

**Exhibit 1 to Agenda Bill for
Town Ordinance No. 696**

**New YPMC Chapter 1.08
CODE ENFORCEMENT
[Redline]**

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1.08.010 Purpose and Intent

A. The purpose and intent of this chapter is to establish a unified code enforcement system applicable to the variety of code enforcement actions that occur within the Town. Action pursuant to the chapter is authorized at any time as appropriate. However, this chapter does not comprise the exclusive remedies or actions available to the Town nor does it limit the authority of the Town to take action in accord with its ~~municipal~~ code, state and federal law, and/or as otherwise available.

B. This chapter is supplemental to other enforcement actions set forth in the code and enforcement action may be taken under any such provisions. References in the code to violations or unlawful acts or omissions of "ordinances of the town" shall mean and include every such violation, act or omission of any provision of the code as maintained by the Town.

1.08.015 Code Compliance Required

It shall be unlawful for any person to violate or fail to comply with the requirements of the Town code. Code compliance and violations may be enforced pursuant to this chapter, other provisions of the code, or as otherwise available under state and federal law.

1.08.020 Definitions

The following words, whenever used in the municipal code and this chapter shall be construed as follows.

~~“Administrative order” means an administrative order issued by the Town for purposes of code enforcement, including warning notices, stop work orders, notices of violation, and the like.~~

“Civil enforcement action” means any enforcement action taken by the Town under this chapter which is not a criminal enforcement action.

“Civil fine” means any monetary fine or penalty.

“Civil infraction” means a civil violation of the code that is judicially enforced under section 1.08.130.

“Civil violation” means any code violation which is enforced by the Town by civil enforcement action under this chapter, including warning notices, stop work orders, emergency orders, notices of violation, civil infractions, and which may include the assessment of civil fines and penalties.

“Code” or “YPMC” means the Yarrow Point Municipal Code as now or hereafter amended.

“Code violation” or “violation” means and includes an act or omission contrary to, not permitted by, or inconsistent with the code or any ordinance, resolution, regulation, permit, approval, notice, order, directive or administrative rule of the Town. ~~and/or development of structures, land or water; and/or (ii) the conditions and requirements of any permit, approval, notice, civil violation, regulatory order, stop work order or other~~

“Corrective or abatement action” or “abate” means: (i) to act to stop an activity and/or (ii) to repair, replace, remove, undertake, or otherwise remedy a condition, which constitutes a violation by such means, manner, and extent as the Town representative determines necessary to correct the problem, comply with the code, and meet the public health, safety, and general welfare of the community. For the purposes of this chapter, the verbs “abate” and “correct” shall be interchangeable and have the same meaning.

“Costs” means all costs and expenses incurred by the Town to remedy, address, prosecute or take any other action related to a civil or criminal violation, including but not limited to (i) contract expenses and Town employee expenses, including overhead; (ii) rental fees or other costs for equipment; (iii) costs of storage, removal, disposal, and/or destruction; (iv) consultant or contractor costs and fees; and (v) legal expenses and attorneys’ fees.

“Criminal enforcement action” means any criminal violation under state or local law which is punishable by imprisonment and where such penalty is sought in and imposed by a court of law.

Punishment by imprisonment does not preclude imposition of civil fines or penalties in addition thereto.

“Criminal violation” means any violation of the code which is enforced by the Town as a criminal enforcement action, which may include the assessment of civil fines or penalties.

“Days” means business days when seven or less days are allowed to do an act required by or imposed under the code, and means calendar days when more than seven days are allowed to do an act required by or imposed under the code.

“Emergency” means a situation which in the opinion of the Town representative requires immediate action to address, mitigate, prevent or eliminate an [actual or potential threat or risk](#) to the health, safety [or welfare](#) of people, property, [Town infrastructure or the environment](#).

