

**CITY OF ILWACO
ORDINANCE NO. 844**

**AN ORDINANCE OF THE CITY OF ILWACO, WASHINGTON, ADOPTING TITLE 11,
CODE ENFORCEMENT**

WHEREAS, the City of Ilwaco seeks to protect and promote the public health, safety and welfare of the community by adopting and implementing a workable and efficient code enforcement system; and

WHEREAS, the City desires to formally adopt a general penalty chapter of the Ilwaco Municipal Code, and specifically a more detailed procedure for issuing notices of civil infractions in accordance with Chapter 7.80.010(5) of the Revised Code of Washington; and

WHEREAS, the City desires to utilize a public nuisance regulatory framework as an additional Code enforcement mechanism, and

WHEREAS, the City of Ilwaco also recognizes that Notice and Hearing procedures are necessary for appeals and the protection of civil rights and wishes to establish those procedures.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ILWACO,
WASHINGTON, DOES ORDAIN AS FOLLOWS:**

Section 1. A new Title 11 of the Ilwaco Municipal Code will be named here as the City of Ilwaco Code Enforcement. Title 11 will read as follows:

Title 11 Code Enforcement

Chapter 1 General Provisions

1) Title

- a) This title shall be known as the *ENFORCEMENT PROCEDURES ORDINANCE OF THE CITY OF ILWACO*, referred to hereinafter as "this title".

2) Application

- a) The provisions of this title shall apply to the enforcement of Section 8.04 (Nuisances Generally), Section 8.08 (Junk) and Section 8.12 (Junk Vehicles) of Title 8, Health and Safety, and the entirety of Title 14, Developer Standards, and Title 15, Unified Development Code. The provisions of this title are in addition to such other remedies as are provided by Washington State statute and this code.

3) Purpose and Authority

- a) The purpose of this title is to establish an effective and efficient system to enforce regulations of the City of Ilwaco; to provide an opportunity to correct alleged violations of such regulations; to establish monetary penalties for violations as authorized by Revised Code Of Washington 35A.11.020; to provide for an appeal process on an alleged violation; and to establish a standard procedure to be used by the city to abate unsafe or unlawful conditions.

4) Conflicts

- a) In the event of a conflict between this title and any other provision of this code or city ordinances providing for a civil penalty, this title shall control.
- 5) Meaning of Terms
 - a) For the purposes of this code, whenever the terms "civil infraction" and "civil penalty" are used in any code, ordinance, or regulation of the city, those terms shall be deemed to have the same meanings as the terms "civil violation" and "monetary penalty", respectively, as used herein.
- 6) Severability
 - a) If any one or more sections, subsections, or sentences of this title are held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portion of this title and the same shall remain in full force and effect.
- 7) Not Exclusive
 - a) The provisions of this title are not exclusive, and may be used in addition to other enforcement provisions authorized by this code, except as precluded by law.

Chapter 2 Definitions

1) Terms Defined:

Any term not herein defined shall have its customary or commonly accepted meaning.

ABATE: To remedy a condition which constitutes a civil violation or an unsafe condition by such means, in such a manner, and to such an extent as the city official determines is necessary in the interest of the general health, safety, and welfare of the community.

ACT: Do or perform something; anything done, being done, or to be done; performance; deed.

CERTIFICATE OF COMPLAINT: A document filed with the Pacific County auditor, stating that a property has been determined to be in violation of a relevant title of this code.

CIVIL INFRACTION: A noncriminal violation for which a monetary penalty ("civil penalty") may be imposed as specified in this title. Each day or portion of a day during which a violation occurs is a separate violation. Also termed "civil violation".

CIVIL PENALTY: A financial penalty or fine imposed as restitution for violation(s) of a relevant city code. Also termed "monetary penalty".

CIVIL VIOLATION: A noncriminal violation for which a monetary penalty ("civil penalty") may be imposed as specified in this title. Each day or portion of a day during which a violation occurs is a separate violation. Also termed "civil infraction".

DEVELOPMENT: The erection, alteration, enlargement, construction, relocation, demolition, maintenance, or use of any structure; or the division, alteration, or use of land above, at, or below ground or water level; or any change in the use of land, a building, or a structure that requires a permit; and all acts authorized by a city permit or regulation.

EMERGENCY: A situation where a city official determines that immediate action is required

to prevent or eliminate threat to the health, safety, or welfare of persons or property or to the environment. Also termed "unsafe condition".

MONETARY PENALTY: A financial penalty or fine imposed as restitution for violation(s) of a relevant city code. Also termed "civil penalty".

OMISSION: The failure to act.

