

ORDINANCE NO. 42-19

AN ORDINANCE of the City of Richland amending Chapter 16.10 of the Richland Municipal Code related to violations and penalties applicable to Title 16, Stormwater.

WHEREAS, the City has need, from time to time, to amend the Richland Municipal Code (RMC) to eliminate ambiguity or bring the code into compliance with state or federal law; and

WHEREAS, Chapter 16.10, establishing administrative enforcement procedures, improperly references the phrase “chapter” instead of “title” throughout, thereby inappropriately limiting the application of the administrative enforcement provisions; and

WHEREAS, the intent of Chapter 16.10 is to create enforcement procedures that apply to the whole of Title 16 RMC.

NOW, THEREFORE, BE IT ORDAINED by the City of Richland as follows:

Section 1. Chapter 16.10 of the Richland Municipal Code, entitled Administrative Enforcement Procedures, as first enacted by Ordinance No. 27-09, and last amended by Ordinance No. 12-10, is hereby amended to read as follows:

**Chapter 16.10
ADMINISTRATIVE ENFORCEMENT PROCEDURES**

Sections:

- 16.10.010 Administrative enforcement procedures.**
- 16.10.020 Appeal.**
- 16.10.030 Abatement by the city.**
- 16.10.040 Administrative fines.**
- 16.10.050 Injunction and/or civil penalties.**

16.10.010 Administrative enforcement procedures.

When the director finds that a person has violated a prohibition or failed to meet a requirement of this ~~chapter~~ title, the director may order compliance through one or more of the following procedures. Recurring violations will result in enforcement procedures with escalating requirements. The director may, at his discretion, choose the following enforcement procedures appropriate to the violation:

A. Verbal Warning. The director, or his designee, may direct compliance with this ~~chapter~~ title through a verbal warning issued to the violator. A verbal warning will include specific information describing the violation, specific actions required to remedy the violation, an expected time for performance, and referral to technical guidance available to the violator.

B. Notice of Violation. The director may require compliance by written notice of violation to the responsible person. Such notice may require without limitation:

1. The elimination of illicit connections or discharges;
2. The violating discharges, practices or operations shall cease and desist;
3. The performance of monitoring, analyses and reporting;
4. The abatement or remediation of stormwater pollution or contamination hazards and the restoration of the MS4 facilities;
5. Implementation of source control or treatment BMP;
6. Payment of a fine.

If abatement of a violation and/or restoration of the MS4 facilities is required, the notice shall set forth a date within which remediation or restoration must be completed. Such notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work may be done by the city or a contractor designated by the director and expense thereof shall be charged to the violator.

C. Show Cause Hearing. The director may order a user which has violated or continues to violate this ~~chapter~~ [title](#) to appear before the director and show cause why the proposed enforcement action should not be taken. Notice of the hearing shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the user show cause why the proposed enforcement action should not be taken. A show cause hearing shall not be a bar against, or prerequisite for, taking any action against the user.

16.10.020 Appeal.

Any person receiving a notice of violation may appeal the determination of the director.

Persons desiring to appeal notice of violation and/or fines must file a written request for the director to reconsider the violation and/or fine along with full payment of the fine amount within 30 days of being notified of the fine. Where a request has merit, the director shall convene a hearing on the matter within 15 days of receiving the request from the violator. In the event the person's appeal is successful, the payment together with any interest accruing thereto shall be returned to the person.

The city may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

16.10.030 Abatement by the city.

The director is authorized to direct abatement of any violation of this ~~chapter~~ [title](#) that constitutes an immediate threat to the health, safety or well-being of the public, or results

from persistent noncompliance by a violator. Any expense related to such abatement undertaken by the city shall be fully reimbursed by the property owner and/or responsible party.

Within 30 days after abatement by the city, the director shall notify the property owner and/or responsible person of the cost of abatement, including administrative costs. Unpaid charges shall, after 30 calendar days, be assessed an additional penalty of five percent of the unpaid balance, and interest shall accrue thereafter at a rate of one percent per month. A lien against the violator's property will be sought for unpaid charges.

Violators desiring to dispute such charges must file a written request for the director to reconsider the charges along with full payment of the charges within 30 days of being notified of the charges. Where a request has merit the director shall convene a hearing on the matter within 15 days of receiving the request. In the event the violator's appeal is successful, the payment, together with any interest accruing thereto, shall be returned.

The city may add the costs of preparing administrative enforcement actions to the charges.

16.10.040 Administrative fines.

For repeated violations of this ~~chapter~~ [title](#) and persistent noncompliance with written enforcement directives, the director may order payment of administrative fines. The fines in this section are in addition to and not in lieu of any other penalty, sanction or right of action provided by law. An administrative fine may be no less than \$100.00 and no more than \$5,000 per violation.

16.10.050 Injunction and/or civil penalties.

It shall be unlawful for any person to violate any provisions or fail to comply with any of the requirements of this ~~chapter~~ [title](#). If a person has violated or continues to violate the provisions of this ~~chapter~~ [title](#), the city may:

A. Petition for a preliminary or permanent injunction restraining the person from activities which would create further violations, or compelling the person to perform abatement or remediation of the violation; and/or

B. Assess civil penalties in an amount not less than \$100.00 and not more than \$5,000 per day for each day of violation. Payment of this penalty does not relieve the person of the duty to correct the violation.

In the event more than one person is determined to have violated the sections of this title, all applicable civil penalties may be imposed against each person and recoverable damages, costs and expenses may be allocated among the persons on any equitable basis. The city may recover all attorney's fees, court costs and other expenses associated with enforcement of this ~~chapter~~ [title](#).

Section 2. This ordinance shall take effect the day following its publication in the official newspaper of the City of Richland.

PASSED by the City Council of the City of Richland, Washington, at a regular meeting on the 15th day of October, 2019.


ROBERT J. THOMPSON
Mayor

ATTEST:

APPROVED AS TO FORM:


TONI FULTON, Acting Deputy City Clerk


HEATHER KINTZLEY, City Attorney

Date Published: October 20, 2019