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Ordinance 945

An ordinance amending Clallam County Code Chapter 20.20, Notice and Orders

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

**Section 1. Section 20.20.010, Authority and effect, is amended to read as follows:**

(1) Whenever the Director has reason to believe that a civil code violation has occurred or is occurring, or that the terms of a voluntary compliance agreement have not been met, the Director may issue a notice and order to any person responsible for code compliance. Issuance of ~~a warning a stop work order, or citation~~ is not required before issuing a notice and order.

(2) A notice and order represents ~~a determination an allegation~~ that a civil code violation has occurred and that the person named therein is responsible for correcting the violation, as well as the other penalties and remedies specified in the notice and order.

~~(3) Failure to appeal the notice and order according to the procedures set forth in this title shall render the notice and order a final determination that the conditions described in the notice and order exist and constitute a civil code violation, that the person named therein is liable, and that the stated sanctions are properly imposed. Issuance of a notice and order may require the alleged violator to appear at and participate in the administrative hearing before the hearing examiner as established by Chapter 20.33 of this Code. The Hearing Examiner shall make all decisions regarding the disposition of any notice and order.~~

~~(4) Issuance of a notice and order in no way limits the Director's authority to issue a citation, stop work order, or a subsequent notice and order, or pursue any other legal action. Payment of the penalties and costs assessed under the notice and order does not relieve the person named therein of the duty to correct the violation and does not waive any of the penalties and costs accrued and accruing under previously or subsequently issued citations, stop work orders, notice and orders, or any other legal action.~~

~~(5) Payment of the penalties and costs assessed under the notice and order does not relieve the person named therein of the duty to correct the violation and does not waive any of the penalties and costs accrued and accruing under previously or subsequently issued stop work orders, notice and orders, orders issued pursuant to Chapter 20.33 of this Code or any other legal action.~~

~~(6) The Director may record a copy of the notice and order with the Clallam County Auditor's Office. Hearing Examiner's decision rendered pursuant to Chapter 20.33 of this Code with the Clallam County Auditor's Office.~~

In that case, the Director shall record a certificate of correction with the Clallam County Auditor's Office when all violations specified in the ~~notice and Hearing Examiner's Order order~~ have been corrected as required by the notice and order.

~~(7) The Director may grant in writing an extension of the time limit for compliance or agree to a modification of the required corrective action if the person responsible for code compliance makes a request therefor in writing, which describes in detail the circumstances that render full or timely compliance under the original conditions unattainable, and shows due diligence or substantial progress in correcting the violation prior to requesting an extension.~~

~~(8) Whenever there is new information or a change in circumstances, the Director may add to, rescind in whole or part or otherwise modify a notice and order by issuing a supplemental notice and order. A supplemental notice and order shall be governed by the same procedures as notice and orders contained in this title.~~

~~(9) The Director may revoke or modify a notice and order issued under this title if the original notice and order was issued in error or if a party to an order was incorrectly named. A modified notice and order shall identify the reasons and underlying facts for modification and shall be subject to the same procedures as notice and orders contained in this title. If the underlying notice and order was recorded, the modified notice and order shall also be recorded with the Clallam County Auditor's Office.~~

**Section 2. Section 20.20.020, Contents is amended to read as follows:**

In addition to identifying the name and address of the person to whom the notice and order is directed, the notice and order shall contain the following:

(1) The address, legal description, and/or Clallam County tax parcel number of the subject property;

(2) A summary of the information that forms the basis of the determination that a violation has occurred or is occurring on the subject property;

(3) A reference to the specific provisions of the ordinance, permit condition, notice and order provision, or stop work order that was or is being violated;

(4) Notification of the corrective actions required to be taken, including any permits and associated mitigation plans and/or special reports that must be obtained and the due date by which the corrective actions must be completed;

~~(5) Notification that the notice and order may be recorded against the subject property in the Clallam County Auditor's Office subsequent to service; Notification that it is the duty of the person responsible for code compliance to notify the Director in writing of any actions taken to achieve compliance with the notice and order;~~

~~(6) Notification of the amount of civil penalty per violation being assessed and accruing pursuant to the provisions of this title, and notification that penalties are due 30 calendar days after they are imposed Notification that the violation is not considered corrected unless and until the Director issues a written certificate of correction;~~

~~(7) Notification of any costs being assessed, and notification that costs are due 30 calendar days after they are imposed; Notification that the notice and order will be the subject of an administrative hearing before the Hearing Examiner in a manner consistent with Chapter 20.33 of this Code;~~

~~(8) Notification that if any penalties or costs remain unpaid 90 calendar days after they are imposed, interest will begin to accrue at six percent per annum, a lien will be recorded against the subject property (if owned by the responsible person), and/or the amounts due will be forwarded to a collection agency for collection; Notification of the amount of civil penalty per violation being recommended to the County's Hearing Examiner by staff for possible imposition by the Hearing Examiner;~~