[“Emergency order” means a directive issued pursuant to Section 1.08.090 by the Town under its police power authority in response to an actual or potential threat or risk to the health, safety or welfare of people, property, Town infrastructure or the environment.](#)

[“Enforcement action” shall have the meaning ascribed in Section 1.08.060.](#)

[“Notice of violation” means a directive issued pursuant to Section 1.08.100.](#)

“Owner” means any owner, part owner, joint owner, tenant in common, tenant in partnership, joint tenant, or tenant by the entirety, of the whole or any part of any building, structure, or land.

“Person” means any individual, association, partnership, corporation or legal entity, public or private, and includes the agents, contractors, and assigns of such person, including registered agents thereof.

“Responsible person” means (i) any person who is required by applicable law, code, permit, approval, directive, or regulation to comply therewith; (ii) any person who commits any act or omission which is a civil violation of the code; (iii) any person who causes or permits a civil violation to occur or remain upon any property or structure within the Town; and (iv) includes but is not limited to owner(s), lessor(s), tenant(s), assignee(s) or any other person entitled to control, use and/or occupy property or structures in the Town where a civil violation occurs.

“Repeat violation” means a violation of the same or similar law, code, permit, approval, directive, or regulation in any location within the Town by the same person and for which the Town has (i) sought voluntary compliance within the previous one year or (ii) issued a notice, warning, or taken enforcement action under this chapter within the previous two years.

[“Stop work order” means a directive issued pursuant to Section 1.08.090.](#)

“Town representative” means any person having authority to act on behalf of the Town, including but not limited to the mayor, clerk, engineer planner, building official, attorney, [police](#) and any other person granted or possessing authority to act on behalf of the Town to enforce the code, Town ordinances and/or regulations.

[“Voluntary compliance agreement” means an agreement pursuant to Section 1.08.110.](#)

"Warning Notice" means a notice issued pursuant to Section 1.08.080.

1.08.030 General Penalties

The general penalties for a violation of the Town municipal code are:

A. Criminal Penalty. Any person violating or failing to comply with any of the mandatory requirements of this code shall have committed a misdemeanor if charged and prosecuted by the Town in municipal court under YPMC Chapter 2.52. Any person convicted of such misdemeanor shall be punished by a fine not to exceed \$5,000 or by imprisonment not to exceed one year, or by both such fine and imprisonment.

B. Civil Penalty. Any person violating or failing to comply with any of the requirements of this code shall have committed a civil violation which may be enforced pursuant to this chapter. Any such person shall be assessed a monetary fine or penalty not to exceed \$500.00 for each day or portion thereof that the violation occurs unless another maximum penalty is specified in this code, and may be further subject to limitations, restrictions and/or other requirements under the code.

1.08.035 Recovery of Enforcement Costs

Any person responsible for a violation of the YPMC may be assessed costs as provided in this section.

A. Costs for Enforcement Actions, Investigations and Corrections. The Town representative may assess the Town's costs and expenses, including attorney fees, for any enforcement actions, investigations, and corrective actions taken under this chapter.

B. Costs for Appeal. Should the Town's enforcement actions be affirmed on appeal to the hearing examiner, the hearing examiner shall assess to the appellant the amount of the Town's costs, including the examiner's fees, incurred in litigating the appeal before the hearing examiner. Costs shall include (but are not limited to) the expenses incurred in investigating, preparing and serving the enforcement action; issuing notices; general clerical expenses; staff and examiner appeal preparation time and costs; site inspections or analysis undertaken for the enforcement action or appeal; town attorney fees and legal costs; and other expenses incurred by the Town. Appeal litigation costs may be waived at the Town's discretion should the violator correct the alleged violation twenty (20) or more working days prior to the scheduled appeal hearing; provided that correction of the alleged violation prior to the scheduled appeal hearing shall not preclude the imposition of civil penalties at the hearing.

