

## Chapter 10.80 et seq. of the Auburn Municipal Code

### 10.80 Purpose; Intent

The City Council determines that the enforcement of this code, any uniform or other code it adopts by reference, and any other ordinance of the city is an important public service and is vital to protecting the public. The City Council further determines there is a need for alternative methods of code enforcement in addition to other enforcement options available. This chapter is intended to promote the general health, safety and welfare of the public and provide uniform, fair, and efficient code enforcement.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)

### 10.81 Definitions

Unless specifically defined below, words or phrases used in this chapter shall be interpreted to give them the meaning they have in common usage and to give this chapter the most reasonable application.

**ABATEMENT.** Correction of a nuisance. When the city acts to abate and/or issues an abatement order, **ABATEMENT** includes any and all steps taken by the city to correct a nuisance or violation of this code, including, but not limited to, investigation, hearings, imposition of fines and penalties, acquisition of warrants, entry and physical correction of violations, and collection of any and all fines, penalties and/or costs of whatever kind or nature.

**ADMINISTRATIVE COST(S).** All costs incurred by or on behalf of the city regarding enforcement of this code, from the first discovery of the violation of this code through the appeal process and any court proceeding, and until compliance is achieved, including, but not limited to, staff time investigating the code violation, inspecting the property where the code violation occurred, acquisition of warrants, preparing investigative reports, sending notices of violations, administrative citations, and/or abatement orders, preparing for and attending any appeal or administrative hearing, collection of any and all fines, penalties, and/or costs of whatever kind and nature, and attorneys' fees.

**APPELLANT.** A responsible party who seeks an administrative hearing on a notice of violation, abatement order, and/or administrative citation in the manner required by this chapter.

**CITY MANAGER.** The City Manager or his or her designee.

**CODE VIOLATION(S).** Any violation of this code or any other ordinance of the city, including any codes adopted by reference and any violation of any condition imposed upon issuing any permit, license, or other approval (e.g., subdivision map, use permit, variance, zoning clearance) under this code or any other ordinance of the city. **CODE VIOLATION(S)** shall also include a **NUISANCE** as defined in § 95.25 et seq. of this code.

**ENFORCEMENT OFFICER.** Any city employee or agent of the city with the authority to enforce any provision of this code designated by the City Manager.

**HEARING AUTHORITY.** The City Manager or his or her designee.

**NOTICE OF VIOLATION.** Any notice that informs a responsible party that a code violation has occurred as described in § 10.83, including, but not limited to, an abatement order.

**RESPONSIBLE PARTY.** Any of the following:

1. A party, who by action or inaction, causes, maintains, permits or allows a code violation;
2. A party, whose agent, employee, or independent contractor, by action or inaction, causes, maintains, permits or allows a code violation;
3. An owner, in whole or in part, of real property on which a code violation occurs;
4. A lessee or sublessee with the current right of possession of real property on which a code violation occurs;
5. A person that uses real property on which a code violation occurs;
6. An on-site manager who regularly works on real property on which a code violation occurs and who is responsible for the business or other activities on that real property;
7. The owners, majority stockholders, corporate officers, trustees, general partners and any other party with the authority to act for a legal entity that is a responsible person under divisions (1) through (6) of this definition;
8. If a party is a minor or incompetent, the parents or guardians of such party shall be deemed the responsible party; and
9. A **RESPONSIBLE PERSON** as that term is defined in § 95.26.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)

#### 10.82 Notice Of Violation And/Or Abatement Order

1. Whenever an enforcement officer determines that a code violation exists, the enforcement officer may issue a notice of violation and/or an abatement order to any responsible party. The notice of violation and/or abatement order shall include:
  1. A description of the condition creating or constituting the code violation(s) and the code section(s) or other ordinance(s) violated;
  2. The address where the code violation occurs;
  3. The name(s) of the responsible part(ies) and any other involved party known to the enforcement officer;
  4. The date, and if relevant, time at which the code violation was observed;
  5. If applicable, a list of any corrections to bring the property into compliance including, but not limited to, an abatement order;
  6. A description of the procedure for requesting an administrative hearing to contest the notice of violation and/or abatement order;
  7. A deadline by which to correct or abate the code violation;
  8. The signature of the enforcement officer issuing the notice of violation and/or abatement order; and

9. The date the notice of violation and/or abatement order is issued.
2. The failure of a notice of violation or an abatement order to satisfy the requirements of this section shall not affect the validity of the notice of violation or abatement order or any other enforcement proceedings under this code.
3. Except as otherwise provided by law or any other ordinance of this city, an enforcement officer may issue an administrative citation without first issuing a notice of violation or an abatement order.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)

