

ORDINANCE 2012-20

AN ORDINANCE OF THE TOWN OF EATONVILLE, WASHINGTON, RELATING TO CIVIL INFRACTION PROCEDURES AND CRIMINAL CODE; CREATING A NEW SECTION UNDER CHAPTER 1.12 OF THE EATONVILLE MUNICIPAL CODE; AMENDING EMC 9.20.020; PROVIDING FOR SEVERABILITY; AND ESTABLISHING AN EFFECTIVE DATE

BE IT ORDAINED by the Council of the Town of Eatonville as follows:

Section 1. A new section is added to chapter 1.12 EMC, to be codified as EMC 1.12.020, and shall read as follows:

1.12.020 – Civil Infractions

A. Any act or omission that constitutes a violation of any regulation, and any act or omission that is designated in this code or the noncodified ordinances of the town as a civil infraction or as a civil violation or for which a monetary penalty or fine may be imposed, shall be and does hereby constitute a civil infraction within the meaning of Revised Code of Washington chapter 7.80 and the infraction rules for courts of limited jurisdiction.

B. A law enforcement officer, the town prosecutor, and the municipal court shall have authority to issue a notice of infraction for each civil infraction committed in accordance with the provisions, and under authority of Revised Code of Washington chapter 7.80 and pursuant to the infraction rules for courts of limited jurisdiction.

C. It is the intent of this section and of the Town Council that civil infractions may be heard and determined by the municipal court in accordance with the provisions, and under authority, of Revised Code of Washington chapter 7.80 and pursuant to the infraction rules for courts of limited jurisdiction, unless specifically provided otherwise.

D. The term “municipal court” shall mean the Eatonville Municipal Court, or the municipal court operated by the municipality or political subdivision operating as the Town of Eatonville municipal court pursuant to interlocal agreement. The term “town attorney” shall include the prosecutor for any municipality or political subdivision providing prosecution services pursuant to interlocal agreement.

E. All persons deemed or found to have committed a civil infraction shall be subject to assessment and payment of monetary penalties and restitution as follows, unless otherwise provided by law:

1. The maximum penalty and the default amount for a civil infraction designated as a class 1 civil infraction shall be two hundred fifty dollars (\$250.00), not including statutory assessments;

2. The maximum penalty and the default amount for a civil infraction designated as a class 2 civil infraction shall be one hundred twenty five dollars (\$125.00), not including statutory assessments;

3. The maximum penalty and the default amount for a civil infraction designated as a class 3 civil infraction shall be fifty dollars (\$50.00), not including statutory assessments; and

4. The maximum penalty and the default amount for a civil infraction designated as a class 4 civil infraction shall be twenty five dollars (\$25.00), not including statutory assessments.

5. All civil infractions which are not classified in this code as class 1, class 2, class 3 or class 4 civil infractions, are hereby designated as class 1 civil infractions.

F. The court may also order a person found to have committed a civil infraction to make community restitution.

G. Whenever a monetary penalty is assessed by a court for a violation or violations constituting a civil infraction under this chapter it is immediately payable. If the person is unable to pay at that time the court may grant an extension of the period in which the penalty may be paid. If the penalty is not paid on or before the time established for payment, the court may proceed to collect the penalty in the same manner as other civil judgments and may notify the town attorney of the failure to pay.

H. Any person who, after receiving a statement of the options provided in Revised Code of Washington chapter 7.80 for responding to a notice of civil infraction and the procedures necessary to exercise these options, fails to exercise one of the options in a timely manner is guilty of a misdemeanor regardless of the disposition of the notice of civil infraction. A notice of civil infraction may be complied with by an appearance by counsel.

I. Whenever in this code or the noncodified ordinances of the town, any act or omission constitutes a civil infraction, it includes causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission.

J. Every act or omission which constitutes a civil infraction under this code, shall constitute a separate offense for each and every day during any portion of which the act or omission constituting the violation is committed, continued or permitted.

Section 2. Section 42 of Ordinance 90-34 (located on page 13 of said ordinance), codified as EMC 9.20.020, is amended to read as follows:

9.20.020 Burglary and trespass – Chapter 9A.52 RCW et seq. adopted.

The following provisions of the Chapter 9A.52 RCW are hereby adopted including any subsequent amendments thereto: 9A.52.010, 9A.52.040, 9A.52.050, 9A.52.060, 9A.52.070, 9A.52.080, 9A.52.090, 9A.52.120, 9A.52.130

Section 3. The amendments enacted under Section 2 of this Ordinance are deemed clerical and are not in any way intended to modify the substance of EMC 9.20.020.

Section 4. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be preempted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 5. This ordinance shall take effect after publication of a summary, consisting of the title, pursuant to RCW 35.27.300.

1ST READING: 12/10/2012

2ND READING: ___/___/2012 / 2ND READING WAIVED (EMC 2.04.009(C))

Passed by the Council of the Town of Eatonville at a regular meeting held this _____ day of _____, 2012.

Ray Harper, Mayor

ATTEST:

Town Clerk

APPROVED AS TO FORM:

Town Attorney