

Title 13

CODE ENFORCEMENT

Chapters:

13.01 Enforcement

Chapter 13.01

ENFORCEMENT

Sections:

- 13.01.010 Violations.
- 13.01.020 Duty to enforce.
- 13.01.030 Investigation and notice of violation.
- 13.01.040 Time to comply.
- 13.01.045 Classes of violation – Defined – Penalties.
- 13.01.050 Stop work order.
- 13.01.060 Emergency order.
- 13.01.070 Review by hearing examiner.
- 13.01.100 Criminal penalties.
- 13.01.110 Additional relief.
- 13.01.120 Severability.

13.01.010 Violations.

(1) Revenue and Finance Violations. Revenue Code violations are described in SMC Title 3, as the same now exists or may hereafter be amended.

(2) Business License and Regulation Violations. Business license and regulation violations are described in SMC Title 5, as the same now exists or may hereafter be amended.

(3) Health and Sanitation Violations. Health and sanitation violations are described in SMC Title 7, as now exists or may hereafter be amended.

(4) Animal Violations. Animal violations are described in SMC Title 8, as now exists or may hereafter be amended.

(5) Public Peace, Morals and Safety Violations. Public peace, morals and safety violations are described in SMC Title 9, as now exists or may hereafter be amended.

(6) Vehicle and Traffic Violations. Vehicle and traffic violations are described in SMC Title 10, as now exists or may hereafter be amended.

(7) Utility Violations. Utility violations are described in SMC Title 12, as now exists or may hereafter be amended.

(8) Buildings and Construction Violations. Buildings and construction violations are described in SMC Title 14, as now exists or may hereafter be amended.

(9) Forest Practices Violations. Forest practices violations are described in SMC Title 15, as now exists or may hereafter be amended.

(10) Zoning Violations. Zoning violations are described in SMC Title 17, as now exists or may hereafter be amended.

(11) Additional Violations. In addition to the above, it is a violation of SMC Title 13 to:

(a) Remove or deface any sign, notice, complaint or order required by or posted in accordance with this chapter;

(b) Misrepresent any material fact in any application, plans or other information submitted to obtain any building or construction authorization;

(c) Fail to comply with any of the requirements of SMC Title 13, including any requirements of the uniform codes and state codes adopted by reference herein. (Ord. 1112 § 1, 2001).

13.01.020 Duty to enforce.

(1) It shall be the duty of the city officials as defined in Chapter 2.08 SMC to enforce this chapter. The city officials may call upon the police, fire, building, planning, or other appropriate city departments to assist in enforcement. As used in this chapter “city official” shall also mean his or her duly authorized representative.

(2) Upon presentation of proper credentials, the city official may, with the consent of the owner or occupier 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 SMC Title 13.

(3) In lieu of the enforcement procedures set forth in this chapter, the city official may implement the enforcement procedures set forth in any of the uniform codes adopted by reference in SMC Title 14.

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

(5) It is the intent of this chapter to place the obligation of complying with its requirements upon the owner, occupier or other person

13.01.030

responsible for the condition of the land and buildings within the scope of SMC Title 13.

(6) 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. (Ord. 1112 § 1, 2001).

13.01.030 Investigation and notice of violation.

(1) Investigation. The city official shall investigate any condition or use which the city official reasonably believes does not comply with the standards and requirements of the Stanwood Municipal Code.

(2) Notice of Violation. If after investigation the city official determines that the standards or requirements of the Stanwood Municipal Code have been violated the city official shall serve a notice of violation upon the owner, tenant or other person responsible for the condition. The notice of violation shall contain the following information:

(a) A separate statement of each standard, code provision or requirement violation;

(b) What correction action, if any, is necessary to comply with the standards, code provision or requirements;

(c) A reasonable time for compliance;

(d) A statement that if the violation is not already subject to criminal prosecution, that any subsequent violations may result in criminal prosecution as provided in the Stanwood Municipal Code.