OWNER: Any person, including any natural person or entity having legal interest in real estate as indicated in the records of the Pacific County tax assessor, or who establishes his or her ownership interest therein.

PERSON: Any individual or any entity, whether public or private.

PERSON RESPONSIBLE: Any person required by the applicable regulation to comply therewith, normally the owner(s) of the property where a civil violation may occur, is occurring, or did occur. Also termed "responsible party".

PUBLIC OFFICIAL: For purposes of this chapter, the mayor or any designated alternates empowered by ordinance or by the mayor to enforce a City of Ilwaco ordinance or regulation, including, but not limited to the following City of Ilwaco representatives: treasurer, fire chief, police chief, building official, or planner.

REGULATION: Means and includes the following as now or hereafter amended:

- a) Section 8.04 (Nuisances Generally), Section 8.08 (Junk) and Section 8.12 (Junk Vehicles) of Title 8, Health and Safety, and the entirety of Title 14, Developer Standards, and Title 15, Unified Development Code.
- b) The terms and conditions of any permit or approval issued by the city, or any concomitant agreement with the city pursuant to any title identified in subsection a) of this definition.

RESPONSIBLE PARTY: Any person required by the applicable regulation to comply therewith, normally the owner(s) of the property where a civil violation may occur, is occurring, or did occur. Also termed "person responsible".

UNSAFE CONDITION: A situation where a city official determines that immediate action is required to prevent or eliminate threat to the health, safety, or welfare of persons or property or to the environment. Also termed "emergency".

VIOLATION: An act or omission contrary to a City of Ilwaco regulation. Also, a condition resulting from such act or omission.

Chapter 3 Methods of Enforcement

1) Enforcement Method 1; Voluntary Compliance

- a) **Applicability:** When the public official determines that purposes of an ordinance will be best served through a voluntary compliance agreement between the city and the person responsible for a violation of a regulation, the city may enter into such an agreement.
 - b) **Requesting Voluntary Compliance:** The public official may, but is not required to, pursue a reasonable attempt to secure voluntary correction by contacting the person responsible for the violation, explaining the violation, and requesting correction.
 - c) **Voluntary Compliance Agreement:** The voluntary compliance agreement is a contract between the city and the person responsible for the violation. In this contract the person responsible agrees to abate the violation within a specified time and according to specified terms. The voluntary compliance agreement shall include the following:
 - i) Name and address of the person(s) responsible for the violation;
 - ii) 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
 - iii) Description of the violation(s) and a reference to the provision(s) of this code, ordinance, or regulation that has been violated;
 - iv) Description of the necessary corrective action(s) required to abate the public nuisance or unsafe condition, and the date(s) and time(s) by which corrective action(s) must be completed;
 - v) Statement that if any term of the voluntary compliance agreement is not met, the person responsible for the violation agrees the City of Ilwaco may abate the violation and recover its costs and expenses and assess the person responsible a monetary penalty pursuant to this title; and
 - vi) Identification of the department investigating the case, name of the case manager, and contact information.
 - d) **Time Extension:** An extension of the time limit for correction or a modification of the required corrective action(s) may be granted by the public official if the official determines the person responsible for the violation has shown due diligence and/or substantial progress in correcting the violation but unforeseen circumstances render correction under the original terms of the voluntary compliance agreement unattainable.
 - e) **Abatement by the City:** The city may abate the violation in accordance with Chapter 5 of this title if any term of the voluntary compliance agreement is not met.
 - f) **Assessment Of Penalties And Costs:** If any term of the voluntary compliance agreement is not met, the person responsible for the violation shall be assessed a monetary penalty commencing on the date set for correction to be completed as stated in the agreement and thereafter in accordance with subsections 3) d) through 3) i) of this chapter, plus any actual costs and expenses of abatement incurred by the city.
- 2) **Enforcement Method 2; Notice of Violation and Abatement**
- a) **Issuance:** When a public official has a reasonable belief that a violation has occurred or is occurring, the public official may issue a notice of violation and abatement. This notice shall clearly describe the code violation(s), required corrective action(s) to abate the violation, schedule of performance, and alternative actions available to the responsible party and the city.
 - b) **Contents:** The notice of violation and abatement shall contain the following:
 - i) Name and address of the person responsible for the violation;
 - ii) 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;

