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Chapter 25.16

ENFORCEMENT AND PENALTIES

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1 **25.16.010 Purpose.**

2
3 The purpose of the enforcement procedures found in this chapter is to establish an efficient system to
4 enforce the land use and development codes of Grant County for the benefit of the public health, safety
5 and welfare, and the environment. To achieve this purpose, this chapter provides procedures for:

- 6
7 (1) Efficient notice and opportunities to correct violations;
8
9 (2) Progressive monetary penalties proportionate to the violations;
10
11 (3) Contesting a citation or appealing a notice of violation;
12
13 (4) Collecting civil penalties; and
14
15 (5) Abatement and remediation of violations.
16

17 **25.16.020 Applicability.**

18
19 This chapter applies to violations of Chapters 10.24, 10.46, 11.24, 11.28, 11.32, 14.04, 22, 23, 24, and 25
20 of the Grant County Code and other code provisions within the administrative jurisdiction of the
21 Department of Community Development (DCD), or the Department of Public Works (DPW). Violations
22 include but are not limited to:

- 23
24 (1) Failure to obtain required permits or authorizations within the administrative jurisdiction of the
25 applicable department;
26
27 (2) Failure to comply with the terms or conditions of a permit or authorization issued by the applicable
28 department;
29
30 (3) Failure to comply with any county code provision within the administrative jurisdiction of the
31 applicable department;
32
33 (4) Failure to comply with rules or regulations adopted pursuant to the administrative authority of the
34 applicable department;
35
36 (5) Removal without authorization or defacing any sign, notice or order posted pursuant to the
37 administrative authority of the applicable department; and
38
39 (6) Failure to comply with a stop work or emergency order issued under this chapter.
40

41 **25.16.030 Remedies not exclusive.**

42
43 The remedies set forth in this chapter are not exclusive, and do not limit or restrict the authority of the
44 county from remedying or abating violations in any manner authorized by law.
45

46 **25.16.040 Public nuisance.**

- 47
48 (1) Violations of Chapters 10.24, 10.46, 11.24, 11.28, 11.32, 14.04, 22, 23, 24, and 25 of the Grant
49 County Code and all other codes under the administrative authority of the Department of
50 Community Development and the Department of Public Works, are determined to be detrimental to

1 the public health, safety and welfare and are public nuisances.

- 2
3 (2) Whenever the applicable Administrative Official (AO) determines that any condition creates a
4 present or imminent hazard, or is likely to create a hazard to the public safety, health or welfare, to
5 the environment, or to public or private property, the director may declare such condition a public
6 nuisance.

7
8 **25.16.050 Initiation of enforcement action.**

- 9
10 (1) Whenever an AO has reason to believe a violation has occurred, the director may initiate any of the
11 following enforcement actions against the person(s) responsible for the violation:
12 (a) Issuance of a citation;
13
14 (b) Issuance of a notice of violation;
15
16 (c) Issuance of a stop work order;
17
18 (d) Issuance of an emergency order; and/or,
19
20 (e) Referral of the matter to the prosecuting attorney for enforcement.
21
22 (2) In all cases the property owner shall be named as a responsible party in an enforcement action.

23
24 **25.16.060 Types of code enforcement action.**

- 25
26 (1) The following options provide a progressive strategy for achieving code compliance and are
27 designed to protect life, health, safety and the public welfare.
28 (a) A warning notice issued under to GCC 25.16.080;
29
30 (b) A citation issued under GCC 25.16.090;
31
32 (c) A notice of violation issued under GCC 25.16.150;
33
34 (d) A stop work order issued under GCC 25.16.230; and
35
36 (e) An emergency order issued under GCC 25.16.240.
37
38 (2) A citation and a notice of violation are intended for different types of violations and shall not be
39 issued for the same violation.
40
41 (3) A violation may be referred to the prosecuting attorney for filing a misdemeanor complaint against
42 the person(s).
43
44 (4) The county may seek legal or equitable relief at any time to enjoin any acts or practices that violate
45 county code, or abate any condition that constitutes a nuisance.

46
47 **25.16.070 Right of entry.**

- 48
49 (1) Any entry made to private property for the purpose of inspection for code violations pursuant to this
50 chapter shall conform with constitutional and statutory constraints of entry, and the holdings of

1 relevant court cases regarding entry. The AO is authorized to enter upon any property for the
2 purpose of administering this chapter provided that the AO shall make entry only if such entry is
3 consistent with the constitutions and laws of the United States and the state of Washington. If so
4 required by the constitutions and the laws of the United States or the state of Washington, the AO
5 shall apply to a court of competent jurisdiction for a search warrant authorizing access to such
6 property for such purpose. The court may upon such application issue the search warrant for the
7 purpose requested.
8

- 9 (2) If the AO has probable cause to believe that conditions on the property create an immediate hazard
10 to person or property, the AO may enter the property immediately for the purpose of investigating
11 the emergency conditions and initiating corrective action.
12

13 **25.16.080 Warning notice.**
14

- 15 (1) Before initiating an enforcement action, the AO may provide a warning notice to the person(s)
16 responsible. The person(s) named in the warning notice may be given the opportunity to correct the
17 violation(s), within the time specified in the warning notice.
18
19 (2) A warning notice shall be written in a form determined by the department and include the following
20 information:
21 (a) The tax parcel number of the property where the violation(s) occurred or is located and, when
22 available, the street address;
23
24 (b) A statement describing the violation(s), with general reference to applicable code section(s);
25
26 (c) The date by which the violation(s) must be corrected to avoid initiation of an enforcement action;
27
28 (d) A statement of the potential consequences of failure to complete corrective action including the
29 imposition of fines or monetary penalties, if applicable; and
30
31 (e) Code enforcement contact information and instructions for the responsible person(s) to respond.
32
33 (3) The warning notice may include suggested corrective actions to cure, abate or stop the violation(s).
34

