

BOARD OF COUNTY COMMISSIONERS  
COUNTY OF KITTITAS  
STATE OF WASHINGTON

ORDINANCE

NO 2024- 003

**ORDINANCE AMENDING CHAPTER 18.02 OF THE KITTITAS COUNTY CODE TO CORRECT MINOR INTERNAL INCONSISTENCIES**

**WHEREAS:** The Kittitas County Prosecuting Attorney serves as the code reviser for the County; and

**WHEREAS:** the County hired a new Code Enforcement Officer (CEO) in 2024; and

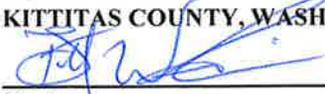
**WHEREAS:** In reviewing the Code Enforcement process with the new CEO, the Prosecuting Attorney's Office noticed some internal inconsistencies in chapter 18.02 of the Kittitas County Code: namely, a mistaken citation to the Rules for Appeal of Decisions of Courts of Limited Jurisdiction, instead of the Land Use Petition Act, at KCC 18.02.030(6), and nonsensical references to an older version of the code at KCC 18.02.040(7) and

**WHEREAS:** The Prosecuting Attorney's Office recommends these immediate amendments to chapter 18.02 KCC be adopted, as set forth in attached Exhibit A, to reconcile the code with current County practice and State law

**NOW, THEREFORE BE IT ORDAINED,** the Kittitas County Board of County Commissioners declares it to be in the best interest of the public to adopt the amendments to chapter 18.02 KCC set forth and attached hereto as Exhibit A, and does hereby support the incorporation of the attached amendments into said code.

ADOPTED this 11th day of April, 2024, at Ellensburg, Washington.

BOARD OF COUNTY COMMISSIONERS  
KITTITAS COUNTY, WASHINGTON

  
Chairman

**ABSENT**  
Vice Chairman

  
Commissioner

ATTEST:  
CLERK OF THE BOARD

APPROVED AS TO FORM:



*[Handwritten signature]*  
Julie A. Kjorsvik

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Jesse Eldred, Deputy Prosecuting Attorney

# EXHIBIT A

## Chapter 18.02

### INFRACTION CORRECTIVE ORDERS

#### Sections

- [18.02.010](#) Violations - Enforcement.
- [18.02.020](#) Order to correct violation.
- [18.02.030](#) Notice of violation and abatement.
- [18.02.040](#) Notice of infraction.
- [18.02.050](#) Failure to comply.

#### **18.02.010 Violations - Enforcement.**

1. Except as provided in this Title, any authorized official under [18.01.020](#) KCC may investigate alleged or apparent violations of this Title.
2. If an authorized official makes a determination that a violation has occurred or is occurring, that official may:
  - a. Pursue reasonable attempts to secure voluntary correction by issuing an order to correct violation;
  - b. Issue a Notice of Violation and Abatement to the landowner(s); or
  - c. Issue a notice of infraction if that official reasonably believes a violation has occurred.
  - d. File a Notice of Title with the Auditor's Office for any code violation that has remained unresolved for forty-five (45) days or more after Kittitas County issued an Order to Correct Violation. After the violation has been resolved, the landowner shall pay a fee as set forth in the Community Development Services Fee Schedule to process and record a lifting of the Notice to Title.
3. Nothing in this Chapter shall limit the ability of the authorized official to pursue other corrective actions as allowed by law. ([Ord. 2018-021](#), 2018; [Ord. 2013-012](#), 2013; Ord. 2009-19, 2009; Ord. 2006-37, 2006; Ord. 2005-29, 2005; Ord. 94-25 (part), 1994)

#### **18.02.020 Order to correct violation.**

1. Purpose. An order to correct violation may be issued in an effort to secure voluntary correction within a reasonable amount of time as determined by the authorized official.
2. Order to correct violation - Content. The order to correct violation should contain:
  - a. The name and address of the landowner or the other person(s) to whom the order to correct violation is directed; and
  - b. The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
  - c. A description of the violation and a reference to that provision of the ordinance or code which is alleged to have been violated; and
  - d. A statement of the action required to be taken to correct the violation and a date or time by which correction is to be completed; and
  - e. A statement that failure to respond to the order to correct violation, within a defined and listed amount of time assessed as reasonable by the authorized official, may result in the issuing of a notice of infraction, Notice

of Violation and Abatement or possible criminal charges and the commencement of a monetary penalty in an amount per day for each violation, assessed against the person(s) in the case of violations of [18.01.010\(1\)](#) KCC, and against the land in the case of violations under [18.01.010\(2\)](#) KCC or [18.01.010\(3\)](#) KCC, to whom the order to correct violation is directed for each and every day, or portion thereof, on which the violation continues following the date set for correction; and