- iii) Description of the violation(s) and a reference to the provision(s) of this code, ordinance, or regulation that has been violated;
 - iv) Description of the necessary corrective action(s) required to abate the public nuisance or unsafe condition, which may include corrections, repairs, demolition, removal, or any other appropriate action;
 - v) Statement that required corrective action(s) must be taken within thirty (30) calendar days from the date of the notice of violation and abatement, after which the city may abate the public nuisance in accordance with the provisions of this title; except that if the public official determines that a longer time than thirty (30) days is necessary to complete the required corrective action(s), an alternative reasonable, specific time may be set by the public official;
 - vi) Statement that the responsible party to whom a notice of violation and abatement is directed may request an appeal proceeding by the Ilwaco hearing examiner by means of a notice of appeal pursuant to Chapter 4 of this title. Such notice must be in writing and must be received by the city clerk no later than fourteen (14) calendar days after the notice of violation and abatement has been issued;
 - vii) Statement that if the responsible party to whom the notice of violation and abatement is issued fails to submit a notice of appeal within fourteen (14) calendar days of issuance or fails to voluntarily abate the nuisance within the time specified in the notice of violation and abatement, the city may abate the nuisance;
 - viii) Statement that all actual costs and expenses of abatement incurred by the city may be assessed against the owner of the abated property named in the notice of violation and abatement and, further, that failure to pay said costs may result in a lien against the property; and
 - ix) Identification of the department investigating the case, name of the case manager, and contact information.
- c) Service: The notice of violation and abatement must be served upon the person responsible for the violation and, if the owner of the relevant property is not the person responsible for the violation, then also upon the owner. Proof of service shall be made by a written declaration under penalty of perjury executed by the person effecting the service, declaring the time and date of service, the manner by which the service was made, and, if service was made by posting, the facts showing that due diligence was used in attempting to serve the person personally or by mail. Service shall occur using one of the following methods:
- i) By mailing, via both regular first class mail and certified mail, to the address of the property owner as indicated in the records of the Pacific County tax assessor, and to the address of the person responsible at their last known address; or
 - ii) By personal service; or
 - iii) If the person to whom it is directed cannot, after due diligence, be personally served within Pacific County and if an address for mailed service cannot, after due diligence, be ascertained, then notice shall be served by posting a copy of the notice of violation and abatement in a prominent location on the affected premises in a conspicuous manner that is reasonably likely to be discovered.
- d) Extension: No extension of the time frame for corrective action specified in the notice of violation and abatement or a modification of the required corrective action(s) may be granted, except by order of the public official. Any extension or modification should be

granted only if the person responsible for the violation has shown due diligence and/or substantial progress in correcting the violation but unforeseen circumstances render correction under the original terms of the notice unattainable.

- e) Abatement by City: The city may abate the violation and collect costs and expenses in accordance with Chapter 5 of this title if required corrective action is not completed as specified in the notice of violation and abatement.
 - f) Monetary Penalties: If the required corrective action is not completed by the responsible party as specified in the notice of violation and abatement and the city does not yet desire to use public resources to abate the property, the person responsible for the violation shall be assessed a monetary penalty commencing on the date set for correction to be completed and thereafter in accordance with subsections 3)d) through 3)i) of this chapter, plus any actual costs and expenses of abatement incurred by the city.
- 3) Enforcement Method 3; Notice of Violation, Civil Penalty, and Abatement
- a) Imposition of Monetary Penalties: Any person who violates any of the provisions of the code references listed in Chapter 1, subsection 2) of this title, at the discretion of the public official, may be assessed monetary (civil) penalties before the city initiates the abatement process referenced in this title. If the public official determines this alternative process is more likely to result in compliance, the public official may send a notice of violation, followed by imposition of civil penalties and abatement if appropriate.
 - b) Contents: The notice of violation shall contain the following:
 - i) Name and address of the person responsible for the violation;
 - ii) 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;
 - iii) Description of the violation(s) and a reference to the provision(s) of this code, ordinance, or regulation that has been violated;
 - iv) Description of the necessary corrective action(s) required to abate the public nuisance or unsafe condition, which may include corrections, repairs, demolition, removal, or any other appropriate action;
 - v) Statement that required corrective action(s) must be taken within thirty (30) calendar days from the date of the notice of violation, after which the city may abate the public nuisance in accordance with the provisions of this title; except that if the public official determines that a longer time than thirty (30) days is necessary to complete the required action, an alternative reasonable, specific time may be set by the public official;
 - vi) Statement that abatement procedures, as described in this chapter, may be implemented if civil penalties reach more than one thousand dollars (\$1,000.00);
 - vii) Statement that the responsible party to whom a notice of violation is directed may request an appeal proceeding by the Ilwaco hearing examiner by means of a notice of appeal pursuant to Chapter 4 of this title. Such notice must be in writing and must be received by the city clerk no later than fourteen (14) calendar days after the notice of violation has been issued;
 - viii) Statement that all actual costs and expenses of abatement incurred by the city may be assessed against the owner of the abated property named in the notice of violation and, further, that failure to pay said costs may result in a lien against the property; and
 - ix) Identification of the department investigating the case, name of the case manager, and contact information.