C. Damages. In addition to any penalties or costs that may be imposed, any person violating or failing to comply with any of the provisions of this code shall be liable for all loss or damage to public or private property arising from such violation, including the cost of restoring the affected area to its condition prior to the violation. Administrative costs will be charged as 15 percent of the total amount of liability for costs, expenses, losses, or damages to the Town occasioned thereby. This clause does not establish a cause of action that may be asserted by any party other than the Town. Penalties, damage, costs, and expenses may be recovered only by the Town.

1.08.040 Additional Remedy; Nuisance

In addition to the penalties provided by section, any condition caused or permitted to exist in violation of any of the provisions of this code is a public nuisance and all remedies given by law for the prevention and abatement of nuisances, [including those set forth in YPMC Chapter 8.04](#), shall apply to any such nuisance or person responsible therefore, regardless of the institution or imposition of criminal or civil remedies stated above.

1.08.050 Separate Offense; Scope of Prohibited Acts

A. Each person specified in section 1.08.020 and 1.08.030 is guilty of a separate offense for each and every day or portion of any day in which any violation of this code is committed, continued, or permitted by any such person, and such person is punishable accordingly.

B. [Whenever in the code or ordinances of the Town any act or omission is made unlawful, such act shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.](#)

1.08.060 Enforcement Actions and Authority; Administration

A. Enforcement Actions. In order to promote compliance with the code and/or to discourage public nuisances, the Town may, in response to inspections, field observations, [reports](#), investigations or reliable complaints, determine that violations of the code have occurred or are [or may be](#) occurring, and may take the following enforcement actions, in whole or part, and in any order appropriate to the violation.

1. Warning
2. Stop work order
3. Emergency order
4. Notice of violation
5. Civil infraction
6. Police citation
7. Voluntary compliance agreement
8. Suspend, revoke, or modify any permit or approval
9. Impose fines, penalties, and/or recover costs incurred by the Town
10. Criminal enforcement

B. All [enforcement](#) actions and notices will be in writing. [Failure to use a specific form or type of enforcement action as described herein, or minor defects in the form of such enforcement action, shall not affect the validity thereof.](#)

C. Authority. Enforcement actions shall generally be taken in accordance with this chapter. If the person to whom such action is directed does not promptly comply therewith, the Town may take any additional or other enforcement action in accordance with this chapter, the code, state law, and/or other applicable authority.

D. Administration. The mayor and clerk-treasurer shall have principle authority to enforce and administer [the civil provisions of](#) this chapter, but due to the small size of the Town staff they may delegate such authority to other Town representatives as needed, including the deputy clerk, building official, planner, engineer and attorney. [The Town police shall have principal](#)

[authority to enforce traffic, parking, vehicular, and criminal violations of the code.](#) The lack of formal designation shall not invalidate, impair or vitiate the authority of any Town representative acting in accordance with this chapter.

E. Service of Documents. Service of notices, warnings, stop work orders, civil violations, orders, rulings, decisions and any other document (collectively “document”) issued pursuant to this chapter shall be made using the following methods; except that civil [and criminal infractions and citations](#) shall be served as provided in [YPMC Chapter 2.52 and RCW Chapters 3.50 7.80 as applicable](#)

1. Personal service is accomplished by (i) handing the document to the person subject thereto or (ii) leaving it at his/her last known dwelling house or usual place of abode with a person of suitable age and discretion then residing therein or (iii) leaving it at his/her office or place of employment with a person in charge thereof. Personal service is complete immediately upon completion of the action specified above.

2. Service by posting is accomplished by affixing a copy of the document in a conspicuous place on the subject property or structure, or as near to the affected property or structure as feasible, with at least one copy of such document placed at an entryway to the property or structure if an entryway exists. Service by posting is complete immediately upon completion of the action specified above.

3. Service by mail is accomplished by placing the document in first-class mail, postage prepaid, to the last known address of the person to whom the document is directed. Service by mail shall be deemed complete two days following the date of mailing. The last known address shall be any of the following: (i) address provided to the Town by the person to whom the document is directed; (ii) the address on file with the Town at the time the documents is mailed; (iii) the address of the property where the violation is occurring; or (iv) the address shown on the official property tax information website for King County, Washington State Department of Licensing, or Washington Secretary of State Office.