- f. Notice that multi-day violations are chargeable as crimes under [18.01.050](#) KCC; and
  - g. The signature of the authorized official who issues the order to correct violation.
3. Order to correct violation - Service.
    - a. The order to correct violation is issued to the landowner or to any person causing, allowing, or participating in the alleged violation. The order to correct violation shall be served upon the person to whom it is directed by either:
      - i. personal service of an authorized official pursuant to [18.01.020](#) KCC; or
      - ii. by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, to such person at his/her last known address.
    - b. Where practical, a copy of the notice should be posted on the affected property or structure. Failure to post a copy of the notice is not, however, a requirement of proper service.
    - c. The failure of the landowner or person causing, allowing, or participating in the alleged violation to receive such Order to Correct shall not affect the validity of any proceedings taken under this Chapter. Service by certified mail in the manner provided in this section shall be effective on the third day after the date of postmark, excluding Saturdays, Sundays, and holidays.
  4. Order to correct violation - Extension of Time. Upon written agreement between an authorized official and the party allegedly in violation, the parties may agree to an extension of time to correct the violation.
    - a. The extension of time shall include a date certain in the future upon which correction of the violation is to be complete.
    - b. The extension of time shall be granted only upon a showing of good cause as demonstrated in the written agreement. Among others, factors to be considered are:
      - i. Substantial completion of the necessary correction;
      - ii. Unforeseeable circumstances which render completion of the necessary correction impossible by the date established;
      - iii. A proposed phase removal plan that extends beyond the established correction date.
  5. Order to correct violation - Repeat Offense. When an order to correct violation has been previously issued for the same offense to the same person at the same location, the authorized official is not required to issue an order to correct violation and may immediately issue a notice of infraction, a Notice of Violation and Abatement, or

possible criminal charges ([Ord. 2013-012](#), 2013; Ord. 2009-19, 2009; Ord. 2006-37, 2006; Ord. 2005-29, 2005; Ord. 94-25 (part), 1994).

**18.02.030 Notice of Violation and Abatement.**

1. Whenever, upon a reasonable belief, a public nuisance exists in violation of this Title, an authorized official may issue a Notice of Violation and Abatement to the landowner(s), containing the following:
  - a. The street address, parcel number(s), or description of the building, structure, premises, or land in terms reasonably sufficient to identify its location;
  - b. A description of the violation(s) including the day or days of the offenses;
  - c. A reference to the Title, Chapter, and Section of the KCC or Kittitas County Health Department regulation or written order which has been violated, if applicable;
  - d. The amount of the fine imposed and to whom and by when it must be paid;
  - e. A description of the action required to abate the public nuisance which may include corrections, repairs, demolition, removal, or any other appropriate action, and a date by which voluntary abatement must be completed;
  - f. A statement that the person to whom a Notice of Violation and Abatement is directed may request an administrative hearing to be conducted by the Hearing Examiner. Such request (Notice of Appeal) must be in writing, accompanied by the appeals fee and must be received by the Public Official within ten (10) working days after the Notice of Violation and Abatement has been served.
  - g. A statement that the landowner must correct the violation and pay the civil penalty; or may appeal the Notice; and
  - h. A statement that the costs and expenses of abatement incurred by the County may be assessed against the person(s) named in the Notice of Violation and Abatement and further that failure to pay said costs may result in a lien for the costs of abatement being assessed against the property.
2. Service of the Notice of Violation and Abatement
  - a. The Notice of Violation and Abatement shall be served by any one or combination of the following methods:
    - i. By both first-class and certified mail with a five (5) day return receipt requested to the last known address of the landowner of the property; or
    - ii. By posting the Notice of Violation and Abatement in a prominent location on the premises in a conspicuous manner which is reasonably likely to be discovered; or
    - iii. By personal service upon the landowner.
  - b. The failure of the landowner to receive such Notice of Violation and Abatement shall not affect the validity of any proceedings taken under this Chapter. Service by certified mail in the manner provided in this section shall be effective on the third day after the date of postmark, excluding Saturdays, Sundays and holidays.

3. Notice of Appeal.
  - a. Within ten (10) working days of service of a Notice of Violation and Abatement, the landowner may submit a written Notice of Appeal to the Authorized official, to appeal the Notice of Violation and Abatement.
  - b. The Notice of Appeal shall contain a written, concise statement identifying:
    - i. The decision being appealed;
    - ii. The name and address of the appellant and his interest(s) in the matter;
    - iii. The specific reasons why the appellant believes the decision to be wrong. The appellant shall bear the burden of proving the decision was wrong; and
    - iv. The desired outcome or changes to the decision.
4. Notice of Hearing.
  - a. The authorized official shall issue and serve a Notice of Hearing to the appellants within fifteen working days after the receipt of one or more timely Notices of Appeal. Requests from multiple parties concerning the same nuisance may be consolidated.
  - b. The Notice of Hearing shall be served by the same means as the Notice of Violation and Abatement.
  - c. The Notice of Hearing shall contain the date, time, and location of the hearing.
5. Hearing.
  - a. The appeal of a Notice of Violation and Abatement shall be heard by the Hearing Examiner.
  - b. Unless otherwise provided herein, the provisions of [Chapter 2.11 KCC](#) shall govern the hearing process.
  - c. Burden of proof.
    - i. Except as otherwise required by law, in all cases where a license or permit is required but has not been issued, the burden shall be on the applicant to establish that the application meets all applicable criteria or that a license or permit is not required. In all other cases, the burden is on the county to prove the alleged factual basis set forth in the initiating document.
    - ii. Except as otherwise required by law, the burden in all cases is a preponderance of the evidence.
    - iii. The observation of a violation on different dates shall be prima facia evidence that the violation continued to exist on intervening dates.
  - d. The Hearing Examiner shall determine if the property at issue constitutes a public nuisance as defined in this Chapter. The Hearing Examiner shall also determine if the appellant is the property owner and is therefore personally liable for the costs of abating the nuisance.
6. Order of the Hearing Examiner.
  - a. Unless mutually agreed to by the appellant and the Hearing Examiner, the Hearing Examiner or the Hearing Examiner's clerk shall serve upon both the

