violation of this development code.~~

11 ~~2. Emergency Order. Whenever any use or activity in violation of this code threatens the health and~~  
12 ~~safety of the occupants of the premises or any member of the public, the director may issue an~~  
13 ~~emergency order directing that the use or activity be discontinued and the condition causing the~~  
14 ~~threat to the public health and safety be corrected. The emergency order shall specify the time for~~  
15 ~~compliance and shall be posted in a conspicuous place on the property, if posting is physically~~  
16 ~~possible. A failure to comply with an emergency order shall constitute a violation of this~~  
17 ~~development code.~~

18 ~~3. Any condition described in the emergency order which is not corrected within the time specified~~  
19 ~~is hereby declared to be a public nuisance and the director is authorized to abate such nuisance~~  
20 ~~summarily by such means as may be available. If the city declines to bring an abatement action,~~  
21 ~~then such action may be brought by any person who owns or resides on property within 300 feet of~~  
22 ~~the structure or whose use and enjoyment of property is impaired by the structure or use~~  
23 ~~complained of.~~

24 ~~E. Extension of Compliance Date.~~

25 ~~1. The director may grant a reasonable extension of time for compliance with any notice or order,~~  
26 ~~whether pending or final, upon the director's finding that substantial progress toward compliance~~  
27 ~~has been made and that the public will not be adversely affected by the extension. Such extension~~  
28 ~~of time shall not exceed 180 days.~~

29 ~~2. An extension of time may be revoked by the director if it is shown that the conditions at the time~~  
30 ~~the extension was granted have changed, the director determines that a party is not performing~~

~~corrective actions as agreed, or if the extension creates an adverse effect on the public. The date of revocation shall then be considered as the compliance date.~~

~~F. Civil Penalty.~~

~~1. In addition to any other sanction or remedial procedure which may be available, any person violating or failing to comply with any of the provisions of the development code, stop work order or emergency order shall be subject to a cumulative monetary penalty. Each separate day of noncompliance shall be a separate and distinct violation of the development code and shall be subject to a separate notice of civil infraction. The penalty shall be:~~

~~a. Fifty dollars (\$50) for the first day of noncompliance after the compliance date set in the notice.~~

~~b. Seventy-five dollars (\$75) for the second day of noncompliance after the compliance date set in the notice.~~

~~c. One hundred dollars (\$100) for the third and each following additional day of noncompliance after the compliance date set in the notice.~~

~~2. The penalty imposed by this section shall be collected by notice of civil infraction, as authorized by Chapter 7.80 RCW.~~

~~3. The director of development services, and his/her designees, are the authorized enforcement officers for purposes of issuing a notice of infraction for violation of the development code.~~

~~4. A notice of infraction issued under this section represents a determination that a civil infraction has been committed, and the determination is final unless contested.~~

~~5. The city's notice of infraction shall include the following:~~

~~a. A statement that the notice represents a determination that a civil infraction has been committed by the person named and the determination is final unless contested.~~

~~b. A statement that a civil infraction is a noncriminal offense for which imprisonment may not be imposed.~~

~~c. A statement of the specific violation of the development code for which the notice is issued.~~

~~d. A statement of the monetary penalty for the violation.~~

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~~e. A statement of the options available for responding to the notice of infraction and the procedures necessary to exercise those options.~~

~~f. A statement that at the hearing to contest the notice the city has the burden of proving, by a preponderance of the evidence, that the civil infraction was committed and that the person may subpoena witnesses, including the enforcement officer issuing the notice.~~

~~g. A statement that at any hearing requested to explain mitigating circumstances surrounding the commission of the civil infraction, the person will be deemed to have committed the infraction and may not subpoena witnesses.~~

~~h. A statement that the person must respond to the notice within 14 days.~~

~~i. A statement that failure to respond to the notice or to appear at a hearing, if requested, will result in a default judgment in the amount of the penalty and may be referred for criminal prosecution for failure to appear.~~

~~j. A statement, which the person shall sign, that the person promises to respond to the notice of civil infraction in one of the ways set forth in this section.~~

~~6. Any person who receives a notice of infraction for violation of the development code shall respond to the notice as provided in this section within 14 days of the date of the notice.~~

~~a. If the person does not contest the determination, he/she shall respond by completing the appropriate portion of the notice and sending it, with a check or money order in the amount of the penalty, to the court specified on the notice.~~

~~b. If the person wishes to contest the civil infraction, the person shall complete the portion of the notice requesting a hearing and submit it to the court specified on the notice. The court shall notify the person of the time and place of the hearing.~~

~~c. If the person does not contest the violation but wishes to explain mitigating circumstances surrounding the violation, the person shall complete the portion of notice requesting a hearing for that purpose and submit it to the court specified on the notice. The court shall notify the person of the time and place of the hearing.~~

~~d. The court shall enter a default judgment for the amount of the penalty for the civil infraction if a person fails to respond within 15 days or to appear at the hearing.~~

1 ~~7. The violator may show as full or partial mitigation of the infraction:~~

2 ~~a. That the violation giving rise to the action was caused by the willful act, or neglect, or abuse~~  
3 ~~of another; or~~

4 ~~b. That correction of the violation was commenced promptly upon receipt of the notice thereof,~~  
5 ~~but that full compliance within the time specified was prevented by inability to obtain~~  
6 ~~necessary materials or labor, inability to gain access to the subject structure, or other~~  
7 ~~condition or circumstance beyond the control of the defendant.~~

8 ~~8. Failure to respond to a civil citation within 14 days or to appear for a requested hearing is a~~  
9 ~~misdemeanor, punishable by fine or imprisonment in jail.~~

10 ~~G. Criminal Penalties. Any person violating or failing to comply with any of the provisions of this~~  
11 ~~development code shall be subject to criminal prosecution and upon conviction shall be fined in a sum not~~  
12 ~~exceeding \$1,000 or be imprisoned in the city jail for a term not exceeding 90 days or be both fined and~~  
13 ~~imprisoned. Each day of noncompliance with any of the provisions of this development code shall~~  
14 ~~constitute a separate offense. However, the aggregate penalty for all days of noncompliance shall not~~  
15 ~~exceed \$5,000 or one year in the city jail.~~

16 ~~H. Additional Relief. The director may seek legal or equitable relief to enjoin any actions or practices and~~  
17 ~~abate any condition which constitutes or will constitute a violation of this development code when civil or~~  
18 ~~criminal penalties are inadequate to effect compliance. (Ord. 99C-13 § 1).~~

19