

Chapter 1.050 - CODE ENFORCEMENT OFFICER & CIVIL INFRACTION CITATION AUTHORITY

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1.050.010 Purpose and Applicability

This chapter provides a process for enforcing the requirements of the municipal code and any order, permit or decision issued by the city pursuant to the municipal code. The civil process set forth herein is designed to provide prompt notice to property owners and other interested parties that appear to be in violation of the municipal code and to guarantee those accused of a code violation the right to a hearing in municipal court. The process is designed to provide a measure of certainty to the citizens of Winlock that code violations will be addressed in a timely manner and to ensure that the due process rights of those accused of violations are protected. This chapter shall apply to all violations of any provision of the Winlock Municipal Code, except for criminal matters within the authority of the Winlock Police Department under WMC 568, Criminal Code.

1.050.020 Code Enforcement Officer Duties

- A. The Code Enforcement Officer investigates citizen and agency inquiries regarding potential violations of Winlock Municipal Code. The purpose of code enforcement investigations is to ensure compliance with minimum standards of various municipal codes such as Sign Codes, Zoning Regulations (except discretionary land use permits), Nuisance Regulations, and Critical Areas regulations. Functions of the Code Enforcement Officer include:
1. Final inspections of signs for size, placement, and other conformance standards;
 2. Current and historical records research from citizens, County and State agencies;
 3. Conduct investigations and inspections of possible violations of Winlock Municipal Codes, such as but not limited to:
 - a. Critical Areas violations
 - b. Setbacks
 - c. Occupied RVs (Title 8);
 - d. Home occupations (Title 18B);
 - e. Animals (number, setbacks of pens, structures, etc.) (Title 8);
 - f. Junk, salvage, and wrecking yards (Title 8 and 18B);
 - g. Illegal businesses, e.g., contractors' yards, manufacturing uses in non-industrial zones, etc.

- h. Illegal signs
 - i. Expansion of nonconforming uses
 - j. Other Winlock Municipal Code violations; and
 - k. Coordination with County, State, and/or Federal agencies to seek assistance in code enforcement matters (i.e., Lewis County Environmental Health Department, Department of Ecology, and/or Corps of Engineers).
- B. Corrective actions necessary to remedy Building Code violations are under the authority of the City of Winlock Building Official. Actions may include Notice and Orders to Correct, Stop Work, or any other written order to correct building code violation infractions. However, the Building Official is empowered to refer a building code violation to the Code Enforcement Officer, citing appropriate code violation(s), and may recommend that a Civil Infraction citation be issued by the Code Enforcement Officer.
- C. Appointment. The Code Enforcement Officer is appointed by the Mayor and a limited commission is conveyed by the Chief of Police, to allow issuance of civil infraction citations.

Jurisdiction of the Winlock Municipal Court. The Court has the authority to hear and determine civil infractions that are established by municipal ordinance and that are committed within the jurisdiction of Winlock pursuant to chapter 7.80 RCW.

1.050.030 Issuance of Process

Notwithstanding any other provision of law governing service of process in civil cases, the Winlock Municipal Court having jurisdiction over an alleged civil infraction, may issue process anywhere within the state.

1.050.040 Definitions:

“City” means the City of Winlock

“Civil infraction” means the violation of any provision of the Winlock Municipal Code, except WMC 568, Criminal Code, or the failure to comply with any lawful requirement, order or decision by an authorized city official, hearings examiner or other decision maker.

“Court” means Winlock Municipal Court (a Court of Limited Jurisdiction)

“Code” means the Winlock Municipal Code as it is currently existing or from time to time may be amended.

“Code Enforcement Officer” means the person authorized to enforce Municipal Codes and Ordinances in which civil infractions are established.

“Officer” means a sworn peace officer; the city’s building official, the code enforcement officer, or any other person designated by the mayor to enforce the Winlock Municipal Code.

“Permit” means any land use, building or other permit or approval granted by the city or any city official.

“Respondent” means any individual, corporation, partnership, unincorporated association or other entity alleged to have committed a civil infraction and any owner of a property or structure on which, a civil infraction is alleged to have occurred.

1.050.050 Notice of Infraction - Issuance, Service, Filing

- A. A civil infraction proceeding is initiated by the issuance, service, and filing of a notice of civil infraction.
- B. Upon a determination of the code enforcement officer, or any other person designated by the mayor to enforce the Winlock Municipal Code that one or more civil infractions have

occurred, the officer shall issue a citation to the person who, in the officer's opinion, is responsible for the activity or failure to act that is deemed to be the civil infraction or the owner or person responsible for the property on which the infraction is alleged to have occurred.

- C. The Court may issue a notice of civil infraction if a Code Enforcement Officer files with the Court a written statement that the civil infraction was committed in the officer's presence or that the officer has reasonable cause to believe that a civil infraction was committed.
- D. Service of a notice of civil infraction issued under paragraph B or C of this section shall be as provided by Court rule. Until such a rule is adopted, service shall be as provided in Infraction Rules for Courts of Limited Jurisdiction (IRLJ) as applicable.
- E. A notice of infraction shall be filed with a Court having jurisdiction within forty-eight hours of issuance, excluding Saturdays, Sundays, and holidays. A notice of infraction not filed within the time limits prescribed in this section may be dismissed without prejudice.

1.050.060 Person Receiving Notice - Identification and Detention

- A. A person who is to receive a notice of civil infraction under RCW 7.80.050 is required to identify him/herself to the Code Enforcement Officer by giving his/her name, address, and date of birth. Upon the request of the officer, the person shall produce reasonable identification, including a driver's license or identification card.
- B. A person who is unable or unwilling to reasonably identify him/herself to the Code Enforcement Officer may be detained for a period of time not longer than is reasonably necessary to identify the person for purposes of issuing a civil infraction.