4. Overnight service is accomplished by placing the document, delivery prepaid, with an overnight service bearing a delivery address listed in subsection 3 above. Overnight service shall be deemed complete the following day.

5. Service by publication is accomplished by publishing the document pursuant to RCW 4.28.100 and 4.28.110, as now or hereafter amended. Service by publication shall be deemed complete upon final publication as set forth in RCW 4.28.110.

F. Proof of Service. Proof of service may be made by written affidavit or declaration under penalty of perjury by the person effecting service, declaring the time, date and manner thereof. If service is made solely by posting or publication, proof of service shall include a statement as to what steps were used in attempting to serve personally or by mail. The Town shall take and retain a photograph of the document if service is made by posting. No additional proof of service beyond the requirements in this chapter shall be required by the hearing examiner or other entity. Any failure of the person to whom a document is directed to observe a document served by posting or publication shall not invalidate service nor the document so served.

1.08.070 Handling Complaints and Violations

A. Complaints and violations commonly rise in connection with development of land and structures in the Town. This section sets out procedures and guidelines for responding to them.

B. Complaints: Investigation; Verification. The Town representative shall determine whether a complaint is reliable based upon past complaints, subsequent inspections and/or investigations, and other relevant criteria or information. If the Town representative determines a complaint is reliable, the Town representative may conduct or take all appropriate or necessary inspections, investigations and actions. If the Town representative determines a complaint is not reliable, the Town is not obligated to conduct any further inspection or investigation, nor to take action regarding such complaint.

C. Violations: Investigation; Verification; Enforcement. The Town representative shall determine whether a violation is probable or has occurred based upon information derived from sources including but not limited to complaints, police reports, inspections, field observations, witnesses, relevant documents, and Town data systems. When the Town representative makes such a determination, the violation will be documented and the Town representative shall take or issue appropriate enforcement action pursuant to this chapter (e.g., issuance of warnings, stop work orders, emergency orders, notices of violation). A flow chart depicting the generalized enforcement process is located at Section 1.08.160.

D. Warnings. A warning may be issued in accordance with Section 1.08.080 when the Town representative determines a probable or actual violation has occurred and does not present an immediate or serious risk of personal injury or public safety. The warning shall inform the responsible person of the violation and require (i) immediate correction if it is a potential emergency, public safety issue, or personal injury matter; or (ii) correction within 48 or 72 hours if it does not fall within subsection (i). In the event the corrective action is not timely taken or performed, or there is a failure to otherwise comply with the warning, the Town representative must take enforcement action under this chapter.

E. Voluntary Compliance Agreements. The Town representative may enter into a voluntary compliance agreement under Section 1.08.110 with a responsible person after issuance of an enforcement action for the purpose of achieving prompt voluntary compliance or correction of the violation.

F. Notice of Compliance Required. The responsible person for any enforcement action shall (i) keep the Town representative advised of the status of his/her compliance with any pending enforcement action, and (ii) give written notice thereof to the Town representative on or before the date of compliance specified in the enforcement action.

G. Verification of Compliance. The Town representative shall make such investigations or inspections as necessary or appropriate to confirm compliance with any enforcement action.

1.08.080 Warning Notice

A. Issuance. A warning notice represents a determination that (i) a violation has or likely has occurred, (ii) the noticed entity is a responsible person for the violation, (iii) corrective action is needed, and (iv) such person may be subject to civil fines and penalties.

B. Timing. A warning notice may be issued whenever the Town representative determines a probable or actual violation has occurred and (i) there is no history of prior violations at the subject property or by the responsible person, and (ii) the severity of the violation is minor.

C. Content. A warning notice shall contain the following information to the extent known:

1. The address and/or location of the code violation.

2. A legal description of the real property or the King County tax parcel number where the violation occurred or is located, or a description identifying the property by commonly used locators.