35 **25.16.090 Citation.**
36

- 37 (1) Violations of the following provisions of Grant County Code shall be subject to the citation and/or
38 criminal provisions set forth in this chapter:
39 (a) Unpermitted junkyard conditions in any zone pursuant to GCC 23.08.020(j);
40
41 (b) Recreational vehicle occupancy pursuant to GCC 23.08.020(i);
42
43 (c) Outdoor residential storage pursuant to GCC 23.08.020(d);
44
45 (d) Illegal signs pursuant to GCC 23.12.150;
46
47 (e) Domestic animal maintenance pursuant to GCC 23.08.020(h);
48
49 (f) Fence height and or location pursuant to GCC 23.08.020(f);
50

- 1 (g) Erosion control measures and best management practices;
2
3 (h) Obstruction of fire apparatus access roads (GCC 14.04);
4
5 (i) Means of egress (GCC 14.04);
6
7 (j) Burn permit (GCC 14.04);
8
9 (k) Stop work order pursuant to (GCC 25.16.230 or 14.04); and
10
11 (l) Emergency order (GCC 25.16.240).
12
13 (2) Issuance of the citation is a final determination and a fine will be assessed in accordance with GCC
14 25.16.130
15
16 (3) Payment of a fine assessed under the citation shall not relieve the person(s) named in the citation of
17 any obligation to cure, abate or stop the violation(s).
18
19 (4) A citation may be modified or withdrawn by the department at any time it was issued in error.
20
21 (5) Each day a person violates or fails to comply with a provision of this section may be considered a
22 separate violation for which a citation may be issued, including the period pending a contested
23 hearing.
24

25 **25.16.100 Citation procedure.**
26

- 27 (1) Whenever a citation for a violation listed in GCC 25.16.090 is issued, the AO may issue the citation
28 to the owner(s) of the property and/or other person(s) responsible for the violation.
29
30 (2) The citation shall be on a form determined by the department and contain the following:
31 (a) The name(s) and address(es) of the person(s) responsible for the violation(s).
32
33 (b) The tax parcel number of the property where the violation occurred or is located and the street
34 address, when available;
35
36 (c) A separate statement of each standard or requirement violated pursuant to GCC 25.16.090.
37
38 (d) The date of the violation(s);
39
40 (e) The applicable fine imposed in accordance with the schedule in GCC 25.16.130 and the date by
41 which payment of the fine is due;
42
43 (f) A statement that the person(s) named in the citation must respond to the citation within 14 days after
44 service;
45
46 (g) A statement that the citation represents a determination that a violation has been committed by the
47 person(s) named in the citation and that the determination shall be final unless contested as provided
48 in this chapter; and
49
50 (h) A certified statement of the code enforcement officer or inspector issuing the citation, authorized by

1 RCW 9A.72.085, setting forth facts supporting issuance of the citation.
2

3 (3) The citation may include a statement of suggested corrective action(s).
4

5 (4) The citation shall state that payment of the fine does not relieve the person found in violation of the
6 responsibility for curing, abating or stopping the violation.
7

8 (5) A citation may be amended at any time in order to correct clerical errors or to cite additional
9 authority for a stated violation.
10

11 **25.16.110 Response to a citation.**
12

13 (1) Person(s) shall respond to a citation within 14 calendar days from the date of service by one of the
14 following means:

15 (a) Paying the fine specified in the citation, in which case the record shall show a finding that the person
16 cited committed the violation. Payment of the fine(s) does not relieve the person named in the
17 citation of the responsibility for curing, abating or stopping the violation.
18

19 (b) Requesting a reduction of fines in writing and explaining the circumstances surrounding the
20 commission of the violation. Conditions for reduction of fines must be in accordance with GCC
21 25.16.140. A request for reduction of fines shall include an address and contact information for the
22 person cited and making said request.
23

24 (c) Requesting a contested hearing in writing specifying the reason why the cited violation did not occur
25 or why the person cited is not responsible for the violation, and providing a mailing address to which
26 notice of such hearing may be sent. The grounds for contesting a citation are set forth in GCC
27 25.16.120.
28

29 (2) Responses to a citation shall include the citation number and shall be delivered by mail or by hand to
30 the office of the Grant County Department of Community Development, attention Code
31 Enforcement. If mailed, the date of postmark shall serve as the date received for purposes of this
32 chapter.
33

34 (3) If a person fails to respond to a citation within 14 days of service, the AO shall note that the person
35 cited failed to respond to the citation within the designated appeal period and is deemed to have
36 committed the violation identified in the citation. Notation of the failure to respond shall constitute a
37 final decision under GCC 25.16.260.
38

39 **25.16.120 Contested citation hearing.**
40

41 (1) When the department receives a written statement contesting a citation, the statement shall be
42 transmitted to the hearing examiner within three business days.

43 (a) The contested citation statement may be dismissed if the hearing examiner determines it is untimely,
44 incomplete, frivolous, or beyond the hearing examiner's jurisdiction. A summary dismissal order
45 shall be issued within 15 days following receipt of the contested citation by the hearing examiner.
46

47 (b) The hearing examiner shall conduct a hearing of the contested citation within 45 days of the date that
48 the hearing examiner received the request for the hearing.
49

50 (c) The hearing examiner shall notify the person contesting the citation and the department in writing of

1 the time, place and date of the hearing at least 15 days prior to the date of the hearing.