(3) Service. The notice shall be served on the owner, tenant or other person responsible for the condition by personal service, registered mail, or certified mail with return receipt requested, addressed to the last known address of such person. If, after a reasonable search and reasonable efforts are made to obtain service, the whereabouts of the person(s) is unknown or service cannot be accomplished and the city official makes an affidavit to that effect, then service of the notice upon such person(s) may be made by:

(a) Publishing the notice once each week for two consecutive weeks in the city's official newspaper; and

(b) Mailing a copy of the notice to each person named on the notice of violation by first class mail to the last known address if known, or if unknown, to the address of the property involved in the proceedings.

(4) Posting. A copy of the notice shall be posted at a conspicuous place on the property, unless posting the notice is not physically possible or poses a risk of harm to the city official.

(5) Other Actions May Be Taken. Nothing in this section shall constitute to limit or preclude any action or proceeding pursuant to the Stanwood Municipal Code.

(6) Optional Notice to Others. The city official may mail, or cause to be delivered to all residential and/or nonresidential rental units in the structure or post at a conspicuous place on the property, a notice which informs each recipient or resident about the notice of violation, stop work order or emergency order and the applicable requirements and procedures.

(7) Amendment. A notice or order may be amended at any time in order to:

(a) Correct clerical errors; or

(b) Cite additional authority for a stated violation.

(8) Suspension or Revocation of License or Permit. The city official may suspend or revoke any license or permit issued under this code. The suspension or revocation shall be immediately effective unless a stay thereof is specifically requested in the written request for a review hearing. (Ord. 1112 § 1, 2001).

13.01.040 Time to comply.

(1) Determination of Time. When calculating a reasonable time for compliance, the city official shall consider the following criteria:

(a) The type and degree of violation cited in the notice;

(b) The stated intent, if any, of a responsible party to take steps to comply;

(c) The procedural requirements for obtaining a permit to carry out corrective action;

(d) The complexity of the corrective action, including seasonal considerations, construction requirements and the legal prerogatives of landlords and tenants; and

(e) Any other circumstances beyond the control of the responsible party.

(2) Order Becomes Final Unless Appealed. Unless an appeal is filed with the city for hearing before the hearing examiner in accordance with SMC 13.01.070(2), the notice of violation shall become the final order of the city official. A copy of the notice shall be filed with the Snohomish County auditor. The city official may choose not to file a copy of the notice or order if the notice or order is directed only to a responsible person other than the owner of the property. (Ord. 1112 § 1, 2001).

13.01.045 Classes of violation – Defined – Penalties.

(1) Classes of Violation.

(a) Class A. Class A code violations present an immediate and/or significant threat to the health, safety and welfare of the general public. Class A civil penalties shall be charged as follows:

- (i) First offense: \$250.00;
- (ii) Second offense within one year of first violation: \$500.00;
- (iii) Third offense within one year of first violation: \$1,000.

(b) Class B. Class B code violations present a threat to the health, safety and welfare of the general public or otherwise undermine the orderly functioning of city government. Class B civil penalties shall be charged as follows:

- (i) First offense: \$50.00;
- (ii) Second offense within one year of first violation: \$250.00;
- (iii) Third offense within one year of first violation: \$500.00.

(2) Civil penalties shall be imposed upon the violator’s failure to achieve compliance as set forth in the notice of violation under SMC 13.01.030(2)(c).

(3) Additional Penalties.

(a) 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 SMC Title 13 shall be subject to a cumulative penalty in the amount of \$50.00 per day for each violation from the

date set for compliance until compliance with the order is achieved.

(b) The penalty imposed by this section shall be collected by civil action brought in the name of the city. The city official shall notify the city attorney in writing of the name of any person subject to the penalty, and the city attorney shall, with the assistance of the city official, take appropriate action to collect the penalty.

(c) The violator may show as full or partial mitigation of liability that:

- (i) The violation giving rise to the action was caused by the wilful act, or neglect, or abuse of another; or
- (ii) Correction of the violation was commenced promptly upon receipt of the notice thereof, but that full compliance within the time specified was prevented by inability to obtain necessary materials or labor, inability to gain access to the subject structure, or other condition or circumstance beyond the control of the defendant. (Ord. 1112 § 1, 2001).