3. The name(s) of the responsible person(s).

4. A statement that the Town has found the named person has or likely has committed a code violation, and a brief description of the violation(s).

5. A statement of the specific authority (e.g., regulation, administrative order, ordinance, resolution, rule, permit condition, or other provision) that was or is being violated.

6. A statement that the warning notice represents a determination that a code violation has or likely has occurred and that the responsible person may be subject to civil fines and/or criminal penalties.

7. A statement of the amount of the civil fine that may be assessed if the violation(s) are not corrected as required.

8. A statement of the corrective or abatement action required to be taken and that all required permits to perform the corrective or abatement action must be obtained from the proper issuing agency.

9. A statement advising the responsible person of his/her duty to notify the Town of all actions taken to achieve or address compliance with the warning notice.

10. A statement advising that a failure to correct the violation(s) cited in the warning notice may lead to additional enforcement actions, administrative orders, or the modification of any pending or existing Town approvals.

D. Resolution. A warning notice may be declared satisfied or revoked by the Town representative at any time upon written notice if an inspection, investigation or other reliable evidence confirms the warning notice was not appropriate or the violation has been timely corrected.

E. Appeal. A warning notice is not subject to administrative appeal pursuant to this chapter.

1.08.090 Stop Work Order; Emergency Order

A. Issuance. Whenever the Town representative determines that any work, use, activity, or conduct is a code violation and/or creates an imminent risk or threat of injury to the health, safety, or welfare of any person, or damage to property or the environment, the Town representative may issue a stop work order or emergency order directing any person causing, allowing, or participating in the offending conduct to immediately cease, discontinue and/or

correct such use, activity or conduct. A stop work or emergency order should be (but is not required to be) countersigned by a second Town representative before issuance.

B. Notice and Enforcement Status. A stop work order or emergency order shall take effect immediately upon posting or service. The Town may enforce a stop work order or emergency order pursuant to any provision of this code and enforce it in superior court. The stop work order or emergency order may be appended to or incorporated by reference in any other enforcement action. The stop work order or emergency order shall be subject to immediate enforcement by the Town police as necessary.

C. Content. A stop work order or emergency order shall contain the following information:

1. The address and/or location of the violation.
2. A legal description of the real property or the King County tax parcel number where the violation occurred or is located, or a description identifying the property by commonly used locators.

3. The name(s) of the responsible person(s).

4. A statement that the Town has found the named person to have committed a code violation and a brief description of the violation(s) found.

5. A concise description of the actual or potential violation(s) and references to the ordinance, resolution, code section, regulation, rule, permit, approval or condition which is being violated.

6. A statement of the corrective or abatement action required to be taken, the deadline for completing such action, and that all required permits to perform the corrective action must be obtained from the proper issuing agency.

7. A statement that the responsible party must schedule a meeting with the Town representative within three (3) days of service or posting of the stop work order or emergency order to present a plan explaining why the violation(s) occurred and what steps the responsible party will take to ensure the violation(s) are corrected and do not occur again.

8. A statement that (i) civil fines shall accrue for each day or portion thereof that the stop work order or emergency order is in effect, (ii) that additional civil fines may be issued for each violation and day thereof if the responsible person fails to timely correct the violation(s) cited in the order, and (iii) the amount of fines accrued and accruing.

9. A statement that when a stop work order or emergency order has been posted in conformity with this chapter, removal of the order without prior written authorization of the Town representative or order of the Town hearing examiner is unlawful and shall comprise a separate violation.

10. A statement that the stop work order or emergency order must be appealed to the hearing examiner in accordance with the code or it shall become a final order.

D. Compliance Required. When a stop work order or emergency order has been issued, posted and/or served, it is unlawful for any person to whom the order is directed or any person with actual or constructive knowledge of the stop work order to conduct the activity or perform the work covered by the order, even if the order has been appealed. A failure to comply with an emergency order shall constitute a separate violation of this chapter.

