

TOWN OF EATONVILLE

Agenda Staff Report

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| Agenda Item No.: | _____ | Meeting Date: | <u>August 8, 2016</u> |
| Subject: | <u>Amendment to EMC Chapter 1.12</u> | Prepared by: | <u>Town Attorney</u> |
| | <u>General Penalty to Add Clarity and Ease</u> | | _____ |
| | <u>Enforcement Efforts</u> | Atty Routing No: | <u>029-14</u> |
| | _____ | Atty Review Date: | <u>August 2, 2016</u> |

Summary: The Eatonville Municipal Code contains chapters dealing with general nuisances, junk vehicles, and public noise nuisances. The chapters allow for enforcement via the general penalty chapter of the code. Collectively these chapters are considered the Town's nuisance code. The chapters forming the nuisance code were all drafted at different times and are inconsistent in terms of how enforcement is to take place. Law enforcement and Town officials have encountered difficulty in trying to enforce the nuisance code. Changes have been recommended which will clarify the nuisance code for both the public and enforcement officials.

Recommendation: Staff recommends adoption of Ordinance 2016-16 regarding amending EMC Chapter 1.12, the General Penalty.

Motion for consideration: I move to adopt Ordinance 2016-16 regarding amending EMC Chapter 1.12, the General Penalty.

Fiscal Impact: None

Attachments: Proposed Ordinance 2016-16 Regarding the General Penalty

ORDINANCE NO. 2016-16

**AN ORDINANCE OF THE TOWN OF EATONVILLE,
WASHINGTON, AMENDING CHAPTER 1.12 OF THE EATONVILLE
MUNICIPAL CODE CLARIFYING THE GENERAL PENALTY**

WHEREAS, the Eatonville Municipal Code contains chapters dealing with General Nuisance, Junk Vehicles, Public Noise Nuisances, and a General Penalty (these Chapters are collectively referred to herein as the "Nuisance Code"), which prohibits certain conduct within the Town and provides penalties for violations; and

WHEREAS, law enforcement and Town officers charged with enforcing the Nuisance Code have found the Nuisance Code difficult to interpret and therefore difficult to enforce; and

WHEREAS, the Eatonville Town Council, in an effort to clarify the Nuisance Code in order to better inform the public and ease enforcement efforts, finds that the public health, safety, and welfare will be served by amending the various chapters of the Eatonville Municipal Code which form the Nuisance Code; now, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE TOWN OF EATONVILLE
AS FOLLOWS:**

Section 1. Eatonville Municipal Code Chapter 1.12 is AMENDED to read as follows:

Chapter 1.12

GENERAL PENALTY*

Sections:

1.12.010 Designated.

1.12.020 Civil infractions.

1.12.030 Civil infractions – Monetary penalties – Restitution.

*For statutory provisions authorizing towns to impose fines up to \$5,000.00 or imprisonment up to one year, or both such fine and imprisonment, see RCW 35.27.370(14).

1.12.010 Designated.

A. Unless otherwise specifically provided, any person violating any provisions or failing to comply with any of the mandatory requirements of

the ordinances of the town is guilty of a misdemeanor, punishable in accordance with EMC 9.02.005.

B. Each such person is guilty of a separate offense for each and every day during any portion of which any violation of the ordinances of the town is committed, continued or permitted by any such person, and he shall be punished accordingly.

1.12.020 Civil infractions.

A. ~~Any act or omission that constitutes~~ ing a violation of any regulation, ordinance, or code provision 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 issued and processed in accordance with and does hereby constitute a civil infraction within the meaning of Chapter 7.80 RCW, as currently enacted or as hereinafter amended, which is incorporated herein by reference and the infraction rules for courts of limited jurisdiction.

B. Enforcement officers, pursuant to RCW 7.80.040, as currently enacted or as hereinafter amended, shall include A law enforcement officers, the town prosecutor, or the prosecutor for any municipality or political subdivision providing prosecution services pursuant to interlocal agreement, and the municipal court, or the municipal court operated by the municipality or political subdivision providing municipal court services pursuant to interlocal agreement, and any other individual specifically authorized by the mayor, shall have authority to issue a notice of infraction for each civil infraction committed in accordance with the provisions, and under authority of Chapter 7.80 RCW and pursuant to the infraction rules for courts of limited jurisdiction.

C. The Town of Eatonville Municipal Court, or the municipal court operated by the municipality or political subdivision providing municipal court services pursuant to interlocal agreement, shall have jurisdiction over all civil infractions occurring within the Town of Eatonville. 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 Chapter 7.80 RCW and pursuant to the infraction rules for courts of limited jurisdiction, unless specifically provided otherwise.

D. Each day during which a violation under this chapter occurs or exists shall be deemed a separate civil infraction. 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.~~

1.12.030 Civil infractions – Monetary penalties – Restitution.

~~EA.~~ All persons deemed ~~or~~ found to have committed a civil infraction shall be subject to ~~assessment and payment of~~ a monetary penalty 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 \$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 \$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 \$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 \$25.00, not including statutory assessments.

~~B5.~~ 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.

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

~~GD.~~ 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 ~~prosecutor~~ of the failure to pay.

E. Payment of a monetary penalty, restitution, or performance of required community service shall not relieve a person of the duty to correct the violation.

~~H.~~ Any person who, after receiving a statement of the options provided in Chapter 7.80 RCW 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. 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 preemption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. This ordinance shall take effect after publication of a summary, consisting of the title, pursuant to RCW 35.27.300.

1ST READING:

2ND READING: 08/08/2016

PASSED by the Town Council of the Town of Eatonville and attested by the Clerk in authentication of such passage this ____ day of August, 2016.

Mike Schaub
Mayor

ATTEST:

Kathy Linnemeyer
Town Clerk

APPROVED AS TO FORM:

Gregory A. Jacoby
Town Attorney