County and the appellant, either personally or by mailing a copy of the order to the parties at his/her last known address as determined by the designated authorized official.

- b. The Hearing Examiner, in affirming the authorized official's Notice of Violation and Abatement, shall impose the fine consistent with the penalty provision of this Title and may assess administrative costs and/or costs related to the abatement of the nuisance.
  - c. The Hearing Examiner may order the County to pay the appellant costs, and/or attorney fees only upon a finding that both the violation did not occur and intentional misconduct on the part of the authorized official.
  - d. The appellant may file a request for reconsideration of the Hearing Examiner's decision within ten (10) days of service of the Hearing Examiner's written decision, based on any of the following grounds materially affecting the substantial rights of said party or person:
    - i. Errors of procedure or misinterpretation of fact, material to the party seeking the request for reconsideration;
    - ii. Irregularity in the proceedings before the Hearing Examiner by which such party was prevented from having a fair hearing; or
    - iii. Clerical mistakes in the official file or record transmitted to the Examiner, including errors arising from inadvertence, oversight, or omission, which may have materially affected the Hearing Examiner's decision on the matter.
  - e. Upon receipt of a request for reconsideration, the Hearing Examiner shall review said request in light of the record and take such further action as is deemed proper; including, but not limited to, denying the request, granting the request, with or without oral argument, and may render a revised decision. The decision of the Hearing Examiner shall be subject to reconsideration only one time, even if the Hearing Examiner reverses or modifies the original decision.
  - f. If no written request for reconsideration has been received by the authorized official within ten (10) days of the service of the order of the Hearing Examiner, the order shall be considered final unless appealed to the Kittitas County Superior Court. All such appeals shall be governed by the Land Use Petition Act (Chapter 36.70c RCW).
  - g. Any order related to a violation of the Shoreline Master Program shall be considered final unless appealed to the Shoreline Hearings Board.
7. Cooperative Abatement Agreements.  
The authorized official and the landowner may enter into a cooperative abatement agreement which includes a right of entry agreement and an agreement regarding the recovery of costs of the abatement.
8. Cost Recovery.
- a. In addition to the other remedies available under this chapter, an authorized official may charge the costs of abatement to the landowner(s) who received the Notice of Violation and Abatement or to the landowner(s) who were found personally liable for the costs of abating the nuisance by an order issued by the Hearing Examiner if an appeal was filed. The costs

are due and payable thirty (30) days from mailing of the invoice and if not paid by that date shall bear interest at the rate of twelve (12) percent per annum. The costs shall be paid to the Department to which the authorized official is assigned. In the case of persons designated by the Kittitas County Fire Marshal to enforce [Chapter 15.08, 20 KCC](#), costs shall be paid to the Office of the Fire Marshal.

- b. If more than one landowner has been issued a Notice of Violation and Abatement or more than one appellant was found personally liable for the costs of abating the nuisance by an order issued by the Hearing Examiner, each party shall be jointly and severally liable for the costs of the abatement.
- c. For purposes of this Section, "costs" shall include but are not limited to:
  - i. Personnel costs, both direct and indirect, including all attorney's fees and costs incurred in the investigation, documentation, and abatement of the nuisance;
  - ii. Repair, demolition, hauling, clean up, storage, disposal, and environmental mitigation expenses;
  - iii. Actual expenses and costs of the County in preparing notices, specifications, and contracts, and the costs of any required printing or mailing;
  - iv. Actual expenses and costs of the County in accomplishing, contracting, or inspecting the abatement work;
  - v. Penalties under to [Chapter 18.05 KCC](#).
- d. Any salvage value proceeds resulting from the abatement of the property shall first be applied to the costs of abatement. Any remaining such monies shall be paid to the landowner as shown on the last equalized assessment roll.
- e. The County may impose a special assessment for the costs of any abatement proceedings under this chapter and all other related costs against the real property on which the nuisance was found or any of the work of abatement was performed.