2
3 (2) The applicable county department has the burden of proof by a preponderance of the evidence to
4 prove:

5 (a) The person named on the citation is the responsible party for causing the violation or is the property
6 owner; and

7
8 (b) The violation listed on the citation occurred.

9
10 (3) The public hearing shall be an open record hearing conducted in accordance with the Grant County
11 Hearing Examiner Rules of Procedure, except as modified by this chapter.

12
13 (4) Each person participating in an open record hearing shall be allowed to:

14 (a) Call, examine and cross examine witnesses (subject to reasonable limitation by the examiner in
15 accordance with the examiner's adopted rules of procedure) on any matter relevant to the issues of
16 the hearing;

17
18 (b) Introduce documentary and physical evidence;

19
20 (c) Rebut evidence; and

21
22 (d) Represent him/herself or to be represented by anyone of his choice who is lawfully permitted to do
23 so.

24
25 (5) The citation containing the certified statement or declaration authorized by RCW 9A.72.085
26 submitted by the department and any attached documentation shall be prima facie evidence that a
27 violation occurred and that the person(s) cited are responsible. The citation containing the certified
28 statement or declaration of the code enforcement officer or inspector authorized under RCW
29 9A.72.085, and any other evidence accompanying the file shall be admissible without further
30 evidentiary foundation. Any certifications or declarations authorized under RCW 9A.72.085 shall
31 also be admissible without further evidentiary foundation.

32
33 (6) The hearing examiner shall consider the evidence and testimony presented at the hearing and, based
34 on this information, shall reverse or affirm the citation in whole or in part. The decision shall be
35 issued within 15 days with an optional right of reconsideration. Appeals may be made by filing a
36 land use petition in superior court within 21 days of issuance of the decision as provided in chapter
37 36.70C RCW.

38
39 (7) The decision of the hearing examiner shall constitute a final decision and order under GCC
40 25.16260.

41
42 **25.16.125 Failure to appear for a contested citation hearing.**

43
44 Failure to appear for a requested hearing will result in a decision being entered finding that the person
45 cited committed the violation stated in the citation and assessing the fines specified in the citation. For
46 good cause shown and upon terms the hearing examiner finds just, the hearing examiner may set aside a
47 decision entered upon a failure to appear.

48
49 **25.16.130 Fines for Citations.**

- 1 (1) First offense one hundred fifty dollars (\$150.00)
- 2
- 3 (2) Second offense three hundred dollars (\$300.00)
- 4
- 5 (3) Third and subsequent offenses five hundred dollars (\$500.00)
- 6

7 **25.16.140 Mitigation of fines.**

- 8
- 9 (1) The AO may reduce fines assessed pursuant to GCC 25.16. 130 if the violation is corrected within
- 10 the 14-day period set forth in GCC 25.16.110, and the correction is verified by the department. A
- 11 reduction shall be in writing and state the date on which the violation was corrected.
- 12
- 13 (2) For reduction or waiver of fines, the person(s) named shall have the burden of proof that the
- 14 violation has been corrected and the date of correction, including verification by the department.
- 15
- 16 (3) Any reduction shall be based on an evaluation of individual circumstances, including, but not limited
- 17 to the severity of the violation, repeat violations as defined in 25.16.280, the public interest being
- 18 protected, and the responsiveness of the person(s) responsible to correct, cure, abate or stop the
- 19 violation.
- 20

21 **25.16.150 Notice of violation.**

- 22
- 23 (1) All violations of Grant County Code, except as otherwise provided in GCC 25.16.090, shall be
- 24 subject to a notice of violation.
- 25
- 26 (2) A notice of violation represents a determination by the department that a violation has been
- 27 committed and monetary penalties shall be assessed pursuant to GCC 25.16.170. If the person served
- 28 with a notice of violation fails to respond to it by the compliance date, the director shall note that the
- 29 person failed to respond to the notice of violation within the designated appeal period and is deemed
- 30 to have committed the violation identified in the notice of violation. Notation of the failure to
- 31 respond shall constitute a final decision under GCC 25.16.260.
- 32
- 33 (3) The notice of violation may list corrective actions suggested to remedy the violation.
- 34
- 35 (4) Payment of a monetary penalty assessed under a notice of violation shall not relieve the person(s)
- 36 named in the notice of violation of the obligation to correct, cure, abate or stop the violation(s).
- 37
- 38 (5) The notice of violation is a final determination and the person(s) named in the notice of violation
- 39 shall correct the violation by the date stated in the notice of violation, unless the notice of violation is
- 40 appealed.
- 41
- 42 (6) A notice of violation may be withdrawn by the department at any time if it is determined that it was
- 43 issued in error.
- 44
- 45 (7) A notice of violation may be amended at any time in order to correct clerical errors or to cite
- 46 additional authority for a stated violation.
- 47
- 48 (8) When an administrative or judicial appeal is pending, additional notices of violation may be issued at
- 49 the same location.
- 50

- 1 (9) The AO may extend the time for compliance issued in a notice of violation upon finding that
2 substantial progress toward compliance has been made. An extension of time may be revoked by the
3 director upon a finding that the conditions at the time the extension was granted have changed, or the
4 person(s) responsible are not performing corrective actions required in the notice of violation. If the
5 extension of the compliance date is revoked, a new compliance date shall be set, which may be the
6 date of revocation.
7

