

10.56.185 Helmets.

Everyone riding a bicycle or riding as a passenger on a tandem bicycle or other bicycle equipped to carry two or more riders upon any city of Auburn road, alley, sidewalk, recreational trail or park property shall wear a protective helmet designed for bicycle safety that meets or exceeds the safety standards adopted by the United States Consumer Product Safety Commission or set by the American National Standards Institute, or such subsequent nationally recognized standard for bicycle helmet performance as the city may adopt by ordinance. The helmet must be equipped with either a neck strap or chinstrap that shall be fastened securely while the bicycle is in motion. (Ord. 5923 § 1, 2005.)

10.56.190 Riding ability examination.

Repealed by Ord. 5923. (Ord. 2753 § 1, 1973; 1957 code § 5.08.220.)

10.56.200 Enforcement.

All police officers are charged with the duty of enforcing the provisions of this chapter. (Ord. 5923 § 1, 2005; Ord. 2753 § 1, 1973; 1957 code § 5.08.230.)

10.56.210 Violation – Penalty.

Violation of the provisions of this chapter is an infraction, subject to penalties in accordance with ACC [1.25.050](#), unless otherwise provided herein. (Ord. 5923 § 1, 2005; Ord. 5683 § 29, 2002; Ord. 2753 § 1, 1973; 1957 code § 5.08.240.)

1.25.050 Penalties for infractions.

Unless otherwise specifically provided in connection with particular sections, chapters or titles of the city code, noncriminal violations of the city code shall be infractions and shall carry a maximum penalty of \$250.00. Each day, location, violator and incident shall constitute a separate civil infraction. In addition to this amount, a court of competent jurisdiction may order a person found to have committed a civil infraction to pay restitution, including the city's reasonable enforcement and abatement costs.

It is provided, however, that if the same violator has been found, in any court of competent jurisdiction, to have previously committed an infraction violation for the same or similar conduct three or more separate times, with the infraction violations occurring at the same location and involving the same or similar sections of ACC Titles [5](#), [6](#), [8](#), [10](#), [12](#), [13](#), [15](#), [16](#), [17](#) or [18](#), or other similar code(s), any further violations shall constitute misdemeanors, punishable as provided in ACC [1.24.010](#). For the purposes hereof, it shall be prima facie

evidence that the same violator has previously been found to have committed any infraction if a certified copy of the judgment, docket or other court document showing that such violation was found committed is filed with the court. (Ord. 6615 § 6, 2016; Ord. 5837 § 2, 2004; Ord. 5677 § 2, 2002.)

1.25.060 Uncorrected violations.

In addition to any other enforcement actions available to the city, if a violation on a parcel of property is not corrected within the specified time frame of the decision of the court then no further permits or approvals shall be issued by the city on the subject parcel until all violations have been corrected, or brought into compliance with the decision of the court. (Ord. 5966 § 4, 2006; Ord. 5837 § 3, 2004; Ord. 5677 § 2, 2002.)

1.25.065 Additional penalty and enforcement provisions.

A. Civil Penalty. In addition to any other enforcement actions available to the city, if the code enforcement official determines that a violation has not been corrected pursuant to ACC [1.25.030](#) within the time specified in the notice to correct violation, he/she is authorized to impose a civil penalty against the property owner on whose property the violation exists, and/or the person in possession of the property, and/or the person otherwise causing or responsible for the violation. The penalty shall be up to \$500.00 for the first day and \$100.00 per day for each additional full day the violation continues. Each day on which a violation or failure continues shall constitute a separate violation. If unpaid within 14 calendar days of becoming effective, each penalty shall constitute a lien against the property of equal rank with state, county, and municipal taxes.

B. Notice of Penalty. The penalty shall be imposed by serving a notice of penalty. Service of the notice shall be made upon all persons identified in the notice either personally or by mailing a copy of such order by certified mail, postage prepaid, return receipt requested. If an address for mailed service cannot be ascertained, service shall be accomplished by posting a copy of the notice conspicuously on the affected property or structure. The initial penalty shall be effective and the recurring daily penalty shall commence on the date service is effective. Service by certified mail shall be effective five calendar days after the date of postmark, unless U.S. postal records show actual receipt prior to that date. If service is by personal service, service shall be deemed effective immediately. If service is made by posting, service shall be effective on the third day following the day the notice is posted. Recurring penalties shall become effective every 24 hours after midnight of the effective date of the initial penalty, if the violation is not corrected.

The notice shall contain all the information required to be placed in a notice to correct violation, under ACC [1.25.030](#), and in addition the following:

1. The amount of the initial penalty and the amount of the per day penalty for each day the violation(s) continues, and, if applicable, the conditions on which assessment of such civil penalty is contingent.
2. A statement that the recurring penalty accrues each day automatically, without further notice.
3. The procedure for appealing the penalty, as described in this chapter.
4. That if the penalties are unpaid within 10 days of when they become effective, they shall become a lien on the property that shall be of equal rank with state, county and municipal taxes.

C. **Withdrawal.** The code enforcement officer may withdraw a notice of penalty if compliance is achieved, as determined by the officer, within 14 calendar days of the service date of the notice. The officer shall not withdraw a notice of penalty if it is the second notice issued by the officer to the same person for the same or similar violation committed within six months.

D. **Continued Duty to Correct.** Payment of a penalty pursuant to this chapter does not relieve a person of the duty to correct the violation as ordered by the enforcement officer. Correction of the violation does not relieve a person of the obligation to pay the penalty assessed, unless dismissed, withdrawn, or modified by the hearing examiner or the code enforcement officer.