9. Special Assessment.

Pursuant to [RCW 36.32.120\(10\)](#), all costs incurred by Kittitas County for the abatement of any nuisance defined by any statute or ordinance shall be a special assessment upon land or premises on which the nuisance is situated and this assessment and/or any penalties under this Title shall constitute a lien against the property which shall be of equal rank with state, county, and municipal taxes. An authorized official shall cause a claim of lien to be filed for record in the Auditor's Office within ninety (90) days from a final finding. ([Ord. 2016-010](#), 2016; [Ord. 2013-012](#), 2013; Ord. 2009-19, 2009)

**18.02.040 Notice of infraction.**

An authorized official may issue a notice of infraction where that official has probable cause to believe, and does believe, that a violation has occurred or is occurring.

1. Notice of Infraction - Contents. A notice of infraction shall either be:

- a. A notice of infraction ticket from a ticket book which substantially complies with IRLJ 2.1(b) and is approved by the Administrative Office of the Courts,  
or
- b. A notice of infraction form that shall contain the following:
  - i. A statement indicating a determination has been made that the civil infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this Title;
  - ii. A statement of the specific civil infraction(s) alleged to have been committed for which the notice of infraction was issued and a reference to the code section allegedly violated;
  - iii. The date(s) the violation was observed;
  - iv. The address or sufficient description of the property at which the violation allegedly occurred;
  - v. A statement that the civil infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;
  - vi. A statement that a person's failure to respond to a notice of infraction as promised is a misdemeanor and may be punishable by a fine of up to one thousand dollars and/or imprisonment in jail up to ninety days;
  - vii. A list of options provided in this ordinance for responding to the notice of infraction and the procedures necessary to exercise these options;
  - viii. A statement that at any hearing to contest the determination of infraction, the burden is on the County to establish that the infraction was committed by a preponderance of the evidence and that the person may produce witnesses and subpoena the authorized official who issued and/or served the notice of infraction;
  - ix. A statement that the person alleged to have committed the infraction promises to respond to the Notice of Infraction in a manner consistent with this title, and a space for the alleged violator's signature;
  - x. A statement that refusal to sign the infraction as directed in paragraph (i) of this subsection shall constitute a determination that the person to whom the notice was issued committed the infraction;
  - xi. The amount of the penalty for the alleged infraction;
  - xii. Statement that if the violation is a nuisance and is not corrected, that the County can abate the nuisance and that the infraction penalty, abatement costs, and all associated legal costs and fees can become a lien against the property as well as a joint and several judgment against the owners and that the County can foreclose upon that lien, also obtaining reimbursement for its foreclosure costs, against the property;

- xiii. The name, signature, address, and phone number of the authorized official issuing the notice of infraction as well as the time and place the notice was issued; and
    - xiv. A statement that multi-day violations can be charged as crimes.
  - 2. Notice of Infraction - Service. An authorized official may issue a notice of infraction if that official has probable cause to believe, and does believe, that the provisions of an applicable ordinance has been violated. A notice of infraction may be served through adherence to IRLJ 2.2(c):
  - 3. Notice of Infraction - Filing. A notice of infraction shall be filed in District Court within forty-eight (48) hours of issuance, excluding Saturdays, Sundays, and holidays. Kittitas County District Court shall have jurisdiction to hear and determine these matters.
  - 4. Notice of Infraction - Determination. A notice of infraction represents a determination that the person to whom the notice was issued committed the infraction unless contested under the provisions of this Title.
  - 5. Notice of Infraction-Notice of Lien. The Notice of Infraction shall constitute a Notice of Lien in case the matter ultimately results in abatement and a lien for such abatement costs.
  - 6. Notice of Infraction - Procedure.
    - a. A person who has been served with a notice of infraction shall respond to the notice as provided within this section within thirty (30) days of the date the notice was served as provided in the Infraction Rules for Courts of Limited Jurisdiction (IRLJ) 2.4.
    - b. If the person fails to respond as provided in IRLJ 2.4, the court shall follow the procedure in IRLJ 2.5.
  - 7. Notice of Infraction - Scheduling of Hearings
    - a. If the person responds by requesting a contested hearing, then the court shall follow IRLJ 2.6(a) to schedule the contested hearing.
    - b. If the person responds by requesting a mitigation hearing, then the court shall follow IRLJ 2.6(b) to schedule the mitigation hearing.
    - c. The court may notify the county prosecuting attorney of a failure to respond to the notice of infraction if the person named on the notice fails to respond to the notice of infraction or fails to appear at a hearing in a manner authorized by IRLJ 2.4. The court shall notify the respective county department of any judgment entered and the reasons therefore.
- ([Ord. 2021-003](#), 2021 [Ord. 2013-012](#), 2013; Ord. 2009-19, 2009; Ord. 2006-37, 2006; Ord. 94-25 (part), 1994)

**18.02.050 Failure to comply.**

1. Any person willfully violating his or her written and signed promise to appear in court or his or her signed promise to respond to the notice of infraction is guilty of a misdemeanor, punishable by a fine up to one thousand dollars and/or imprisonment in jail up to ninety (90) days, regardless of the disposition of the Notice of Infraction.
2. A person who willfully fails to pay a monetary penalty as required by a court under this chapter may be found in civil contempt of court after notice and hearing. Further, delinquent accounts with the court may be referred to an agency for collection.