E. Nuisance. Any condition described in a stop work order or emergency order that is not corrected within the time specified therein is declared to be a public nuisance and the Town representative 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 any manner provided by law.

F. Resolution of Violation. Upon the Town representative's approval of a complete statement detailing the steps to be taken by the responsible person, the Town representative may suspend the stop work order or emergency order and issue written authorization for the activity or work to be resumed on such terms and conditions as are appropriate.

G. Appeal. A stop work order or emergency order is subject to administrative appeal pursuant to this chapter, and shall remain in effect during any appeal.

1.08.100 Notice of Violation

A. Issuance. A notice of violation (NOV) may be issued and served upon a person if any activity by or at the direction of that person is, has been, or may be taken in violation of the development code.

B. Notice and Enforcement Status. A NOV shall take effect immediately upon posting or service. The Town may enforce a NOV pursuant to any provision of this code and enforce it in superior court. The NOV may be appended to or incorporated by reference in any other enforcement action. The NOV shall be subject to immediate enforcement by the Town police as necessary.

C. Content. A NOV shall contain the following information:

1. The address and/or location of the violation.
2. A legal description of the real property or the King County tax parcel number where the violation occurred or is located, or a description identifying the property by commonly used locators.
3. The name(s) of the responsible person(s).
4. A statement that the Town has found the named person to have committed a code violation and a brief description of the violation(s) found.
5. A concise description of the violation(s) and references to the ordinance, resolution, code section, regulation, rule, permit, approval or condition which is being violated.
6. A statement of the corrective or abatement action required to be taken, the deadline for completing such action, and that all required permits to perform the corrective action must be obtained from the proper issuing agency.
7. A statement that the responsible party must schedule a meeting with the Town representative within three (3) days of service or posting of the NOV to present a plan explaining why the violation(s) occurred and what steps the responsible party will take to ensure the violation(s) are corrected and do not occur again.
8. A statement that (i) civil fines shall accrue for each day or portion thereof that the NOV is in effect, (ii) that additional civil fines may be issued for each violation and day thereof if

the responsible person fails to timely correct the violation(s) cited in the NOV, and (iii) the amount of fines accrued and accruing.

9. A statement that when a NOV has been posted in conformity with this chapter, removal of the order without prior written authorization of the Town representative or order of the Town hearing examiner is unlawful and shall comprise a separate violation.

10. A statement that the NOV must be appealed to the hearing examiner in accordance with the code or it shall become a final order.

D. Compliance Required. When a NOV has been issued, posted and/or served, it is unlawful for any person to whom the order is directed or any person with actual or constructive knowledge of the NOV to conduct the activity or perform the work covered by the NOV, even if the order has been appealed. A failure to comply with an emergency order shall constitute a separate violation of this chapter.

E. Nuisance. Any condition described in a NOV that is not corrected within the time specified therein is declared to be a public nuisance and the Town representative 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 any manner provided by law.

F. Resolution of Violation. Upon the Town representative's approval of a complete statement detailing the steps to be taken by the responsible person, the Town representative may suspend the NOV and issue written authorization for the activity or work to be resumed on such terms and conditions as are appropriate.

G. Appeal. A NOV is subject to administrative appeal pursuant to this chapter, and shall remain in effect during any appeal.

1.08.110 Voluntary Compliance Agreement

A. Purpose. A voluntary compliance agreement is a written, signed commitment by the responsible person in which such person agrees to abate, remedy or correct a code violation on the terms and conditions stated therein.

B. Issuance. When the Town representative determines that a violation or probable violation has occurred, the Town representative may attempt to secure prompt voluntary correction or compliance by entering into a voluntary compliance agreement with any responsible person causing, allowing, or participating in the violation, including the property owner.