8 **25.16.160 Notice of violation - effective date and content.**
9

- 10 (1) A notice of violation shall be effective on the date served.
11
12 (2) A notice of violation shall be made on a form determined by the department and shall contain the
13 following:
14 (a) The name and address of the person(s) responsible for the violation (including property owner);
15
16 (b) The tax parcel number of the property where the violation occurred or is located and, when available,
17 the street address;
18
19 (c) A statement of each standard or requirement violated, with a concise description of the violation(s);
20
21 (d) The date the violation was observed and the compliance date;
22
23 (e) The amount of any monetary penalty assessed or that will accrue pursuant to GCC 25.16.170;
24
25 (f) A statement of the appeal process pursuant to GCC 25.16.190;
26
27 (g) A statement that failure to file a timely and complete appeal shall constitute a waiver of all rights to
28 appeal the notice of violation;
29
30 (h) A statement that a lien for any monetary penalty imposed or the cost of abatement, or both, may be
31 claimed by Grant County; and
32
33 (i) The signature of the code enforcement officer or inspector issuing the notice of violation.
34

35 **25.16.170 Monetary penalties for notice of violation.**
36

- 37 (1) The following monetary penalties shall be assessed for each violation identified in the “Notice of
38 Violation”:
39 (a) Non Commercial Violations;
40 a) Day 1 to day 20 \$100.00 per each day
41 b) Day 21 to day 40 \$300.00 per each day
42 c) Day 41 to compliance date \$500.00 per each day.
43
44 (b) Commercial* violations;
45 a) Day 1 to day 20 \$300.00 per each day
46 b) Day 21 to day 40 \$600.00 per each day
47 c) Day 41 to compliance \$1000.00 per each day.
48

49 * See GCC 25.02.030 definition.
50

- 1 (2) Monetary penalties for both non-commercial and commercial notice of violations shall be assessed
2 and accrue from the compliance date in the notice of violation or its written extension.
3
- 4 (3) Monetary penalties for repeat violations shall be assessed and accrue from the date of issuance of the
5 notice of violation.
6
- 7 (4) If a notice of violation is stayed pending an appeal, the monetary penalties will accrue as of the date
8 of the decision of the hearing examiner (adjusted for the time stayed pending the appeal), or the
9 compliance date of compliance if the date of compliance hasn't passed prior to the decision of the
10 hearing examiner.
11
- 12 (5) The total monetary penalties for non-commercial violations shall not exceed \$10,000 per violation,
13 except as provided for in GCC 25.16.170(7).
14
- 15 (6) The total monetary penalties for commercial violations shall not exceed \$25,000 per each violation,
16 except as provided for in GCC 25.16.170(7)(a) and (b).
17
- 18 (7) The following violations shall be subject to enhanced monetary penalties:
19 (a) Violations that occur in a critical area or a critical area buffer as defined in chapters GCC 24.08 shall
20 be subject to triple monetary penalties (\$30,000 Non-commercial and \$75,00.00 Commercial
21 accrued at the highest rate until compliance is met or the total accrued); and
22
23 (b) Repeat violations or violators in accordance with GCC 25.16.280 shall be subject to double monetary
24 penalties same as above.
25

26 **25.16.180 Reduction of monetary penalties.**

27

- 28 (1) The AO may reduce monetary penalties assessed in GCC 25.16.170 if the violation is corrected and
29 the correction is verified by the department.
30
- 31 (2) For reduction of monetary penalties, the person(s) named in the notice of violation shall have the
32 burden of proof that the violation has been corrected and the date of correction, including
33 verification by the department.
34
- 35 (3) Monetary penalties shall not be reduced in the case of a repeat violator or repeat violation as defined
36 in GCC 25.16.280.
37
- 38 (4) Maximum allowed reduction of the penalty shall not exceed 25% of the total amount of the penalty.
39
- 40 (5) The director may base the decision to reduce a monetary penalty on an evaluation of individual
41 circumstances, including, but not limited to, the severity of the violation, the public interest being
42 protected, and the cooperation of the person responsible for the violation.
43
- 44 (6) Nothing in this section shall obligate the director to reduce any monetary penalties.
45

46 **25.16.190 Appeal of a notice of violation.**

47

- 48 (1) Upon service of a notice of violation, the person(s) named in the notice of violation shall have 14
49 calendar days to file an appeal, except when appealing a violation of the county shoreline
50 management program.

- 1 (2) An appeal of a notice of violation must be in writing and contain the following:
2 (a) A detailed statement of the grounds for appeal, including the facts or evidence upon which the
3 appeal is based. The statement shall include at least one of the following:
4 (i) The person named in the notice of violation, is not responsible for causing the violation and is not
5 the property owner; or
6 (ii) The cited violation did not occur.
7
8 (b) The name, mailing address, and daytime telephone number of each appellant, or each appellant's
9 representative, together with the signature of at least one of the appellants or of the appellants'
10 representative.
11
12 (c) A complete copy of the notice of violation.
13
14 (3) The appeal submittal and fee shall be delivered by U.S. mail or by hand to the office of the Grant
15 County Department of Community Development, attention Code Enforcement. If mailed, the date
16 of postmark shall serve as the date received for purposes of this chapter.
17
18 (4) Enforcement of a notice of violation and any penalty accruing shall be stayed pending an appeal as
19 provided in GCC 25.16.240, unless the violation will cause immediate and irreparable harm as
20 determined by the director.
21