3. Any person subject to criminal proceedings under this Title may be represented by a lawyer. If the person named on the notice of infraction qualifies, he or she may be represented by court-appointed counsel for criminal proceedings. (Ord. 2009-19, 2009; Ord. 2006-37, 2006; Ord. 94-25 (part), 1994)

## Chapter 18.02

### INFRACTION CORRECTIVE ORDERS

#### Sections

- [18.02.010](#) Violations - Enforcement.
- [18.02.020](#) Order to correct violation.
- [18.02.030](#) Notice of violation and abatement.
- [18.02.040](#) Notice of infraction.
- [18.02.050](#) Failure to comply.

#### **18.02.010 Violations - Enforcement.**

1. Except as provided in this Title, any authorized official under [18.01.020](#) KCC may investigate alleged or apparent violations of this Title.
2. If an authorized official makes a determination that a violation has occurred or is occurring, that official may:
  - a. Pursue reasonable attempts to secure voluntary correction by issuing an order to correct violation;
  - b. Issue a Notice of Violation and Abatement to the landowner(s); or
  - c. Issue a notice of infraction if that official reasonably believes a violation has occurred.
  - d. File a Notice of Title with the Auditor's Office for any code violation that has remained unresolved for forty-five (45) days or more after Kittitas County issued an Order to Correct Violation. After the violation has been resolved, the landowner shall pay a fee as set forth in the Community Development Services Fee Schedule to process and record a lifting of the Notice to Title.
3. Nothing in this Chapter shall limit the ability of the authorized official to pursue other corrective actions as allowed by law. ([Ord. 2018-021](#), 2018; [Ord. 2013-012](#), 2013; [Ord. 2009-19](#), 2009; [Ord. 2006-37](#), 2006; [Ord. 2005-29](#), 2005; [Ord. 94-25](#) (part), 1994)

#### **18.02.020 Order to correct violation.**

1. Purpose. An order to correct violation may be issued in an effort to secure voluntary correction within a reasonable amount of time as determined by the authorized official.
2. Order to correct violation - Content. The order to correct violation should contain:
  - a. The name and address of the landowner or the other person(s) to whom the order to correct violation is directed; and
  - b. The street address or description sufficient for identification of the building, structure, premises, or land upon or within which the violation has occurred or is occurring; and
  - c. A description of the violation and a reference to that provision of the ordinance or code which is alleged to have been violated; and
  - d. A statement of the action required to be taken to correct the violation and a date or time by which correction is to be completed; and
  - e. A statement that failure to respond to the order to correct violation, within a defined and listed amount of time assessed as reasonable by the

- authorized official, may result in the issuing of a notice of infraction, Notice of Violation and Abatement or possible criminal charges and the commencement of a monetary penalty in an amount per day for each violation, assessed against the person(s) in the case of violations of [18.01.010](#)(1) KCC, and against the land in the case of violations under [18.01.010](#)(2) KCC or [18.01.010](#)(3) KCC, to whom the order to correct violation is directed for each and every day, or portion thereof, on which the violation continues following the date set for correction; and
- f. Notice that multi-day violations are chargeable as crimes under [18.01.050](#) KCC; and
  - g. The signature of the authorized official who issues the order to correct violation.
3. Order to correct violation - Service.
    - a. The order to correct violation is issued to the landowner or to any person causing, allowing, or participating in the alleged violation. The order to correct violation shall be served upon the person to whom it is directed by either:
      - i. personal service of an authorized official pursuant to [18.01.020](#) KCC; or
      - ii. by mailing a copy of the order by certified mail, postage prepaid, return receipt requested, to such person at his/her last known address.
    - b. Where practical, a copy of the notice should be posted on the affected property or structure. Failure to post a copy of the notice is not, however, a requirement of proper service.
    - c. The failure of the landowner or person causing, allowing, or participating in the alleged violation to receive such Order to Correct shall not affect the validity of any proceedings taken under this Chapter. Service by certified mail in the manner provided in this section shall be effective on the third day after the date of postmark, excluding Saturdays, Sundays, and holidays.
  4. Order to correct violation - Extension of Time. Upon written agreement between an authorized official and the party allegedly in violation, the parties may agree to an extension of time to correct the violation.
    - a. The extension of time shall include a date certain in the future upon which correction of the violation is to be complete.
    - b. The extension of time shall be granted only upon a showing of good cause as demonstrated in the written agreement. Among others, factors to be considered are:
      - i. Substantial completion of the necessary correction;
      - ii. Unforeseeable circumstances which render completion of the necessary correction impossible by the date established;
      - iii. A proposed phase removal plan that extends beyond the established correction date.
  5. Order to correct violation - Repeat Offense. When an order to correct violation has been previously issued for the same offense to the same person at the same location, the authorized official is not required to issue an order to correct violation and may

immediately issue a notice of infraction, a Notice of Violation and Abatement, or possible criminal charges ([Ord. 2013-012](#), 2013; Ord. 2009-19, 2009; Ord. 2006-37, 2006; Ord. 2005-29, 2005; Ord. 94-25 (part), 1994).