~~(9) Notification of the suspension or revocation of any permit previously issued by the Director relating to the subject property; Notification of the amount of costs being recommended to the County's Hearing Examiner by staff for possible imposition by the Hearing Examiner;~~

~~(10) Notification that, if the corrective work ordered to be commenced or completed is not so commenced or completed by the date specified in the notice and order, the Director may seek further remedies including but not limited to assessment of additional penalties, costs, suspension, revocation, or denial of development permits, and/or abatement, or may forward the case to the Prosecuting Attorney for consideration of additional injunctive, declaratory, criminal, or other actions as may be necessary to enforce the provisions of the Clallam County Code; Notification of the date, time and place when and where the County's Hearing Examiner will make the County's decision with respect to the notice and order, said notification informing the alleged violator of their right to provide testimony (in written or oral format) to the Hearing Examiner at the date and time established, while requiring the alleged violator submit all written testimony to the County at least five (5) business days before the date set for the hearing.~~

~~(11) Notification that any person named in the notice and order or having any legal or equitable title in the subject property may appeal the notice and order to the Hearing Examiner within 14 calendar days of the date of service of the notice and order; Notification of the suspension or revocation of any permit previously issued by the Director relating to the subject property;~~

~~\_\_\_\_\_ (12) Notification that enforcement of the notice and order shall be stayed as to the appealing party while any administrative appeal under this title is pending, except when the Director determines that the violation poses a significant threat of immediate and/or irreparable harm and so states in the notice and order issued; Notification that, in addition to issuing a notice and order and having the lawfulness of said notice and order decided by the County's Hearing Examiner, all other legal options remain available to the County so that it may enforce the provisions of the Clallam County Code.~~

\_\_\_\_\_ (13) Notification that a failure to appeal the notice and order within the appeal time limit renders the notice and order a final determination that the conditions described in the notice and order exist and constitute a civil code violation, that the named party is liable as a person responsible for code compliance, and that the stated sanctions are properly imposed;

(14) Notification that it is the duty of the person responsible for code compliance to notify the Director in writing of any actions taken to achieve compliance with the notice and order;

(15) Notification that the violation is not considered corrected unless and until the Director issues a written certificate of correction.

**Section 3. Section 20.20.030, Assessment of penalties to read as follows:**

(1) Penalties will be imposed according to the provisions of the penalties schedule contained in this title.

(2) The payment of penalties does not relieve a person responsible for code compliance of any obligation to stop and correct a violation and does not waive any of the penalties and costs accrued and accruing under previously or subsequently issued citations, stop work orders, notice and orders, or any other legal action.

**Section 4. Section 20.20.040, Assessment of costs of code compliance to read as follows:**

(1) Independent of other remedies available under this title, the Director may charge to the person responsible for code compliance the direct and indirect costs incurred by Clallam County to pursue code compliance, including staff time at the hourly rate specified for technical assistance in Chapter 5.100 CCC, Consolidated Fee Schedule, at Planning Division services, as well as actual expenses incurred in investigating the violation and pursuing citations, notice and orders, and stop work orders, and monitoring compliance under voluntary compliance agreements.

(2) Costs charged create a joint and several obligations in all persons responsible for code compliance. Such costs are due and payable 30 calendar days from assessment. The Director may collect the costs by any appropriate legal means, including forwarding the same to a collection agency for collection. A lien for unpaid costs may be recorded according to the lien provisions of this title. A lien for costs shall run with the subject land (if owned by the person responsible for code compliance), and shall accrue interest at six percent per annum from the date of recording the lien until paid in full.

**Section 5. Section 20.20.050, Suspension or revocation of permit is repealed in its entirety:**

~~(1) The Director may suspend or revoke any permit issued by that Director whenever:~~

~~\_\_\_\_\_ (a) The permit holder has committed a code violation in the course of performing activities subject to that permit;~~

~~\_\_\_\_\_ (b) The permit holder has failed to comply with the provisions of a notice and order, stop work order, or voluntary compliance agreement; or~~

~~\_\_\_\_\_ (c) For a permit or approval that is subject to critical areas review, the permit holder has failed to disclose a change of circumstances on the development proposal site which materially affects a permit holder's ability to meet the permit or approval conditions or which makes inaccurate the critical areas study that was the basis for establishing permit or approval conditions.~~

~~— (2) — A suspension or revocation authorized by subsection (1) of this section shall be carried out through the notice and order provisions of this chapter and shall be effective upon the compliance date established by the notice and order. The revocation or suspension may be appealed to the Hearing Examiner within 14 calendar days of the date of service of the notice and order, using the appeal provisions of this title~~

~~— (3) — Notwithstanding any other provision of this title, the Director may immediately suspend operations under any permit by issuing a stop work order pursuant to the provisions of this title.~~

ADOPTED this 10 day of July 2018

BOARD OF CLALLAM COUNTY COMMISSIONERS

[Signature]  
Mark Ozias, Chair

[Signature]  
Randy Johnson

[Signature]  
Bill Peach

ATTEST:

[Signature]  
Loni Gores, Clerk of the Board