

Exhibit A

1.16.010 General penalties.

Unless otherwise specified by City ordinance, anyone who violates the provisions of any ordinance shall be punished pursuant to the general penalty provision set forth below:

(1) Criminal Penalty. Any person violating any of the provisions of any ordinance of the City which is designated as a criminal offense shall be guilty of a misdemeanor or gross misdemeanor. Every person convicted of a gross misdemeanor shall be punished in accordance with RCW 9A.20.021(2) and as hereafter amended. Every person convicted of a misdemeanor shall be punished in accordance with RCW 9A.20.021(3) and as hereafter amended.

(2) Civil Penalty. Any person violating any of the provisions of any City ordinance, permit condition, or condition of a development agreement, which is not designated as a criminal offense, shall have committed a civil infraction. Unless otherwise provided, any such person shall be assessed a monetary penalty not to exceed \$250.00 for each day that the violation occurs.

1.16.020 Separate offense.

Every person violating any of the provisions of any ordinance of the City is guilty of a separate offense for each and every day during any portion of which the violation is committed, continued or permitted by any such person.

1.16.030 Definitions.

(1) "Code Enforcement Officer" shall mean any person authorized by a Director to enforce the provisions of this title.

(2) "Director" shall mean the Mayor, Planning Director, Public Works Director, or Parks and Recreation Director, and his or her designee(s), including the Code Enforcement Officer.

1.16.040 Enforcement authority.

(1) The Director may call upon the Police or other appropriate City Departments to assist in enforcement.

(2) This chapter shall be enforced for the benefit of the health, safety, and welfare of the general public, and not for the benefit of any particular person or class of persons.

(3) It is the intent of this chapter to place the obligation of complying with its requirements upon the owner, occupier and/or other person responsible for any violation of the Poulsbo Municipal Code, and for compliance with the City's Shoreline Master Program.

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

(5) The City's Code Enforcement Officer, in addition to any other City employee who may be authorized by the Director, is hereby specifically authorized to investigate code violations, issue and serve notices of infraction to enforce such violations, and to take any other enforcement action consistent with this chapter, Chapter 7.80 RCW, and the Infraction Rules for Courts of Limited Jurisdiction.

1.16.050 Investigation and right of entry.

Investigation and Right of Entry. The Director or Code Enforcement Officer may investigate any structure, condition, activity, or use, which the Director reasonably believes does not comply with the applicable standards and requirements of the Poulsbo Municipal Code. Upon presentation of proper credentials, the Director or Code Enforcement Officer may, with the consent of the occupant/tenant of a building or premises, or pursuant to a lawfully issued inspection warrant, enter, at reasonable times, any building or premises subject to the consent or warrant, in order to perform the duties imposed by this chapter.

1.16.060 Voluntary correction.

(1) Applicability. This section applies whenever the Director or Code Enforcement Officer determines that a civil infraction has occurred or is occurring.

(2) General. The Director or Code Enforcement Officer may attempt to secure voluntary correction by contacting the person responsible for the violation where possible, explaining the violation and requesting correction.

(3) Voluntary Correction Agreement. A voluntary correction agreement may be entered into between the person responsible for the violation and the city, acting through the applicable department director. The voluntary correction agreement is a contract between the city and the person responsible for the violation under which such person agrees to abate the violation within a specified time and according to specified conditions. The voluntary correction agreement shall include the following:

- a. The name and address of the person responsible for the violation; and
- b. The street address or a description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
- c. A description of the violation and a reference to the provision(s) of the city ordinance or regulation which has been violated; and
- d. The necessary corrective action to be taken, and a date or time by which correction must be completed; and
- e. An agreement by the person responsible for the violation that the city may abate the violation and recover its costs and expenses and a monetary penalty as set forth in the agreement from the person responsible for the violation if terms of the voluntary correction agreement are not met; and

f. An agreement that by entering into the voluntary correction agreement the person responsible for the violation waives the right to an appeal of the violation and/or the required corrective action.

(4) Right to a Hearing Waived. The person responsible for the violation waives the right to an administrative appeal of the violation and the required corrective action upon entering into a voluntary correction agreement.

(5) Extension – Modification. An extension of the time limit for correction or a modification of the required corrective action may be granted by the applicable department director if the person responsible for the violation has shown due diligence and/or substantial progress in correcting the violation but unforeseen circumstances render correction under the original conditions unattainable.

(5) Abatement by the City. The city may abate the violation in accordance with this Chapter if the terms of the voluntary correction agreement are not met.

(6) Collection of Costs. If the terms of the voluntary correction agreement are not met the person responsible for the violation shall be assessed the monetary penalty set forth in the agreement commencing on the date set for correction and thereafter, plus all costs and expenses of abatement.

1.16.070 Notice of infraction.

(1) The following notice of infraction provisions are based upon and, in some cases, supplement Chapter 7.80 RCW and the Infraction Rules for Courts of Limited Jurisdiction (IRLJ). These provisions should be construed, whenever possible, to eliminate any conflict between this chapter, Chapter 7.80 RCW and the IRLJs.

(2) A notice of infraction may be issued by the Director or Code Enforcement Officer when a civil infraction occurs in the officer's presence. In addition, the municipal court may issue a notice of infraction if the Director or Code Enforcement Officer files with the court a written statement that a civil infraction was committed in the officer's presence or that the officer has reasonable cause to believe that a civil infraction was committed.