**18.02.030 Notice of Violation and Abatement.**

1. Whenever, upon a reasonable belief, a public nuisance exists in violation of this Title, an authorized official may issue a Notice of Violation and Abatement to the landowner(s), containing the following:
  - a. The street address, parcel number(s), or description of the building, structure, premises, or land in terms reasonably sufficient to identify its location;
  - b. A description of the violation(s) including the day or days of the offenses;
  - c. A reference to the Title, Chapter, and Section of the KCC or Kittitas County Health Department regulation or written order which has been violated, if applicable;
  - d. The amount of the fine imposed and to whom and by when it must be paid;
  - e. A description of the action required to abate the public nuisance which may include corrections, repairs, demolition, removal, or any other appropriate action, and a date by which voluntary abatement must be completed;
  - f. A statement that the person to whom a Notice of Violation and Abatement is directed may request an administrative hearing to be conducted by the Hearing Examiner. Such request (Notice of Appeal) must be in writing, accompanied by the appeals fee and must be received by the Public Official within **ten (10)** working days after the Notice of Violation and Abatement has been served.
  - g. A statement that the landowner must correct the violation and pay the civil penalty; or may appeal the Notice; and
  - h. A statement that the costs and expenses of abatement incurred by the County may be assessed against the person(s) named in the Notice of Violation and Abatement and further that failure to pay said costs may result in a lien for the costs of abatement being assessed against the property.
2. Service of the Notice of Violation and Abatement
  - a. The Notice of Violation and Abatement shall be served by any one or combination of the following methods:
    - i. By both first-class and certified mail with a **five (5)-** day return receipt requested to the last known address of the landowner of the property; or
    - ii. By posting the Notice of Violation and Abatement in a prominent location on the premises in a conspicuous manner which is reasonably likely to be discovered; or
    - iii. By personal service upon the landowner.
  - b. The failure of the landowner to receive such Notice of Violation and Abatement shall not affect the validity of any proceedings taken under this Chapter. Service by certified mail in the manner provided in this section

shall be effective on the third day after the date of postmark, excluding Saturdays, Sundays and holidays.

3. Notice of Appeal.
  - a. Within ten (10) working days of service of a Notice of Violation and Abatement, the landowner may submit a written Notice of Appeal to the Authorized official, to appeal the Notice of Violation and Abatement.
  - b. The ~~notice-Notice~~ of ~~appeal~~ Appeal shall contain a written, concise statement identifying:
    - i. The decision being appealed;
    - ii. The name and address of the appellant and his interest(s) in the matter;
    - iii. The specific reasons why the appellant believes the decision to be wrong. The appellant shall bear the burden of proving the decision was wrong; and
    - iv. The desired outcome or changes to the decision.
4. Notice of Hearing.
  - a. The authorized official shall issue and serve a Notice of Hearing to the appellants within fifteen working days after the receipt of one or more timely Notices of Appeal. Requests from multiple parties concerning the same nuisance may be consolidated.
  - b. The Notice of Hearing shall be served by the same means as the Notice of Violation and Abatement.
  - c. The Notice of Hearing shall contain the date, time, and location of the hearing.
5. Hearing.
  - a. The appeal of a Notice of Violation and Abatement shall be heard by the Hearing Examiner.
  - b. Unless otherwise provided herein, the provisions of [Chapter 2.11 KCC](#) shall govern the hearing process.
  - c. Burden of proof.
    - i. Except as otherwise required by law, in all cases where a license or permit is required but has not been issued, the burden shall be on the applicant to establish that the application meets all applicable criteria or that a license or permit is not required. In all other cases, the burden is on the county to prove the alleged factual basis set forth in the initiating document.
    - ii. Except as otherwise required by law, the burden in all cases is a preponderance of the evidence.
    - iii. The observation of a violation on different dates shall be prima facia evidence that the violation continued to exist on intervening dates.
  - d. The Hearing Examiner shall determine if the property at issue constitutes a public nuisance as defined in this Chapter. The Hearing Examiner shall also determine if the appellant is the property owner and is therefore personally liable for the costs of abating the nuisance.