22 **25.16.200 Notice of violation appeal hearing procedures.**

- 23
24 (1) When the department receives an appeal of a notice of violation pursuant to GCC 25.16.190, the
25 department shall transmit the request and a copy of the file to the hearing examiner within three
26 business days.
27
28 (2) The hearing examiner shall review the appeal document and may summarily dismiss the appeal if the
29 filing is untimely, incomplete, frivolous, or beyond the hearing examiner's jurisdiction. In such
30 event, a summary dismissal order shall be issued by the hearing examiner within 15 days following
31 receipt of the appeal.
32
33 (3) If the appeal is not summarily dismissed the hearing examiner shall hold an open record hearing on
34 the notice of violation within 60 days after the date on which the hearing examiner received the
35 notice of appeal. All testimony at the open record hearing shall be taken under oath.
36 (a) The hearing examiner shall notify the parties in writing of the time, place and date of the hearing at
37 least 30 days prior to the date of the hearing, unless the parties stipulate to a shorter time period.
38
39 (b) Failure of the appellant to appear at the requested hearing may result in an order being entered
40 finding that the persons(s) named in the notice of violation committed the violation as stated and
41 assessing monetary penalties in accordance with GCC 25.16.170. For good cause shown, and upon
42 terms the hearing examiner finds just, the hearing examiner may set aside an order entered upon a
43 failure to appear.
44
45 (4) In order to facilitate and expedite fair and equitable hearings, the hearing examiner may adopt rules
46 of procedure that supplement the requirements set forth in this chapter 25.16; provided that in the
47 event of any conflict between the requirements of the chapter and any rules of procedure adopted by
48 the hearing examiner, the requirements of this chapter shall control.
49
50 (5) Each person participating in an open record hearing shall be allowed to:

- 1 (a) Call, examine and cross-examine witnesses (subject to reasonable limitation by the examiner in
2 accordance with the examiner's adopted rules of procedure) on any matter relevant to the issues of
3 the hearing;
4
- 5 (b) Introduce documentary and physical evidence;
6
- 7 (c) Rebut evidence; and
8
- 9 (d) Represent him/herself or to be represented by anyone of his choice who is lawfully permitted to do
10 so.
11
- 12 (6) The county has the burden of proof by a preponderance of the evidence that the appellant(s)
13 committed the violation.
14
- 15 (7) Each party participating in an open record hearing for appeal of a notice of violation shall submit a
16 copy of its written materials to the hearing examiner and to each of the other parties appearing in the
17 appeal pursuant to the following schedule:
18 (a) No later than three weeks prior to the date of the scheduled open record hearing, the appellant(s)
19 shall submit:
20 (i) an original or copy of each substantive document the party desires to enter as an exhibit in the
21 appeal record, including but not limited to, any and all scientific or technical documents,
22 reports, studies, analyses, photographs, maps, diagrams, or other similar materials;
23 (ii) a list of all exhibits submitted; and
24 (iii) a list of witnesses.
25
- 26 (b) No later than one week prior to the date of the scheduled open record hearing, the respondent(s)
27 shall submit:
28 (i) An original or copy of each substantive document the party desires to enter as an exhibit in the
29 appeal record, including, but not limited to, any and all scientific or technical documents,
30 reports, studies, analyses, photographs, maps, diagrams, or other similar materials;
31 (ii) A list of all exhibits submitted; and
32 (iii) A list of witnesses.
33
- 34 (c) Parties have a duty to supplement at the earliest possible opportunity their submittals made under
35 GCC 25.16.200(7) whenever a party discovers that all or any part of the material submitted was
36 incorrect or inaccurate when submitted, or that all or any part of the material submitted is no
37 longer correct or accurate even though it was correct and accurate at the time of submittal.
38
- 39 (d) Written materials not disclosed through the exhibit pre-filing process may not be entered as
40 evidence or presented orally at the open record hearing except by agreement of the other
41 part(y/ies) to the appeal or at the hearing examiner's discretion for good cause shown.
42
- 43 (8) Optional prehearing briefing process:
44 (a) A prehearing briefing process may be conducted:
45 (i) By agreement of the parties to the appeal;
46 (ii) At the hearing examiner's discretion upon request of one or more of the parties to the appeal; or
47 (iii) Upon the hearing examiner's own initiative.
48
- 49 (b) The purpose of a prehearing briefing is to facilitate a full and fair hearing on the merits in cases
50 that may involve complex or confusing factual issues or legal arguments. Accordingly, in

1 determining whether to require a prehearing briefing, the hearing examiner shall consider the
2 number and complexity of issues, and any other relevant facts and circumstances.

3
4 (c) If a prehearing briefing process is employed in an appeal, such process shall include submittal of
5 an initial brief by the appellant(s), and an optional reply brief by the appellant(s). Response briefs
6 may be filed by all other parties to the appeal.

7
8 (d) Prehearing briefs shall be submitted pursuant to the following schedule, unless a different schedule
9 is established by the hearing examiner and agreed to by the parties:

- 10 (i) The initial brief(s) will be due three weeks before the hearing;
11 (ii) The response brief(s) will be due one week before the hearing; and
12 (iii) The reply brief(s) will be due not less than two business days before the hearing.

13
14 (9) The hearing examiner shall consider the evidence and testimony presented at the hearing and, based
15 on this information, shall issue a written decision reversing or affirming the notice of violation, in
16 whole or in part, and addressing the amount of monetary penalties, if any, to be imposed on the
17 appellant(s). The final decision shall be issued within 15 days of the conclusion of the open record
18 hearing with an optional right of reconsideration pursuant to GCC 25.16.210. An appeal of a
19 decision may be made by filing a land use petition in superior court as provided in chapter 36.70C
20 RCW.