- c) Service: The notice of violation must be served pursuant to the procedures described in subsection 2) c) of this chapter.
- d) Civil Penalty: At the end of the time frame specified in the notice of violation, the property or building will be re-inspected to see if the condition has been completely abated. If the condition has been completely abated, the case will be closed. If the condition has not been completely abated, civil (monetary) penalties will be assessed, as provided in this section, and a notice of civil penalty will be issued to the responsible party and the property owner.
- e) Service: The notice of civil penalty shall be served pursuant to the procedures described in subsection 2) c) of this chapter.
- f) Contents: The notice of civil penalty shall contain the following:
 - i) Address of the site;
 - ii) Specified time frame for correcting the violation or submitting an acceptable work schedule;
 - iii) Statement that civil penalties have been imposed, setting forth the date such monetary penalties began or will begin, usually the first day of service;
 - iv) Statement that civil penalties will continue to accumulate in the amounts specified in this chapter until the nuisance or hazard condition is corrected;
 - v) Abatement procedure(s) that may be implemented by the city if civil penalties in excess of one thousand dollars (\$1,000.00) are assessed in trying to correct the condition; and
 - vi) Identification of the department investigating the case, name of the case manager, and contact information.
- g) Maximum Monetary Penalty: The maximum monetary (civil) penalty for each separate violation per day or portion thereof shall be as follows:
 - i) First day of each violation (the first day is the date of service): One hundred dollars (\$100.00);
 - ii) Second day of each violation: Two hundred dollars (\$200.00);
 - iii) Third day of each violation: Three hundred dollars (\$300.00);
 - iv) Fourth day of each violation: Four hundred dollars (\$400.00);
 - v) Each additional day of each violation beyond four (4) days: Five hundred dollars (\$500.00) per day.
- h) Continuance of Penalties; Certificate of Complaint: Civil penalties will continue to accumulate until the condition is completely abated, and, if the total assessed penalty exceeds one thousand dollars (\$1,000.00), the public official may decide to initiate an abatement proceeding, as provided in this title. At such time that the assessed civil penalty exceeds one thousand dollars (\$1,000.00), a certificate of complaint may be filed with the Pacific County auditor to be attached to the title of the property. A copy of the certificate of complaint shall be sent to the property owner and, if it is determined that there are other parties of interest, then to those individuals as well.
- i) Separate Violations: Each day that a property is not in compliance with the provisions of this chapter may constitute a separate violation of this chapter.

Chapter 4 Appeal Process with Hearing Examiner

1) Right To Appeal:

- a) A person to whom the city has issued a notice of violation and abatement pursuant to Chapter 3 subsection 2) of this title or a notice of violation pursuant to Chapter 3 subsection 3) of this title, or any other person with a legal or equitable interest in the property that is the subject of such a notice, may request an appeal proceeding before a hearing examiner by filing a notice of appeal with the city clerk. Such notice of appeal must be in writing and must be received by the city clerk no later than fourteen (14) calendar days after the said notice is issued.
- b) A person to whom a notice of civil penalty has been issued pursuant to Chapter 3, subsection 2) f) or Chapter 3, subsections 3) d) through 3) i) of this title, or any other person with a legal or equitable interest in the property that is the subject of such a notice, may request an appeal proceeding before a hearing examiner by filing a request with the city clerk by means of a notice of appeal. Such notice must be in writing and must be received by the city clerk no later than ten (10) calendar days after the said civil penalty is issued.
- 2) Contents: Each notice of appeal shall contain the name, address, and telephone number of the person requesting the appeal and the name, address, and telephone number of any person who will be present to represent him or her at the appeal proceeding.
- 3) Basis for Appeal: Each notice of appeal shall set out the basis or bases for the appeal.
 - a) An appeal regarding a notice of violation and abatement issued pursuant to Chapter 3, subsection 2) of this title or a notice of violation pursuant to Chapter 3, subsection 3) of this title may challenge the legality or validity of the underlying violation, the required corrective action(s), or the required schedule for abatement.
 - b) Because the owner or the person responsible for a violation has an opportunity to appeal the notice of violation and abatement or the notice of violation pursuant to Chapter 3, subsection 2)b)vi) or Chapter 3, subsection 3)b)vii) of this title, respectively, before any civil penalties are imposed, a subsequent hearing regarding civil penalties shall not provide another opportunity to challenge the legality or validity of the underlying violation, the required corrective action(s), or the required schedule for abatement.
- 4) Notice Of Appeal Proceeding: If a notice of appeal is received by the city within fourteen (14) calendar days the public official shall mail a notice of appeal proceeding, giving the time, location, and date of the appeal proceeding, by regular first class mail to the person(s) to whom the notice of violation and abatement, notice of violation, or notice of civil penalty was directed.
- 5) Scheduling Of Proceeding: If an appeal is filed timely and completely, the hearing examiner will conduct the appeal proceeding required by this chapter no more than fourteen (14) calendar days after the public official issues the notice of appeal proceeding, unless the hearing examiner or public official finds good cause to continue the matter to another date.
- 6) Appeal Proceeding: The public official, as well as the person to whom the relevant notice was directed, may participate as parties in the proceeding and may be represented by counsel, and each party may call witnesses. The city shall have the burden of proof to establish, by a preponderance of the evidence, that a violation of the code references listed in Chapter 1, subsection 2) of this title has occurred and that the required corrective action(s) and schedule for abatement are reasonable, or that the civil penalty was assessed for noncompliance with this chapter and the regulations of this code.
- 7) Hearing Examiner Determination: The hearing examiner shall determine whether the city has established by a preponderance of the evidence that a violation of the code other regulations