6. Order of the Hearing Examiner.
  - a. Unless mutually agreed to by the appellant and the Hearing Examiner, the Hearing Examiner or the Hearing Examiner's clerk shall serve upon both the ~~county~~ County and the appellant, either personally or by mailing a copy of the order to the parties at his/her last known address as determined by the designated authorized official.
  - b. The Hearing Examiner, in affirming the authorized official's Notice of Violation and Abatement, shall impose the fine consistent with the penalty provision of this Title and may assess administrative costs and/or costs related to the abatement of the nuisance.
  - c. The Hearing Examiner may order the County to pay the appellant costs, and/or attorney fees only upon a finding that both the violation did not occur and intentional misconduct on the part of the authorized official.
  - d. The appellant may file a request for reconsideration of the Hearing Examiner's decision within ten (10) days of service of the Hearing Examiner's written decision, based on any of the following grounds materially affecting the substantial rights of said party or person:
    - i. Errors of procedure or misinterpretation of fact, material to the party seeking the request for reconsideration;
    - ii. Irregularity in the proceedings before the Hearing Examiner by which such party was prevented from having a fair hearing; or
    - iii. Clerical mistakes in the official file or record transmitted to the Examiner, including errors arising from inadvertence, oversight, or omission, which may have materially affected the Board's Hearing Examiner's decision on the matter.
  - e. Upon receipt of a request for reconsideration, the Hearing Examiner shall review said request in light of the record and take such further action as is deemed proper; including, but not limited to, denying the request, granting the request, with or without oral argument, and may render a revised decision. The decision of the Hearing Examiner shall be subject to reconsideration only one time, even if the Hearing Examiner reverses or modifies the original decision.
  - f. If no written request for reconsideration has been received by the authorized official within ten (10) days of the service of the order of the Hearing Examiner, the order shall be considered final unless appealed to the Kittitas County Superior Court. All such appeals shall be governed by ~~Rules for Appeal of Decisions of Courts of Limited Jurisdiction (RAL)~~ the Land Use Petition Act (Chapter 36.70c RCW).
  - g. Any order related to a violation of the Shoreline Master Program shall be considered final unless appealed to the Shoreline Hearings Board.
7. Cooperative Abatement Agreements.

The authorized official and the landowner may enter into a cooperative abatement agreement which includes a right of entry agreement and an agreement regarding the recovery of costs of the abatement.
8. Cost Recovery.

- a. In addition to the other remedies available under this chapter, an authorized official may charge the costs of abatement to the landowner(s) who received the Notice of Violation and Abatement or to the landowner(s) who were found personally liable for the costs of abating the nuisance by an order issued by the Hearing Examiner if an appeal was filed. The costs are due and payable thirty (30) days from mailing of the invoice and if not paid by that date shall bear interest at the rate of twelve (12) percent per annum. The costs shall be paid to the Department to which the authorized official is assigned. In the case of persons designated by the Kittitas County ~~fire~~ Fire marshal-Marshal to enforce Chapter 15.08, 20 KCC, costs shall be paid to the Office of the Fire Marshal.
  - b. If more than one landowner has been issued a Notice of Violation and Abatement or more than one appellant was found personally liable for the costs of abating the nuisance by an order issued by the Hearing Examiner, each party shall be jointly and severally liable for the costs of the abatement.
  - c. For purposes of this Section, "costs" shall include but are not limited to:
    - i. Personnel costs, both direct and indirect, including all attorney's fees and costs incurred in the investigation, documentation, and abatement of the nuisance;
    - ii. Repair, demolition, hauling, clean up, storage, disposal, and environmental mitigation expenses;
    - iii. Actual expenses and costs of the County in preparing notices, specifications, and contracts, and the costs of any required printing or mailing;
    - iv. Actual expenses and costs of the County in accomplishing, contracting, or inspecting the abatement work;
    - v. Penalties under to Chapter 18.05 KCC.
  - d. Any salvage value proceeds resulting from the abatement of the property shall first be applied to the costs of abatement. Any remaining such monies shall be paid to the landowner as shown on the last equalized assessment roll.
  - e. The County may impose a special assessment for the costs of any abatement proceedings under this chapter and all other related costs against the real property on which the nuisance was found or any of the work of abatement was performed.
9. Special Assessment.
- Pursuant to RCW 36.32.120(10), all costs incurred by Kittitas County for the abatement of any nuisance defined by any statute or ordinance shall be a special assessment upon land or premises on which the nuisance is situated and this assessment and/or any penalties under this Title shall constitute a lien against the property which shall be of equal rank with state, county, and municipal taxes. An authorized official shall cause a claim of lien to be filed for record in the Auditor's Office within ninety (90) days from a final finding. (Ord. 2016-010, 2016; Ord. 2013-012, 2013; Ord. 2009-19, 2009)

**18.02.040 Notice of infraction.**

An authorized official may issue a notice of infraction where that official has probable cause to believe, and does believe, that a violation has occurred or is occurring.