21
22 (10) The decision of the hearing examiner shall constitute a final decision and order in accordance with
23 GCC 25.16.260.

24
25 **25.16.210 Notice of violation optional reconsideration procedures.**

26
27 (1) Any party to the appeal of a notice of violation may submit a written petition for reconsideration to
28 the hearing examiner within 10 calendar days following the date of the hearing examiner's written
29 decision. The party seeking reconsideration shall mail or otherwise provide a copy of the petition for
30 reconsideration to all parties to the appeal on the date of filing. Enforcement of a hearing examiner
31 decision and order and any penalty accruing there-under shall be stayed during the pendency of a
32 petition for reconsideration.

33
34 (2) The grounds for seeking reconsideration shall be limited to the following:

- 35 (a) The hearing examiner exceeded the hearing examiner's jurisdiction;
36
37 (b) The hearing examiner failed to follow the applicable procedure in reaching the hearing
38 examiner's decision;
39
40 (c) The hearing examiner committed an error of law;
41
42 (d) The hearing examiner's findings, conclusions, and/or other elements of the decision, are not
43 supported by the record; and/or
44
45 (e) New evidence which could not reasonably have been discovered prior to the hearing and which
46 is material to the decision has been discovered.

47
48 (3) The petition for reconsideration shall:

- 49 (a) Contain the name, mailing address, and daytime telephone number of the party seeking
50 reconsideration or their representative, together with the signature of the party seeking

1 reconsideration or their representative;

2
3 (b) Identify the specific findings, conclusions, and/or other elements of the decision for which
4 reconsideration is requested;

5
6 (c) State the specific grounds upon which relief is requested; and

7
8 (d) Describe the specific relief requested.

9
10 (4) The petition for reconsideration shall be decided by the same hearing examiner who rendered the
11 decision, if such person is reasonably available.

12
13 (5) The hearing examiner shall provide written notice of the request for reconsideration to all parties to
14 the appeal within five days after receiving said petition.

15
16 (6) Within 15 days after the date on which the hearing examiner received the request for
17 reconsideration, the hearing examiner shall issue a written decision (i) denying the petition for
18 reconsideration, (ii) granting the petition for reconsideration in whole or in part, or (iii) requesting
19 additional information, comments and/or oral argument from the parties prior to rendering a
20 decision on the petition for reconsideration.

21
22 (7) A decision which has been subjected to the reconsideration process shall not again be subject to
23 reconsideration.

24
25 **25.16.220 Extension of compliance date.**

26
27 After the hearing examiner has issued a final order specifying a compliance deadline, an appellant may
28 request a revision of the hearing examiner's decision to request additional time beyond the hearing
29 examiner's specified deadline to correct a violation if the following are met:

30
31 (1) The request must be received at least 15 days prior to the compliance date.

32
33 (2) The request for extending the time for correction of the violation shall include

34 (a) Evidence of substantial progress toward compliance; and

35
36 (b) Evidence that correction of the violation was commenced promptly, but full compliance was
37 prevented by a condition or circumstance beyond the control of the appellant. The AO will review the
38 request for additional time and forward it, along with any comments, to the hearing examiner for
39 issuance of a hearing examiner decision granting or denying the request for extension of the deadline
40 to correct the violation.

41
42 **25.16.230 Stop work order.**

43
44 (1) Whenever a director finds any work being performed in a manner in violation of the provisions of
45 the code or in a dangerous or unsafe manner, the AO may issue a stop work order.

46
47 (2) A stop work order shall be on a form determined by the AO and state the reason(s) for the order and
48 the conditions under which the cited work will be permitted to resume.

49
50 (3) A stop work order shall be delivered to the owner of the property involved, or to the owner's agent,

1 or to the person doing the work and/or clearly posted on the property in a conspicuous location.

- 2
3 (4) Upon issuance of a stop work order, the cited work shall immediately cease.
4
5 (5) It shall be unlawful for any person to continue any work after being served with a stop work order.
6 Violation of a stop work order shall be subject to the fines set forth in GCC 25.16.130.
7
8 (6) Violation of a stop work order may be subject to criminal prosecution or any other remedies at law.
9

10 **25.16.240 Emergency order.**

- 11
12 (1) Whenever an AO becomes aware of a condition or activity that endangers public or private property,
13 creates an immediate hazard, creates a violation of critical areas provisions or surface water
14 protection, or threatens the health and safety of the occupants of any premises or members of the
15 public, the director may issue an emergency order including a notice to vacate pursuant to
16 25.16.320A.
17
18 (2) The emergency order shall state the reason for the order and the conditions that must be remedied.
19
20 (3) Upon issuance of an emergency order, the cited activity shall cease and any unsafe or dangerous
21 condition shall be immediately remedied.
22
23 (4) The person(s) named in the emergency order may appeal the order within 14 calendar days from the
24 date of issuance of the order in accordance with GCC 25.16.190. An appeal of an emergency order
25 shall not stay the requirement to immediately take action to remedy any dangerous or unsafe
26 conditions.
27
28 (5) Violation of an emergency order may be subject to criminal prosecution.
29