(3) The notice of infraction form shall contain the following information on the copy given to the defendant:

(a) The name, address, and phone number of the court where the notice of infraction is to be filed;

(b) The infraction, which the defendant is alleged to have committed, including the accompanying code citation or ordinance number;

(c) The date, time, and place the infraction occurred;

(d) The date the notice of infraction was issued;

- (e) The name of the Code Enforcement Officer or other person issuing the infraction;
- (f) A statement that the notice of infraction represents a determination that a civil infraction has been committed by the person named in the notice and that the determination is final unless contested;
- (g) A statement that a civil infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction;
- (h) A statement of the monetary penalty established for the civil infraction;
- (i) A statement of the options provided for responding to the notice and the procedures necessary to exercise these options;
- (j) A statement that at any hearing to contest the determination the City has the burden of proving, by a preponderance of the evidence, that the civil infraction was committed and that either party may subpoena witnesses, including the person who issued the notice of infraction;
- (k) A statement that at any hearing requested for the purpose of explaining mitigating circumstances surrounding the commission of the civil infraction, the defendant will be deemed to have committed the civil infraction and may not subpoena witnesses;
- (l) A statement that the defendant must respond to the notice of infraction within 15 days of issuance;
- (m) A statement that a mailed response must be mailed not later than midnight on the day the response is due;
- (n) A statement that failure to respond to the notice or a failure to appear at a hearing requested for the purpose of contesting the determination or for the purpose of explaining mitigating circumstances will result in a default judgment against the defendant in the amount of the penalty and that this failure may be referred to the City Prosecutor for criminal prosecution for failure to respond or appear;
- (o) A statement that failure to respond to a notice of infraction as promised or to appear at a requested hearing is a misdemeanor and may be punished by a fine or imprisonment in jail; and
- (p) Any other information required by Chapter 7.80 RCW or the Infraction Rules for Courts of Limited Jurisdiction, as currently enacted or as may be amended in the future.

1.16.080 Service and filing.

- (1) A notice of infraction may be served either by:

(a) The Code Enforcement Officer serving the notice of infraction on the person named in the notice of infraction at the time of issuance; or

(b) The Code Enforcement Officer, City Prosecutor or City Attorney filing the notice of infraction with the court, in which case the court shall have the notice served either personally or by mail, postage prepaid, on the person named in the notice of infraction at his or her address. If a notice of infraction served by mail is undeliverable, the court shall issue a summons.

(2) The Code Enforcement Officer shall have the authority to require those receiving infractions to identify themselves by giving their name, address, and date of birth, and shall further have the authority to require the presentation of a driver's license or other reliable identification. If a defendant refuses to identify himself or herself, the Code Enforcement Officer shall request assistance from the police.

(3) When a notice of infraction has been issued, the notice shall be filed with the municipal court. The notice must be filed within two days (48 hours) of issuance of the notice, excluding Saturdays, Sundays, and holidays. A notice of infraction not filed within the time limits of this section may be dismissed without prejudice.

1.16.090 Response to notice.

(1) A person served with a notice of infraction must respond to the notice within 15 days of the date the notice is served or posted or, if the notice is served by mail, within 18 days of the date the notice is mailed.

(2) A person must respond to a notice of infraction by either:

(a) Paying the amount of the monetary penalty, in which case the court shall enter a judgment that the defendant has committed the infraction;

(b) Contesting the determination that an infraction occurred by requesting a hearing;

(c) Requesting a hearing to explain mitigating circumstances surrounding the commission of the infraction; or

(d) Submitting a written statement either contesting the infraction or explaining mitigating circumstances, if this alternative is authorized by the Poulsbo Municipal Court Local Rules. The statement shall contain the person's promise to pay the monetary penalty authorized by law if the infraction is found to be committed. For contested hearings the statement shall be executed in substantially the form set forth in the Infraction Rules for Courts of Limited Jurisdiction.

1.16.100 Restitution.

In addition to the civil penalty set forth in PMC 1.16.010(2), the municipal court is authorized to require any person having committed a civil infraction to make restitution for any and all damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to the violation.

1.16.110 Stop work order.

(1) Whenever a violation of the Poulsbo Municipal Code will materially impair the City's ability to secure compliance with the code, or when the continuing violation threatens the health, safety or welfare of the public, the Director may immediately issue a stop work order specifying the violation and prohibiting any work or other activity at the site. A failure to comply with a stop work order shall constitute a gross misdemeanor.

(2) A notice of infraction may be issued in conjunction with a stop work order.

1.16.120 Nuisance.

In addition to the penalties set forth above, all remedies given by law for the prevention and abatement of nuisances shall apply regardless of any other remedy. All violations of any City ordinance, permit conditions, or rules and regulations adopted thereunder, are determined to be detrimental to the public health, safety and welfare and are public nuisances. The mayor or his or her designee, at his or her option, may cause all conditions which are public nuisances to be abated pursuant to the procedures of Chapter 7.48 RCW.

1.16.130 Applicability.

The procedures for notification and enforcement set forth in this chapter are intended to apply in addition to any procedures or courses of action provided by law and elsewhere in the Municipal Code. The use of procedures set forth herein shall not require or preclude use of any other procedures allowed by the Municipal Code or State law.