

Chapter 17.24 HEARINGS AND APPEALS

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17.24.010 Court Hearings

- A. Violations of the Lake Stevens Municipal Code may be subject to a hearing in the appropriate court of jurisdiction when:
 - 1. the terms of an order have not been met by the responsible person;
 - 2. a criminal citation is issued; or
 - 3. a previous court order has been imposed and a hearing is requested by the Applicable Department Director.
- B. In all hearings the applicable department director and the responsible person may participate as parties in the hearing and each party may call witnesses. The city shall have the burden of proof to demonstrate by a preponderance of the evidence that a violation has occurred and that the required corrective action is reasonable under the circumstances. The determination of the applicable department director as to the need for the required corrective action shall be accorded substantial weight by the court in determining the reasonableness of the required corrective action.

17.24.020 Notice. A person to whom a notice of civil violation is issued will be scheduled to

appear before the court not less than 20 calendar days nor more than 60 calendar days after an official order is issued. Continuances may be granted at the discretion of the applicable department director, or by the court for good cause shown.

17.24.030 Correction of Violation. The hearing will be canceled and no monetary penalty will be assessed, other than the court filing fee, if the applicable department director approves the completed required corrective action prior to the scheduled hearing.

17.24.040 Procedure. The court shall conduct a hearing on the civil violation pursuant to the then current applicable rules of civil procedure for courts of appropriate jurisdiction.

17.24.050 Decision of the Court.

- 1. The court shall determine whether the city has established by a preponderance of the evidence that a violation has occurred and that the required correction is reasonable under the circumstances, and shall affirm, vacate, or modify the city's decisions regarding the alleged violation and/or the required corrective action, with or without written conditions.
- 2. The court shall issue an order to the person responsible for the violation which contains the following information:
 - a. The decision regarding the alleged violation including findings of fact and conclusions based thereon in support of the decision; and if applicable,
 - b. The required corrective action, and/or
 - c. The date and time by which the correction must be completed, and/or
 - d. The monetary penalties assessed, and/or

- e. The date and time after which the city may proceed with abatement of the unlawful condition if the required correction is not completed, and/or
- f. Any other orders of the court.

17.24.060 Assessment of Monetary Penalty. The court shall have the option of assessing monetary penalties. The court may double the monetary penalty schedule if the violation was a repeat violation.

17.24.070 Failure to Appear. If the person to whom the notice of civil violation was issued fails to appear without lawful excuse at the scheduled hearing, the court will enter an order with findings against the responsible person and assess the appropriate monetary penalty and/or order. The city may enforce the court's order and recover all related expenses, including attorney fees, plus the costs of hearing and any monetary penalty from that person.

17.24.080 Appeal to Superior Court. Any appeal of the decision of the court shall be prosecuted pursuant to the then current Rules for Appeal from Courts of Limited Jurisdiction (RALJ).

17.24.090 Abatement Orders. In accordance with the terms and conditions of a court order, the city may lawfully enter and correct a violation of the Lake Stevens Municipal Code.

17.24.100 Recovery of Costs and Expenses. The costs, including incidental expenses, of correcting the violation shall be billed to the person responsible for the violation and/or the owner, lessor, tenant or other person entitled to control, use and/or control of the property and shall become due and payable to the city within 10 calendar days. The term "incidental expenses" includes but is not limited to personnel costs, both direct and indirect and including attorney's fees; costs incurred in documenting the violation; hauling, storage and disposal expenses; and actual expenses and costs of the city in preparing notices, specifications

and contracts, and in accomplishing and/or contracting and inspecting the work; and the costs of any required printing and mailing. All such costs and expenses shall constitute a lien against the affected property.

17.24.110 Lien – Authorized. The City of Lake Stevens may have a lien for any monetary penalty imposed, the cost of any abatement proceedings under this chapter, and all other related costs including attorney and expert witness fees, against the real property on which the monetary penalty was imposed or any of the work of abatement was performed. The lien shall be subordinate to all previously existing special assessment liens imposed on the same property and shall be superior to all other liens, except for state and county taxes, with which it shall be on a parity.

The applicable department director shall cause a claim for lien to be filed for record within 90 days from the later of the date that the monetary penalty is due or the date the work is completed or the nuisance abated. The claim of lien shall contain sufficient information regarding the notice of civil violation, as determined by the applicable department director, a description of the property to be charged with the lien and the owner of record, and the total of the lien. Any such claim of lien shall be verified by the applicable department director, and may be amended from time to time to reflect changed conditions.

No such liens shall bind the affected property for a period longer than five years, without foreclosure or extension agreed to by the property owner.

17.24.120 Severability. If any section, sentence, clause or phrase of this chapter should be held to invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence,

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clause or phrase of this chapter. (Ord. 604, Sec. 11,
1999)