30 **25.16.250 Method of service.**

- 31
32 (1) A warning notice, citation, or a notice of violation shall be served upon the responsible person(s) by
33 one or both of the following methods:
34 (a) Personal service on the person(s) named, or by leaving a copy of the warning notice, citation, or
35 notice of violation at that person's usual abode with a person of suitable age and discretion who
36 resides there.
37
38 (b) Service by mailing 2 copies, postage prepaid, one by ordinary first class mail and the other by
39 certified mail to the person(s) last known address, at the address of the violation, or at the address of
40 the place of business of the person(s) responsible.
41
42 (c) Service by mail shall be presumed effective upon the third business day following the day upon
43 which the warning notice, citation, or notice of violation was placed in the mail.
44
45 (2) In all cases, the property owner may be named as a party to the violation, and notice shall be mailed
46 to the address shown on the tax records of the county. Notice may also be sent to any lien holders or
47 persons having interest in title to the property.
48
49 (3) If the whereabouts of the person(s) named is unknown, service shall be made by posting and/or
50 publishing the notice in accordance with the following:

- 1 (a) Posted notices shall be conspicuously placed on the property where the violation is occurring; and/or
2
3 (b) When publication is utilized, the department shall publish one notice in the official county
4 newspaper.
5
6 (4) A stop work order shall be served by posting in a conspicuous place on the property where the
7 violation is occurring and by personal service or certified mail return receipt requested. The stop
8 work order shall be effective on the date that it is posted.
9
10 (5) An emergency order shall be served by posting in a conspicuous place on the property where the
11 violation is occurring and by personal service or certified mail return receipt requested. The
12 emergency order shall be effective on the date that it is posted.
13
14 (6) Adequacy of mailed notice:
15 (a) Any mailed notice required by this chapter shall be deemed adequate where a good-faith effort has
16 been made by the department to identify and mail a notice to each property owner or taxpayer, of
17 record, lien holder or person(s) having interest in title and known site address. The taxpayer's
18 address as show on the tax records of the county shall be deemed to be the proper address for the
19 purpose of mailing such notice to the owner of the property where the violation occurred.
20
21 (b) Notices mailed to property owners, taxpayers of record lien holder or person(s) having interest in
22 title and known site addresses shall be deemed received by those persons if named in an affidavit or
23 declaration of mailing executed by the department.
24
25 (c) The failure of any person to actually receive the warning notice, citation, or notice shall not
26 invalidate any code enforcement action.
27

28 **25.16.260 Final order for enforcement.**
29

- 30 (1) A final order constitutes a final determination that a violation has occurred, the person(s) cited is
31 responsible for the violation, and administrative options to contest the decision are exhausted.
32
33 (2) If after any order duly issued by the AO or hearing examiner becomes final, and the person, firm, or
34 corporation to whom the order is directed does not obey the order, including refusal to pay fines or
35 monetary penalties assessed under such order, the county may:
36 (a) Cause such person, firm, or corporation to be prosecuted under the provisions of this chapter;
37
38 (b) Institute appropriate action to collect fines or monetary penalties assessed in accordance with
39 provisions of this chapter;
40
41 (c) Abate the violation in accordance with provisions of this chapter and state law;
42
43 (d) File a certificate of noncompliance in the Grant County Auditor's office in accordance with
44 provisions of this chapter; or
45
46 (e) Pursue other reasonable remedies as allowed by law.
47

48 **25.16.270 Collection of fines and monetary penalties.**
49

- 50 (1) The county may, at its option, assign the collection of fines or monetary penalties to a collection

1 agency or commence a civil action in any court of competent jurisdiction to collect costs and
2 expenses of enforcement, costs of abatement incurred by the county to obtain compliance pursuant to
3 this chapter and/or to collect any fines or penalties that have been assessed.
4

- 5 (2) The county, pursuant to chapter 19.16 RCW and at its option, may use a collection agency for the
6 purpose of collecting penalties assessed in accordance with this chapter. The county shall add a
7 reasonable fee to the outstanding debt for the collection agency fee incurred or to be incurred as a
8 result of the use of the collection agency. No debt may be assigned to a collection agency until at
9 least 30 days have elapsed from the time that the county attempts to notify the person responsible for
10 the debt and that the debt may be assigned to a collection agency for collection of an unpaid debt.
11
- 12 (3) The county may convert the hearing examiner order or final order into a judgment.
13

14 **25.16.280 Repeat violations.**

15
16 Repeat violations or a repeat violator are defined as follows:
17

- 18 (1) The same or similar violation, as determined by the AO, occurring on the same property within a 24
19 consecutive month time period.
20
- 21 (2) The same person(s) committing the same violation or similar violation, as determined by the
22 director, on a different property in Grant County within a 24 consecutive month time period.
23

24 **25.16.290 Certificate of noncompliance.**

- 25
26 (1) The certificate of noncompliance is a notice recorded on the title of real property. The purpose of
27 the certificate is to give notice to interested parties of outstanding code violations.
28
- 29 (2) The AO may record a certificate of noncompliance when:
30 (a) A notice of violation has become a final order under GCC 25.16.260.
31
32 (b) The notice recorded on the title of real property includes a statement of how the certificate of
33 noncompliance can be removed from the title of the property when the violation(s) have been
34 corrected.
35

36 **25.16.300 Suspension of permits.**

- 37
38 (1) The AO may temporarily suspend any permit for:
39 (a) Failure to comply with the requirements of this title or other applicable provision of the county code
40 related to the permit; or
41
42 (b) Failure to comply with any notice of violation issued pursuant to this chapter.
43
- 44 (2) The permit suspension shall be subject to the notice of violation provisions of this chapter, and the
45 suspension shall be effective upon service of the notice of violation. The person(s) named on the
46 notice of violation may appeal the suspension as provided by this chapter.
47
- 48 (3) Notwithstanding any other provision of this chapter, whenever the director finds that a violation of
49 this title or any other applicable provision of the county code has created or is creating a dangerous
50 condition or other condition which constitutes an immediate hazard, the AO may, without service of