1. Notice of Infraction - Contents. A notice of infraction shall either be:

- a. A notice of infraction ticket from a ticket book which substantially complies with IRLJ 2.1(b) and is approved by the Administrative Office of the Courts, or
- b. A notice of infraction form that shall contain the following:
  - i. A statement indicating a determination has been made that the civil infraction has been committed by the person named in the notice and that the determination shall be final unless contested as provided in this Title;
  - ii. A statement of the specific civil infraction(s) alleged to have been committed for which the notice of infraction was issued and a reference to the code section allegedly violated;
  - iii. The date(s) the violation was observed;
  - iv. The Address-address or sufficient description of the property at which the violation allegedly occurred;
  - v. A statement that the civil infraction is a noncriminal offense for which imprisonment shall not be imposed as a sanction;
  - vi. A statement that a person's failure to respond to a notice of infraction as promised is a misdemeanor and may be punishable by a fine of up to one thousand dollars and/or imprisonment in jail up to ninety days;
  - vii. A list of options provided in this ordinance for responding to the notice of infraction and the procedures necessary to exercise these options;
  - viii. A statement that at any hearing to contest the determination of infraction, the burden is on the county-County to establish that the infraction was committed by a preponderance of the evidence and that the person may produce witnesses and subpoena the authorized official who issued and/or served the notice of infraction;
  - ix. A statement that the person alleged to have committed the infraction promises to respond to the Notice of Infraction in a manner consistent with this title, and a space for the alleged violator's signature;
  - x. A statement that refusal to sign the infraction as directed in paragraph (i) of this subsection shall constitute a determination that the person to whom the notice was issued committed the infraction;
  - xi. The amount of the penalty for the alleged infraction;
  - xii. Statement that if the violation is a nuisance and is not corrected, that the County can abate the nuisance and that the infraction penalty, abatement costs, and all associated legal costs and fees can become a lien against the property as well

- as a joint and several judgment against the owners and that the County can foreclose upon that lien, also obtaining reimbursement for its foreclosure costs, against the property;
- xiii. The name, signature, address, and phone number of the authorized official issuing the notice of infraction as well as the time and place the notice was issued; and
  - xiv. A statement that multi-day violations can be charged as crimes.
2. Notice of Infraction - Service. An authorized official may issue a notice of infraction if that official has probable cause to believe, and does believe, that the provisions of an applicable ordinance has been violated. A notice of infraction may be served through adherence to IRLJ 2.2(c):
  3. Notice of Infraction - Filing. A notice of infraction shall be filed in District Court within forty-eight (48) hours of issuance, excluding Saturdays, Sundays, and holidays. Kittitas County District Court shall have jurisdiction to hear and determine these matters.
  4. Notice of Infraction - Determination. A notice of infraction represents a determination that the person to whom the notice was issued committed the infraction unless contested under the provisions of this Title.
  5. Notice of Infraction-Notice of Lien. The Notice of Infraction shall constitute a Notice of Lien in case the matter ultimately results in abatement and a lien for such abatement costs.
  6. Notice of Infraction - Procedure.
    - a. A person who has been served with a notice of infraction shall respond to the notice as provided within this section within ~~fifteen-thirty~~ (30) days of the date the notice was served as provided in the Infraction Rules for Courts of Limited Jurisdiction (IRLJ) 2.4.
    - b. If the person fails to respond as provided in IRLJ 2.4, the court shall follow the procedure in IRLJ 2.5.
  7. Notice of Infraction - Scheduling of Hearings
    - a. If the person responds by requesting a contested hearing, then the court shall follow IRLJ 2.6(a) to schedule the contested hearing.
    - b. If the person responds by requesting a mitigation hearing, then the court shall follow IRLJ 2.6(b) to schedule the mitigation hearing.
    - c. The court may notify the county prosecuting attorney of a failure to respond to the notice of infraction if the person named on the notice fails to respond to the notice of infraction ~~as provided in (b) of subsection six 18.02.040 KCC~~ or fails to appear at a hearing ~~requested pursuant to paragraphs (c) or (d) of this subsection in a manner authorized by IRLJ 2.4.~~ The court shall notify the respective county department of any judgment entered and the reasons therefore.

(Ord. 2021-003, 2021 Ord. 2013-012, 2013; Ord. 2009-19, 2009; Ord. 2006-37, 2006; Ord. 94-25 (part), 1994)

**18.02.050 Failure to comply.**

1. Any person willfully violating his or her written and signed promise to appear in court or his or her signed promise to respond to the notice of infraction is guilty of a

misdemeanor, punishable by a fine up to one thousand dollars and/or imprisonment in jail up to ninety (90) days, regardless of the disposition of the ~~notice~~Notice of ~~infraction~~Infraction.

2. A person who willfully fails to pay a monetary penalty as required by a court under this chapter may be found in civil contempt of court after notice and hearing. Further, delinquent accounts with the court may be referred to an agency for collection.
3. Any person subject to criminal proceedings under this Title may be represented by a lawyer. If the person named on the notice of infraction qualifies, he or she may be represented by court-appointed counsel for criminal proceedings. (Ord. 2009-19, 2009; Ord. 2006-37, 2006; Ord. 94-25 (part), 1994)