C. Timing. A voluntary compliance agreement may be entered into at any time after issuance of an administrative order or enforcement action is taken and before any appeal thereof is decided. If an administrative appeal has already been filed, the voluntary compliance agreement shall require the signature of the Town attorney.

D. Content. A voluntary compliance agreement shall include the following:

1. The name and address of the responsible person for the code violation.
2. The address or other identification of the location of the violation.
3. A description of the violation and a reference to the provision(s) of code, ordinance, resolution, regulation, approval or permit which has been violated.

4. A description of the necessary corrective or abatement action to be taken and identification of the date or time by which compliance must be completed.

5. The basis and amount of any civil fine that will be imposed if the voluntary compliance agreement is not satisfied.

6. An acknowledgement that if the Town determines that the terms of the voluntary compliance agreement are not met, the Town may, without issuing a further enforcement action, (i) impose any remedy authorized by this chapter or other applicable code provision; (ii) enter the real property and/or structure to perform abatement of the violation; (iii) assess the costs incurred by the Town associated with the voluntary compliance agreement; and (iv) suspend, revoke, delay or limit a development permit or approval obtained or to be sought by the responsible person.

7. An acknowledgement that if civil fines, costs, and expenses are not paid, the Town may file and charge the unpaid amount as a lien against the property where the violation occurred, and that the unpaid amount may be a joint and several obligation of all persons responsible for the violation.

8. An acknowledgement that by entering into the voluntary compliance agreement, the responsible person thereby admits that the conditions or factors described in the voluntary compliance agreement existed.

9. An acknowledgement that the responsible person understands that s/he has the right to be served with an administrative order or other enforcement action for any violation identified in the voluntary compliance agreement, has the right to administratively appeal any such order or enforcement action, and that s/he is knowingly and intelligently waiving those rights.

E. Failure to Comply. If the terms of the voluntary compliance agreement are not met in whole or in part, and an extension of time has not been granted, the Town representative may take any reasonable steps to gain compliance, including suit to enforce the agreement, issuance of enforcement actions, and prosecution as a misdemeanor.

F. Enforcement Appeal. A voluntary compliance agreement is not subject to administrative appeal pursuant to this chapter, but may be enforced pursuant to its terms and/or a judicial action.

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1.08.120 Administrative Appeal

A. Scope. Any person issued or named in an enforcement action, and any owner of the land where there is a violation for which an enforcement action is taken, may file a notice of administrative appeal with the Town clerk pursuant to this section for an administrative appeal hearing conducted by the Town hearing examiner; provided however that there is no right to an administrative appeal under this section for a warning notice, voluntary compliance agreement, civil infraction, or criminal citation.

B. Deadline for Appeal; Service; Jurisdiction. The appeal and any appeal fee shall be filed by the appellant with the Town clerk and served on the Town attorney not later than 15 days after service of the enforcement action objected to. If an appeal is not timely filed and served, the hearing examiner shall be without jurisdiction to hear the appeal.

C. Contents of Appeal. The appeal shall (i) identify the parties to the appeal, (ii) each person having an interest in the appeal, enforcement action or administrative order; (iii) attach the enforcement action or administrative order complained of, and (iv) contain a concise statement of the issues appealed, the basis for relief, and relief requested by the appellant.

D. Hearing Examiner Review. Upon receipt of an appeal, the Town clerk shall forward the appeal to the Town hearing examiner. The hearing examiner shall thereafter review and decide the appeal pursuant to this chapter and the hearing examiner's rules of procedure.

E. Limitations. Enforcement of any stop work order or emergency order shall not be stayed during the pendency of an appeal. When multiple enforcement actions have been issued simultaneously for any set of facts constituting one or more violations, only one appeal of all such enforcement actions shall be allowed.

F. Cancellation of Hearing. Except in the case of (i) a repeat violation; (ii) a violation which creates a situation or condition which cannot be corrected; or (iii) a violation posing an immediate risk or threat to persons, property or public safety, an appeal hearing may be canceled if the Town representative approves a fully completed remedy or corrective action at least 48 hours prior to the scheduled hearing commencement date. Accrued fines, penalties, and costs shall not be affected by cancellation of the hearing.