1 a written notice and order, suspend and terminate activities under the permit immediately.
2

3 **25.16.310 Revocation of permits.**
4

- 5 (1) The applicable AO may permanently revoke any permit issued pursuant to Grant County Code in
6 which the AO is the decision maker for:
7 (a) Failure to comply with the requirements of this title or any other applicable provision of the county
8 code related to the permit;
9
10 (b) Failure to comply with any notice of violation issued pursuant to this chapter; or
11
12 (c) Discovery that a permit was issued in error or on the basis of incorrect information supplied to the
13 county.
14
15 (2) The permit revocation shall be carried out through the notice of violation provisions of this chapter
16 and the revocation shall be effective upon service of the notice of violation. The person(s)
17 responsible may appeal such revocation as provided by this chapter.
18

19 **25.16.320 Abatement.**
20

- 21 (1) In addition to any other judicial or administrative remedy provided by this chapter or by law, the
22 county may seek to abate any condition that constitutes a public nuisance as defined in GCC
23 25.16.040.
24
25 (2) Each successive owner of property who neglects to abate a continuing nuisance caused by a former
26 owner upon or in the use of that property is liable for abatement procedures in the same manner as
27 the owner at the time the nuisance was created.
28
29 (3) The county shall carry out abatement procedures in accordance with chapter 7.48 RCW.
30
31 (4) The cost of abatement, including administrative costs incurred as a result of the abatement, may be
32 levied as a special assessment on the land or premises on which the nuisance is situated. This
33 assessment shall constitute a lien against the property which shall be of equal rank with state, county,
34 and municipal taxes, pursuant to RCW 36.32.120(10).
35

36 **25.16.330 Liens - generally.**
37

- 38 (1) The county shall have a lien for any civil penalty imposed or for the cost of any abatement work
39 done pursuant to this chapter, or both, against the real property on which the civil penalty was
40 imposed or any of the abatement work was performed.
41
42 (2) The civil penalty and the cost of abatement are also joint and several personal obligations of all
43 persons in violation. The applicable AO or the prosecuting attorney on behalf of Grant County may
44 collect the civil penalty and the abatement work costs by use of all appropriate civil legal remedies.
45
46 (3) Any lien imposed by the county under this chapter shall be subordinate to all existing special
47 assessment liens previously imposed upon the same property and shall be paramount to all other
48 liens, except for state and county taxes, with which it shall be on parity.
49

50 **25.16.340 Liens - filing and recording.**

- 1 (1) The applicable AO shall cause a claim for lien to be filed for record in the auditor's office within 90
2 days from the date the civil penalty is due or within 90 days from the date of completion of the
3 abatement work performed pursuant to this chapter.
4
- 5 (2) The claim of lien shall contain the following:
6 (a) The authority for imposing a civil penalty or proceeding to abate the violation, or both;
7
8 (b) A brief description of the civil penalty imposed or the abatement work done, or both, including the
9 violations charged and the duration thereof. If abatement work was done, the dates the work was
10 commenced and completed and the name of the persons or organizations who performed the work,
11 shall be included;
12
13 (c) A legal description of the property to be charged with the lien;
14
15 (d) The name of the known or reputed owner, and, if not known, the fact shall be alleged; and
16
17 (e) The amount, including lawful and reasonable costs, for which the lien is claimed.
18
- 19 (3) The applicable AO shall sign and verify the claim.
20
- 21 (4) The claim of lien may be amended in case of action brought to foreclose the lien, by order of the
22 court, as long as the interests of third parties are not detrimentally affected by amendment.
23
- 24 (5) The auditor shall record and index the claims described in this chapter.
25
- 26 (6) No lien created by this chapter binds the property subject to the lien for a period longer than three
27 years after the claim has been filed unless an action is commenced in the proper court within that
28 time to enforce the lien.
29

30 **25.16.350 Liens - foreclosure.**

- 31
- 32 (1) The lien provided by this chapter may be foreclosed and enforced by a civil action in a court having
33 jurisdiction.
34
- 35 (2) All persons who have legally filed claims of liens against the same property prior to commencement
36 of the action shall be joined as parties, either plaintiff or defendant.
37
- 38 (3) Dismissal of an action to foreclose a lien at the instance of a plaintiff shall not prejudice another
39 party to the suit who claims a lien.
40

41 **25.16.360 Duty not creating liability.**

42
43 No provision or term used in this chapter is intended to impose any duty upon the county or any of its
44 officers or employees which would subject them to damages in a civil action.
45

46 **25.16.370 Misdemeanor.**

- 47
- 48 (1) As an alternative, or in addition to any other legal, equitable or administrative remedy provided in
49 this chapter or by law or other regulation, any person who willfully or knowingly violates any
50 provision of the land use codes of Grant County or aids or abets such violation shall be guilty of a

1 misdemeanor. Upon conviction, such person(s) shall be punished in the manner provided for in
2 RCW 9A.20.021, as it now exists or is hereafter amended, for violations of state law.

- 3
4 (2) In addition to incurring civil liability in accordance with the provisions of this chapter, any person
5 found to be in violation of the county shoreline master program is also guilty of a misdemeanor
6 subject to penalties pursuant to RCW 90.58.220.
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