#### 10.83 Issuance Of Notice Of Violation And/Or Abatement Order

A notice of violation and/or an abatement order may be issued in 1 or more of the following ways:

1. An enforcement officer may personally serve the notice of violation and/or abatement order on the responsible party;
2. An enforcement officer may mail the notice of violation and/or abatement order to the responsible party by first-class mail to the last known address of the responsible party and/or to any address which the responsible party has used in dealings with the city; or
3. An enforcement officer may post a copy of the notice of violation and/or abatement order on the subject property in a conspicuous place for a property-related code violation and, in which case, the enforcement officer shall also mail a copy of the notice of violation and/or abatement order to the responsible party in the manner described in division (B) above.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)

#### 10.84 Authority To Inspect

Enforcement officers may enter upon any property or premises within the city as allowed by law to ascertain whether the provisions of this code are being obeyed, and to make any examination and surveys as may be necessary in the performance of their enforcement duties. These inspections may include the taking of photographs, samples, or other physical evidence. If an owner or occupant of property or his or her agent refuses to consent to entry and inspection, an enforcement officer may seek an administrative inspection warrant to enter the property or premises for any lawful purpose.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)

#### 10.85 Notice Of Pending Administrative Enforcement

An enforcement officer may record with the Placer County Recorder a notice against a property which is the subject of an administrative enforcement action to give notice to potential transferees of the property of code violations thereon. A notice of pending administration action shall be on a form approved by the City Manager and shall describe the nature of the

administrative action and refer to the code provision governing the pending administrative action.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)

#### 10.86 Administrative Citations

If a responsible party violates this code or fails to correct a code violation within the time prescribed in a notice of violation and/or an abatement order, an enforcement officer may issue an administrative citation to each and every responsible party who knew or reasonably should have known of that notice of violation.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)

#### 10.87 Administrative Fines And Penalties

Any violation of a provision of this code, any code it adopts by reference, or other applicable law, may be subject to an administrative fine or penalty pursuant to this chapter. This also includes any violation of any condition imposed upon the issuance of any permit, license, or other approval (e.g., subdivision map, use permit, variance, zoning clearance, etc.) pursuant to this code.

1. Each and every responsible party regarding a code violation(s) is jointly and severally liable for all fines and/or penalties imposed for the code violation(s).
2. A code violation that exists for more than 1 day shall be considered a separate and distinct code violation for each and every day it exists. Each daily code violation may be subject to the maximum fine or penalty permitted under this chapter.
3. An administrative citation may charge a code violation for 1 or more days on which a code violation exists or existed and for violation of 1 or more code sections.
4. The administrative fines and penalties prescribed in this chapter are in addition to, and do not preclude imposition of, any other remedies, criminal, civil, or administrative, available to the city. Imposition of administrative fines or penalties shall be at the sole discretion of the enforcement officer.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)

#### 10.88 Contents Of Administrative Citation

1. An administrative citation shall include the following:
  1. A description of the condition creating the code violation(s) and the code section(s) or other ordinance(s) violated;
  2. The address where the code violation occurs;
  3. The name(s) of the responsible part(ies) and any other involved persons;
  4. The date and, if relevant, time at which the violation was observed;
  5. The amount and due date of the fine and/or penalty;
  6. A description of the procedure to pay the fine and/or penalty;

7. A description of the procedure for requesting an administrative hearing to contest the administrative citation;
  8. If applicable, a list of any corrections to bring the property into compliance including, but not limited to, an abatement order;
  9. A deadline by which to correct or abate the code violation(s);
  10. A statement that any unpaid fines and/or penalties may be placed as a special assessment or lien against the property where a code violation occurs or occurred;
  11. The signature of the enforcement officer issuing the administrative citation;
  12. The date the administrative citation was issued;
  13. Any other information deemed necessary for enforcement or collection of the administrative fines and/or penalties.
2. An enforcement officer may issue an administrative citation in conjunction with a notice of violation and/or an abatement order.
  3. The failure of an administrative citation to satisfy the requirements of this section shall not affect the validity of the administrative citation or any other enforcement proceedings under this code.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)