1.050.070 Notice - Determination Final Unless Contested - Form

- A. A notice of civil infraction represents a determination that a civil infraction has been committed. The determination is final unless contested as provided in this Chapter.
- B. A citation for a civil infraction shall include at least the following information:
 - a. The name and address of the respondent;
 - b. The time, date and place the civil infraction was alleged to have occurred;
 - c. A statement describing the civil infraction(s) alleged to have occurred with a reference to the pertinent code section(s) or other commonly understood reference to the law, ordinance or permit alleged to have been violated;
 - d. The time, date and place for the initial hearing in municipal court, at which the respondent shall appear and respond to the charge alleged in the citation;
 - e. A certification that the officer issuing the citation has reasonable grounds to believe, that the respondent committed the civil infraction contrary to law. This certification shall be deemed equivalent to a sworn complaint;
 - f. That the person must respond to the notice as provided in this chapter within fifteen days;
 - g. 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 person in the amount of the penalty and that this failure may be referred to the prosecuting attorney for criminal prosecution for failure to respond or appear;
 - h. That the person promises to respond to the notice of civil infraction in one of the ways provided in this chapter, which the person shall sign;

- i. That failure to respond to a notice of civil infraction as promised or to appear at a requested hearing is a misdemeanor and may be punished by a fine or imprisonment in jail.

1.050.080 Municipal court proceeding

- A. The municipal court shall have jurisdiction over all civil infractions presented under this chapter. The municipal court shall adopt, and may amend from time to time, procedural rules governing proceedings before the court.
- B. The following procedures shall be incorporated into the proceedings before municipal court:
 - (a) If the respondent enters a response of having committed the infraction, no contest, or fails to appear or otherwise enter a response, the municipal court shall find that the respondent committed the infraction as alleged and shall enter an order directing the respondent to abate, correct or otherwise remedy the violation, and the court shall impose a civil penalty in accordance with this chapter.
 - (b) If the respondent timely enters a response of not having committed the infraction, the court shall schedule the matter for hearing.
 - (c) At the hearing, the city shall present its case and evidence in support of the citation. The city must also establish that the respondent was notified or otherwise informed that respondent's conduct or the condition of respondent's property was a code violation prior to issuance of a citation under this chapter. The respondent shall be afforded an opportunity to review and rebut the city's evidence, cross examine the city's witnesses, and present testimony, evidence and witnesses in support of respondent's case. Any party may be represented by an attorney, but the city is not responsible for providing respondent with an attorney.
 - (d) The court shall enter an order in favor of the city if the city proves by a preponderance of the evidence that the respondent knowingly committed the infraction, in which case the court shall enter an order directing the respondent to abate, correct or otherwise remedy the violation, and the court shall impose a civil penalty in accordance with this chapter.

1.050.090 Nuisance abatement by the city, cost recovery and lien authorized

- A. Nuisance and Abatement Order. Upon a finding that the respondent knowingly committed the civil infraction as alleged, the municipal court shall declare the civil infraction to be a nuisance, in which case the municipal court may order the respondent to abate, correct or otherwise remedy the nuisance. In the event the respondent fails to so abate, correct or remedy the nuisance within 10 days of the court's abatement order, the city, without further proceedings, may take whatever action is necessary to abate, correct or remedy the nuisance. The city may also seek from the municipal court an order of contempt against respondent for failing to comply with the court's abatement order. All of the city's expenses incurred in undertaking an abatement action and seeking a contempt order may be levied against the respondent or owner of the subject property. If the amount of the city's levy is not fully paid within 30 days of presentment to the respondent or property owner, the city may record the levy in the city's lien docket or the county real property records as a lien against respondent's real property.

- B. Summary Abatement by the City in Emergency Situations. With or without the respondent first having appeared, the city prosecutor may seek, and the municipal court may order, the summary abatement of the activity alleged in the civil infraction citation upon a finding that:
- (a) An imminent and substantial threat to the public health, safety or welfare exists by virtue of the alleged action or inaction; and
 - (b) Immediate abatement of the activity or nuisance is necessary to prevent the threatened harm to the public health, safety or welfare.

Upon issuance of a summary abatement order under this subsection, the city may, without further notice or proceedings, take whatever steps are necessary to abate, correct or remedy the nuisance that is the basis for the citation.

C. Recovery of the City's Costs. The city shall be entitled to the recovery of its expenses incurred in undertaking a code enforcement action, abatement and/or obtaining a contempt order against the respondent. Following an enforcement action, abatement or issuance of an order of contempt, the city shall submit to the court and serve on respondent a verified statement of its costs incurred in the enforcement or abatement action and/or contempt proceeding, including labor, disposal and administrative costs, attorney and expert witness fees. The court shall issue an order and money judgment awarding the city its reasonable costs incurred. If the amount of the judgment is not fully paid within 30 days of issuance, the city may, without further notice or proceedings, record the levy in the city's lien docket or the county real property records as a lien against respondent's real property in any county where the respondent owns property.

1.050.100 Fines

- A. Upon conviction of a civil infraction of any of the municipal code, the court may impose a maximum civil penalty of \$300.00 per infraction.
- B. Each day that a violation exists shall constitute a separate civil infraction.
- C. The remedies and penalties provided in this chapter are in addition to, and not in lieu of, any other remedy or penalty provided by law, including, but not limited to, revocation or non-renewal of a permit or license, action under the Uniform Code for the Abatement of Dangerous Buildings, chapter 35.80 RCW (relating to unfit dwellings, buildings and structures), chapter 7.48 RCW (relating to nuisances), injunction, abatement or civil damages as provided by this code or any other provision of the state law in any court of competent jurisdiction.