ENFORCEMENT — VIOLATIONS - PENALTIES

PLEASE NOTE: This chapter mirrors similar provisions in title 20, and may be further revised to reflect changes in actual practice. Any changes will be posted to the internet and brought forward for the public hearing.

Chapter 24.92

ENFORCEMENT — VIOLATIONS - PENALTIES

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24.92.010 Generally – Enforcement.

A. The director shall administer and enforce this title. For the purposes of chapter 7.80 RCW, the director is the enforcement officer for this title. If the director finds that any of the provisions of this title are being violated, it shall notify in writing the person responsible for such land use violation, indicating the nature of the land use violation and ordering the action necessary to correct it. The director shall take any action authorized by this title to ensure compliance with or to prevent a land use violation of its provisions, including the issuance of orders to stop work.

B. Adherence to the requirements of this title and to any permit conditions or orders issued pursuant to this title is required throughout the construction period and thereafter. No use
or activity subject to this title may be carried out within a critical area, buffer, or management zone where a violation occurred, until the County determines that all violations of this title in the affected critical area, buffer, or management zone have been fully remedied.

C. No permit or approval shall be granted pursuant to this title if there exists on the subject property any land use violation known by the approval authority unless expressly authorized by this section.

D. A permit approval may be granted if conditioned on having the violation remedied within a reasonable time as provided by the approval authority. If a permit or approval is conditioned on remedial action, a bond, surety or similar instrument that meets the requirements of chapter 24.70 TCC may be required.

E. Permits may be granted to remedy a violation.

F. For the purposes of this chapter, a land use violation is a violation of this title, the Existing and Ongoing Agricultural Uses and Lands Critical Areas Ordinance (chapter 17.15 TCC), Thurston County Forest Land Conversion Ordinance (chapter 17.25 TCC), the Thurston County Zoning Ordinances (titles 20, 21, 22, and 23 TCC), the Thurston County Platting and Subdivision Ordinance (title 18 TCC), Sanitary Code for Thurston County, Shoreline Master Program (title 19 TCC), or the Buildings and Construction Code (title 14 TCC).

24.92.020 Calculation of penalties and damages.

A. Each violation of this title or any permit, permit condition, or order issued pursuant to this title is a separate offense.

B. Each day in which such a violation is not remedied is a separate and distinct violation.

C. The approval authority is not required to issue a notice of the violation or civil infraction for each day of the violation.

D. The initiation of a singular remedy under this chapter for a violation does not preclude the initiation of a separate remedy.

E. The County shall recover all costs, fees, and expenses in connection with enforcement actions as damages against the violator. Costs, fees, and expenses may include, but are not limited to, costs of restoration, abatement, or cleanup, including staff time and court expenses.

24.92.030 Enforcement – Violation remedies.
If the review authority finds that any person, whether owner, lessee, principal, agent, employee or otherwise, violates any of the provisions of this title, or permits any such violation of this title,
or fails to comply with any of the requirements hereof, or who erects any building or uses any building or uses any land in violation of this title, the approval authority may:

A. Issue a stop work order to halt any activity which is in violation of this title;

B. Issue a restoration order for complete or partial restoration, rehabilitation, or replacement of the critical area by the property owner. It is the property owners’ responsibility to contact and seek a remedy from any other person(s) who may be responsible for the violation;

C. Revoke a permit or approval;

D. Issue a notice of civil infraction to the property owner(s) of record under section TCC 24.92.070-4; and

E. Request that the prosecuting attorney commence a criminal prosecution, seek a temporary restraining order or seek equitable relief to enjoin any act or practices and abate any conditions which constitute or will constitute a violation to this title.

24.92.040 Stop work orders.

Stop work orders shall become effective immediately upon receipt by the person to whom the order is directed. Failure to comply with the terms of a stop work order may result in additional enforcement actions including, but not limited to, the issuance of a civil infraction, or referral to the prosecuting attorney. The stop work order shall set forth the following terms and conditions:

A. A description of the specific nature, extent, and time of the land use violation and the damage or potential damage; and

B. A notice that the violation or the potential violation of this title cease and desist or, in appropriate cases, the specific corrective action to be taken within a given time.

24.92.050 Restoration orders.

A. Restoration orders shall become effective immediately upon receipt by the person to whom the order is directed. Failure to comply with the terms of a restoration order may result in additional enforcement actions including, but not limited to, the issuance of a civil infraction, or referral to the prosecuting attorney.

B. If warranted due to the scale of the damage or the sensitivity of the affected critical area, associated buffer or dependent fish and wildlife, the county may require submission of a restoration plan and implementation schedule prior to initiation of the restoration activity. If so, any development activity on the site where the violation occurred shall cease until the county approves the restoration plan and schedule. The plan shall be prepared by a qualified professional as determined by the approval authority, and shall describe how the proposed actions meet the requirements of this title. Restoration activities shall be reviewed by the approval authority under the requirements for a Critical Area Review.
Permit (chapter 24.40 TCC). Inadequate plans as determined by the approval authority shall be returned to the violator/property owner for revision and resubmittal.

C. Restoration plans shall comply with the following requirements unless the property owner/violator demonstrates that equal or greater critical area and buffer functions can otherwise be obtained.

1. The pre-violation structure, condition, and functions of the critical area, associated buffer and management zone, as applicable, shall be restored including, but not limited to, topography; soil types; vegetation types, sizes and densities (not including noxious weeds or invasive plants); water quality; hydrologic functions; habitat functions; and other relevant conditions.

2. If information is not available regarding pre-violation conditions at the violation site, the county shall determine the restoration goals based on similar sites.

D. The property owner/violator shall submit a surety consistent with chapter 24.70 TCC and with the requirements of this title to ensure that restoration is successful.

E. The property owner/violator shall be responsible for all costs associated with the restoration plan, including review costs.

24.92.060 Revocation of permits.
Unless otherwise provided or restricted by law, the director may, in writing, suspend or revoke a permit or approval required by this title whenever the permit is issued in error or on the basis of incorrect information, or in violation of an ordinance or regulation or any provision of this title, or when a use or building is being maintained in a manner contrary to the terms and conditions of the permit or approval.

24.92.070 Civil infractions.

A. Use of the civil infraction procedure will better protect the public from the harmful effect of violations, will aid enforcement, and will help reimburse the county for the expenses of enforcement.

B. The violation of any provision of this title is designated as a Class 2 civil infraction pursuant to Chapter 7.80 RCW. After the expiration of any period granted by the county for remedying a violation, each day of any such continued violation is a separate offense.

C. Civil infractions shall be heard and determined according to chapter 7.80 RCW, as amended, and any applicable court rules.

D. An enforcement officer issuing a notice of civil infraction may send the notice by mail, or another hand delivery method to the property owner(s) of record.

E. A notice of civil infraction may be recorded upon issuance with the Thurston County auditor against the property on which the violation took place.
F. The recording of a notice of civil infraction shall be removed when:

1. The civil infraction proceeding has been dismissed or decided in favor of the person to whom the notice was issued; or

2. Any monetary penalty assessed for the infraction has been paid and the violation has been remedied to the satisfaction of the county.

G. The auditor shall record any notice of civil infraction submitted for recording under this chapter.

24.92.080 Liability for violations.
The owner of property on which a violation of this chapter has occurred and the persons or entities carrying out actions in violation of this chapter are each responsible and liable for the violation.

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