E. **Appeal of Notice of Penalty.**

1. An assessed civil penalty may be appealed to the city hearing examiner within 14 calendar days of the penalty's effective date, in the same manner as determinations of the building official are appealed under ACC [15.07.130](#). After the 14-day period, penalties shall be final and binding. The hearing examiner may grant an extension of time for filing an appeal if the person establishes that he/she did not receive the notice of penalty due to good cause. The burden of proving such good cause circumstances is on the person making the claim.

2. The appeal shall be processed and the hearing conducted according to the provisions of ACC [15.07.130](#) and the provisions of that section are adopted by reference for the purpose of this chapter. The person appealing may appeal either the determination that a violation exists or the amount of the civil penalty imposed, or both. The person appealing may appeal all penalties that are not final and binding. The hearing examiner has the authority to affirm, dismiss, or modify the civil penalty. The city shall have the burden of proving by a preponderance of the evidence the commission of a violation. If the hearing examiner finds that a violation was not committed at the time the notice of penalty was

issued, the examiner shall dismiss all penalties before him/her that were imposed for the alleged violation and the city shall dismiss all additional penalties, whether effective or final, that were imposed for the alleged violation.

3. The civil penalties for a continuing violation shall not continue to accrue pending determination of the appeal; however, the hearing examiner may impose a daily monetary penalty, to a maximum of \$100.00 per day, from the date of service of the notice of penalty if the hearing examiner finds that the appeal is frivolous or intended solely to delay compliance. An appeal does not lift or stay a notice to correct violation.

4. A person is precluded from appealing a penalty if the hearing examiner finds that it has determined in a prior appeal all the issues of fact and law raised by the person appealing.

5. At his/her discretion, the hearing examiner may consolidate appeals of penalties imposed on the same property for the same violations.

F. Cost Recovery and Lien.

1. Any monetary penalty imposed under this chapter constitutes a personal obligation of the person served the notice of penalty. The city attorney is authorized to collect the monetary penalty by use of appropriate legal remedies, the seeking of which shall neither stay nor terminate the accrual of additional per-day penalties so long as the violation continues.

2. The city may authorize the use of collection agencies to recover monetary penalties, in which case the cost of the collection process shall be assessed in addition to the monetary penalty.

3. Once civil penalties are effective and due, pursuant to this section, the code enforcement officer may file a lien with the county auditor on the property where the violation exists for the amount of the unpaid civil penalties. The lien shall be of equal rank with state, county and municipal taxes. The claim of lien shall contain the following:

- a. The authority for imposing a civil penalty;
- b. A brief description of the civil penalty imposed, including the violations charged and the duration thereof;
- c. A legal description of the property to be charged with the lien;

d. The name of the known or reputed owner; and

e. The amount, including lawful and reasonable costs, for which the lien is claimed. (Ord. 6615 § 7, 2016; Ord. 6328 § 4, 2010.)

1.25.070 Abatement.

Repealed by Ord. 6615. (Ord. 5966 § 5, 2006; Ord. 5677 § 2, 2002.)

1.25.080 Interpretation.

The provisions of this chapter shall be held to be minimum requirements in their interpretation and application and shall be liberally construed to serve the purposes of this chapter. (Ord. 5677 § 2, 2002; Ord. 5246 § 1 (Exh. B), 1999; Ord. 5212 § 1 (Exh. B), 1999; Ord. 4460 § 1, 1991. Formerly 1.25.090.)

1.25.090 Hearing examiner.

Repealed by Ord. 5966. (Ord. 5677 § 2, 2002; Ord. 5246 § 1 (Exh. B), 1999; Ord. 5212 § 1 (Exh. B), 1999; Ord. 4460 § 1, 1991. Formerly 1.25.100.)

1.25.100 Collection enforcement and/or abatement.

In the event of failure to comply with any notice and/or stop work order, the city, at its option, may enforce collection through the civil execution process as provided in this chapter or by any method provided by law and/or ordinance and/or may abate the use of the property which is the subject of the violation through the abatement process as provided by law or ordinance. (Ord. 5677 § 2, 2002; Ord. 5246 § 1 (Exh. B), 1999; Ord. 5212 § 1 (Exh. B), 1999; Ord. 4460 § 1, 1991. Formerly 1.25.120.)

1.25.110 Additional enforcement procedures.

The provisions of this chapter are additional to other enforcement provisions authorized by state law and/or city ordinance and are additional to any other remedy available to the city for damages, redress or relief, whether in equity or law, including but not limited to actions for injunctive relief and/or abatement, to ensure and/or protect the public health, safety and welfare. (Ord. 5677 § 2, 2002; Ord. 5246 § 1 (Exh. B), 1999; Ord. 5212 § 1 (Exh. B), 1999; Ord. 4460 § 1, 1991. Formerly 1.25.130.)

1.25.120 Constitutionality or invalidity.

If any section, clause or phrase of this chapter is for any reason held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining portions of the sections, subsections, clauses or phrases. It is hereby expressly declared that each section, subsection,

sentence, clause and phrase hereof would have been prepared, proposed, adopted and approved and ratified irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional. (Ord. 5677 § 2, 2002; Ord. 5246 § 1 (Exh. B), 1999; Ord. 5212 § 1 (Exh. B), 1999; Ord. 4460 § 1, 1991. Formerly 1.25.140.)