13.01.050 Stop work order.

Whenever a continuing violation of this code will materially impair the city official’s ability to secure compliance with this code, or when the continuing violation threatens the health or safety of the public, the city official may 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 violation of this chapter. (Ord. 1112 § 1, 2001).

13.01.060 Emergency order.

Whenever any use or activity in violation of the Stanwood Municipal Code threatens the health and safety of the occupants of the premises or any member of the public, the city official may issue an emergency order directing that the use or activity be discontinued and the condition causing the threat to the public health and safety be corrected. The emergency order shall specify the time for compliance and shall be posted in a conspicuous place on the property, if posting is physically possible. A failure to comply with an emergency order shall constitute a violation of this chapter.

13.01.070

Any condition described in the emergency order which is not corrected within the time specified is hereby declared to be a public nuisance and the city official is authorized to abate such nuisance summarily by such means as may be available. The cost of such abatement shall be recovered from the owner or person responsible or both in the manner provided by law. (Ord. 1112 § 1, 2001).

13.01.070 Review by hearing examiner.

(1) Notice of Violation – Criminal Penalties. There is no administrative appeal of a notice of violation issued pursuant to SMC 13.01.100 for a violation of codes in this title which subject the violator to criminal prosecution.

(2) Notice of Violation – Civil Penalties. Any person significantly affected by or interested in a notice of violation issued by the city official pursuant to SMC 13.01.030 for a violation of the Stanwood Municipal Code which subjects the violator to suspension of a license or permit or civil prosecution may obtain an appeal of the notice by requesting such appeal within 15 calendar days after service of the notice. When the last day of the period so computed is a Saturday, Sunday or federal or city holiday, the period shall run until 5:00 p.m. on the next business day. The request shall be in writing, and upon receipt of the appeal request, the clerk/treasurer, or his designated representative, shall forward the request to the city official and the hearing examiner.

(3) At or after the appeal hearing, the hearing examiner may:

- (a) Sustain the notice of violation;
- (b) Withdraw the notice of violation;
- (c) Continue the review to a date certain for receipt of additional information;

(d) Modify the notice of violation, which may include an extension of the compliance date.

(4) The decision of the hearing examiner shall be final and no further administrative appeal may be filed. In order to appeal the decision of the hearing examiner, a person with standing to appeal must seek review by a court with competent jurisdiction within 21 days of the issuance of the examiner's deci-

sion. The cost of transcription of all records ordered certified by the court for such review shall be borne by the appellant. (Ord. 1112 § 1, 2001).

13.01.100 Criminal penalties.

(1) Any person violating or failing to comply with any of the provisions of the Stanwood Municipal Code and who has had a judgment entered against him or her pursuant to the Stanwood Municipal Code within the past five years shall be subject to criminal prosecution and upon conviction of a subsequent violation shall be fined in a sum not exceeding \$5,000 or be imprisoned for a term not exceeding one year or be both fined and imprisoned. Each person is guilty of a separate offense for each and every day during any portion of which noncompliance with any of the provisions of the Stanwood Municipal Code continues.

(2) The above criminal penalty may also be imposed:

(a) For any other violation of the Stanwood Municipal Code for which corrective action is not possible; and

(b) For any wilful, intentional, or bad faith failure or refusal to comply with the standards or requirements of the Stanwood Municipal Code. (Ord. 1112 § 1, 2001).

13.01.110 Additional relief.

The city official may seek legal or equitable relief to enjoin any acts or practices and abate any condition which constitutes or will constitute a violation of the Stanwood Municipal Code when civil or criminal penalties are inadequate to effect compliance. (Ord. 1112 § 1, 2001).

13.01.120 Severability.

If any section, sentence, clause or phrase of the ordinance codified in this chapter should be held to be 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, clause or phrase of the ordinance. (Ord. 1112 § 1, 2001).