#### 10.89 Consideration In Other Proceedings And Applications

1. The City Council, the Planning Commission, the Historic Design Review Commission, any other board or commission of the city, and city staff may consider the fact that a responsible party has been issued a notice of violation, abatement order, and/or administrative citation when determining whether to grant, suspend, revoke, or deny any permit, license, or other approval, regarding a matter related to the condition causing the code violation, and may consider such notice of violation, abatement order, and/or administrative citation to be evidence that the responsible party has committed acts that threaten the health, safety, and welfare of the general public.
2. The City Council, the Planning Commission, the Historic Design Review Commission, any other board or commission of the city, and city staff may impose a moratorium on issuing new, renewed, or revised permits, licenses, or other approvals to a responsible party pending satisfactory resolution of a notice of violation, abatement order, and/or payment of an administrative citation.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)

#### 10.90 Issuance Of Administrative Citations

An administrative citation may be issued in 1 or more of the following ways:

1. An enforcement officer may personally serve the administrative citation on the responsible party. The responsible party is required to sign a copy of the administrative citation showing his or her receipt, but his or her failure to do so shall have no effect on the enforcement of the administrative citation.

2. An enforcement officer may mail the administrative citation to the responsible party by first-class mail to the last known address of the responsible party and/or to any address which the responsible party has used in dealings with the city.
3. An enforcement officer may post a copy of the administrative citation on the subject property in a conspicuous place for a property-related code violation and, in which case, the enforcement officer shall also mail a copy of the administrative citation to the responsible party in the manner described in division (B) above.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)

#### 10.91 Amount Of Administrative Fines And Penalties

1. For code violations that would otherwise be an infraction, administrative fines shall not exceed \$100 for a first violation, \$200 for a second violation of the same code section within 1 year, and \$500 for each additional violation of the same code section within 1 year.
2. For code violations of local building and safety codes, administrative fines shall not exceed \$100 for a first violation, \$500 for a second violation of the same provision within 1 year, and \$1,000 for each additional violation of the same provision within 1 year of the first violation.
3. If the code violation pertains to building, plumbing, electrical, mechanical or other similar structural or zoning issues and does not pose an imminent or immediate threat of harm to persons or property, or to public health, welfare or safety, the responsible party shall be provided a notice of violation including not less than 15 days in which to abate or otherwise correct the code violation(s) prior to the imposition of an administrative fine or penalty. The determination of timely compliance, abatement, mitigation or elimination of the code violation shall be made by the enforcement officer or other authorized city official.
4. Any code violation may be subject to an administrative penalty not exceeding \$1,000 per violation.
5. Administrative fines and/or penalties not paid prior to their due date shall result in the imposition of a penalty and interest for every day of delinquency, as set forth in a resolution of the City Council.
6. Each responsible party may be charged with a separate offense for each and every day during any portion of which any code violation is committed, continued or permitted by such responsible party.

(Ord. 06-5, eff. 7-27-2006; Am. Ord. 18-05, passed 6-25-2018)

#### 10.92 Payment Of Fines And Penalties

1. All fines and penalties are due on the day specified in the notice of violation, abatement order, and/or administrative citation.
2. Fines and penalties shall be payable to the city at City Hall, 1225 Lincoln Way, Auburn, CA 95603, or to a collection agency if the fine and/or penalty has been assigned to a collection agency. Payment may be made by credit card, or by mailing the fine and/or

penalty amount paid by check or money order to the City Clerk at the same address. Cash payments may only be made in person at the same address.

3. Payment of a fine or penalty pursuant to this chapter shall not excuse or discharge any continued or repeated code violation.
4. Pending an administrative hearing by a hearing officer, payment of a fine and/or penalty may be stayed if the City Manager determines, pursuant to § 10.93, that a responsible party is unable to pay the fine and/or penalty.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)

#### 10.93 Request For Administrative Hearing

1. A responsible party to whom a notice of violation, abatement order, and/or an administrative citation is issued may request an administrative hearing within 15 days of the issuance of the notice of violation, abatement order, and/or administrative citation. Failure to timely request an administrative hearing in the manner required by this chapter constitutes a waiver of the administrative hearing and a failure to exhaust administrative remedies.
2. A request for an administrative hearing shall be made in writing and filed with the City Clerk at City Hall, 1225 Lincoln Way, Auburn, CA 95603, and shall state all grounds for appeal which the appellant wishes the city to consider.
3. At the time of submitting the request for an administrative hearing, the appellant requesting the administrative hearing shall pay a deposit of any fine and/or penalty imposed by a notice of violation, abatement order, and/or an administrative citation, in the event the fine and/or penalty has not yet been paid. No request for an administrative hearing shall be accepted without payment of the deposit of the fine and/or penalty amount at the time the administrative hearing request is filed. The city may waive or defer the administrative hearing fee upon written request for good cause shown. Good cause may include severe economic hardship, significant attempts to comply with a notice of violation and/or abatement order, and other factors indicating good faith attempts to comply.
4. Enforcement of a notice of violation, abatement order, and/or an administrative citation shall be stayed during the pendency of an administrative hearing therefor which is properly and timely filed, unless a stay would jeopardize public health, safety, or welfare.
5. An appellant may request 1 continuance of an administrative hearing provided he or she does so in writing before the date of the administrative hearing and states a reasonable basis for the request. Unless the city issues a written notice of continuance, the administrative hearing shall take place on the date, time and location specified in a notice of administrative hearing issued to the appellant. An appellant's failure to attend an administrative hearing shall constitute an abandonment of the request for an administrative hearing and a failure to exhaust administrative remedies.
6. Unless otherwise required by the California Building Code, an adopted uniform code, or other provision of law, administrative hearings shall be conducted and heard by a hearing officer.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)