G. Costs of Administrative Appeal. Whenever an enforcement action is affirmed or substantially upheld on appeal, the hearing examiner shall assess to the appellant the amount of the costs incurred by the Town and the examiner in litigating and processing the appeal before the hearing examiner. These costs shall, without limitation, include those expenses incurred in preparing for the appeal, issuing public notice as required under the code or examiner's rules, general clerical expenses, staff, witness and examiner preparation time, site inspections, Town attorney costs including fees paid to outside counsel and consultants needed to prosecute the appeal, and other expenses incurred by the Town arising from the enforcement action and/or violation. Town litigation costs may be waived in whole or in part by the Town representative if the responsible person has corrected or remedied the alleged violation at least 30 working days prior to the scheduled appeal hearing date and the Town representative has verified in writing the adequacy of the corrective action. Accrued fines and penalties to the date of verified correction or remedy shall not be waived. provided however, correction of the alleged violation prior to the scheduled appeal hearing shall be verified by the Town representative, nor shall correction preclude the Town from pursuing

1.08.130 Civil Infraction (Judicial Enforcement)

A. Authority. Civil infractions subject to judicial enforcement may be issued for violations of this code in accordance YPMC Chapter 2.52 and RCW Chapters 3.50 and 7.80 as applicable.

B. Issuance. When the Town representative determines that a code violation has occurred based upon investigation or documents, statements of witnesses, police reports, field observations, data system(s) for tracking violations and/or physical evidence, the Town representative may request that the Town police issue a civil infraction for the violation to any responsible person. Civil infractions shall be issued on an appropriate form for filing with the

municipal court used by the Town. ~~and shall be enforceable as a civil infraction in the manner provided in the Washington State Infraction Rules for Courts of Limited Jurisdiction and RCW chapter 7.80.~~

C. Infraction Process. Once the civil infraction has been filed with the municipal court, it shall be sent in the normal course to the property owner(s) and/or other person(s) causing or allowing or participating in the violation, and thereafter processed in judicial proceedings pursuant to applicable rules and procedures.

D. Infraction Penalty. Violations charged under this section shall carry a maximum penalty of \$250.00 unless another maximum penalty is established, and may be further subject to limitations, restrictions and/or other requirements under the code. Each day or portion thereof, location, violator and incident shall constitute a separate civil infraction.

1.08.140 Forms

The Town clerk shall prepare and make available such forms as needed to implement this chapter. Changes or alteration of such the forms or failure to use such forms shall not affect the validity of any enforcement action. The prepared forms shall include a Warning Notice (Section 1.08.080); Stop Work Order and Emergency Order (Section 1.08.090); and Notice of Violation (Section 1.08.100).

1.08.150 Right of Entry to Property and Places

A. Nonemergency Permissive Entry. Upon presentation of proper credentials, an authorized Town representative may, with the consent of the owner or occupier of a building or premises or pursuant to a lawfully issued inspection warrant, enter such location at all reasonable times to perform the duties of this chapter and to conduct inspections, tests or to carry out other duties imposed by the code.

B. Refusal of Entry. If entry is refused or cannot be obtained, the Town representative may seek assistance from a court of competent jurisdiction to obtain entry, and/or shall have recourse to every remedy provided by law to secure entry, including but not limited to obtaining an administrative warrant for entry.

C. Emergency Entry. In the event of an emergency presenting a threat to public health or safety and requiring immediate action by the Town representative, the representative may enter onto any property without obtaining consent but shall advise the property owner or other responsible person of such entry as soon as practicable thereafter.

1.08.160 General Enforcement Flow Chart

The following flow chart depicts the Town's generalized enforcement process under this chapter. It may but is not required to be used in applying this chapter.

Figure 1
[Add chart]