#### 10.94 Administrative Hearing

1. The administrative hearing shall be conducted by the hearing officer on the date, time, and location specified in the notice of hearing transmitted to the appellant. Notice(s) of violation, abatement order(s), administrative citation(s), and other reports prepared by an enforcement officer concerning a code violation(s) shall be accepted by the hearing officer as prima facie evidence of the facts stated in such documents. The hearing officer shall allow the appellant an opportunity to testify at an administrative hearing and to present evidence about any code violation specified in the notice of violation, abatement order, and/or administrative citation. The enforcement officer or other representatives of the city may, but are not required to, attend the administrative hearing.
2. The hearing officer may continue an administrative hearing from time to time and allow an appellant additional time to remedy a code violation. In addition, the hearing officer may request additional information or evidence from the appellant.
3. An administrative hearing need not be conducted in accordance with the technical rules of evidence. Any relevant evidence may be admitted if it is evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might consider such admission improper in a civil or criminal proceeding. Irrelevant or unduly repetitious evidence shall be excluded.
4. After considering all testimony and evidence submitted at the administrative hearing, the hearing officer shall issue a written decision to affirm, modify or dismiss the notice(s) of violation, abatement order(s), and/or administrative citation(s). The decision shall include the hearing officer's findings, as well as information regarding the appellant's right to seek judicial review of the decision and the time in which to do so. The city shall issue the appellant a copy of the hearing officer's written decision (the "notice of decision"). The decision of the hearing officer shall be final. If the hearing officer determines that the notice(s) of violation, abatement order(s), and/or administrative citation(s) should be affirmed, the fine and/or penalty amount on deposit with the city, if any, shall be retained by the city.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)

#### 10.95 Judicial Review

An appellant may seek judicial review of a hearing officer's decision by filing a petition for review with the superior court, pursuant to Cal. Gov't Code § 53069.4, within 20 days after service of the notice of decision on appellant. For purposes of this section **SERVICE** means personal service or deposit in the mail, first-class, postage prepaid, and return receipt requested to the last known address of the appellant and/or to any address which the appellant has used in dealings with the city.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)

#### 10.96 Collection Of Delinquent Fines And Penalties And Other Remedies

1. The city may pursue any and all legal and equitable remedies for the collection of fines, interest, administrative costs and attorney's fees incurred. Resort to any 1 remedy shall not foreclose subsequent or simultaneous resort to any other.
2. The city may seek to enforce any notion of violation, abatement order, administrative citation, fine, penalty, interest, administrative costs, and attorney's fees by confirmation from a court of competent jurisdiction. Any of such judicially confirmed may be enforced through all normal enforcement measures, including without limitation, criminal contempt proceedings upon a subsequent violation of such order.
3. Administrative costs may be recorded as a lien or special assessment against a property on which a code violation occurred. Prior to recording a lien or special assessment, the city shall prepare a cost report itemizing the amount owed by the responsible party and give known responsible party reasonable opportunity to be heard with respect to that cost report. The city shall comply with any other law applicable to the recording of any delinquent costs and interest as a lien on the property, or as a special assessment.
4. The notice of violation, abatement order, and administrative citation procedures described in this chapter do not preclude the city from recovering any code violation abatement costs and/or administrative costs incurred by the city in performing its code enforcement efforts.
5. A prevailing party shall be entitled to recover attorney's fees in an amount not to exceed the amount of attorney's fees incurred by the city in such action. Recovery by the city of administrative costs shall be in addition to any fine or penalty imposed on the responsible party.

(Ord. 06-5, eff. 7-26-2006; Am. Ord. 18-05, passed 6-25-2018)