of the city has occurred and the required corrective action or civil penalty is reasonable. The hearing examiner shall affirm, modify, or vacate the public official's decisions regarding the alleged violation(s), the required corrective action(s), and/or the civil penalty with or without written conditions.

- 8) Final Order: Within ten (10) calendar days of the close of the appeal proceeding, the hearing examiner shall issue a written final order that contains the following information:
 - a) The decision regarding the alleged violation, including findings of facts and conclusions based thereon;
 - b) The required corrective action(s), if any,
 - c) The date by which the required corrective action(s) must be completed;
 - d) The date after which the city may proceed with abatement, as outlined in Chapter 5 of this title, if the required corrective action(s) is not completed;
 - e) A statement that the civil penalty is affirmed, reduced, or waived, if applicable;
 - f) A statement of any appeal remedies;
 - g) A notice that if the city proceeds with abatement, a lien for the actual costs of said abatement may be assessed against the property if the costs of abatement are not paid in accordance with the provisions of this title.
- 9) Failure To Appear: If the person to whom the relevant notice was directed fails to appear or submit something in writing at the scheduled hearing, the hearing examiner will enter a written final order finding the violation(s) has occurred or the civil penalty was reasonable and finding that abatement may proceed.
- 10) Service Of Final Order: The final order shall be served on the person by one of the methods stated Chapter 3 subsection 2) c) of this title.
- 11) Appeal of Final Order: A final order of the hearing examiner may be appealed to a court of competent jurisdiction no more than twenty one (21) calendar days after its issuance.

Chapter 5 Abatement

1) Abatement Process

- a) Access: Using any lawful means, the city may enter upon the subject property or premises and may remove or correct the condition that is subject to abatement. If the owner of the premises does not consent to entry, the city may seek such judicial process as it deems necessary to effect the removal or correction of such condition.
- b) Terms Of Abatement: Property or premises are subject to abatement as provided in this chapter, including where an emergency exists, where the terms of a voluntary compliance agreement have not been met, where required corrective action has not been timely completed after a notice of violation and abatement has been issued, where a notice of violation and a notice of civil penalty have been issued but the property or premises is still in violation, or where summary abatement, as described in subsection c) of this section, is necessary.
- c) Summary Abatement: Whenever any violation of a regulation causes an emergency where the continued existence of a condition constitutes an immediate or emergent threat to the public health, safety, or welfare or to the environment, the city may summarily and without prior notice abate the condition. Notice of such abatement, including the reason for it, shall be given to the person responsible for the violation as soon as reasonably possible after the abatement.

2) Recovery of Costs and Expenses

- a) Actual costs, including incidental expenses, of correcting the violation shall be billed to the person responsible for the violation or the property owner. These costs shall become due and payable to the City of Ilwaco no later than thirty (30) calendar days from the date of the invoice. The term "incidental expenses" includes, but is not limited to, personnel costs, both direct and indirect; attorney fees; costs incurred in documenting the violation; demolition, hauling, storage, and disposal expenses; filing fees; and actual expenses and costs of the city in preparing notices, specifications, and contracts, and in accomplishing and/or contracting and inspecting the work; the costs of any required printing or mailing; and any and all costs of collection.
 - b) If the person responsible for the costs of abatement fails to remit payment in a timely manner, the city may file a lien against the real property for the cost of any abatement proceedings under this chapter, except that no lien shall attach to the real property if the owner was found not responsible in the final order issued by the hearing examiner. A notice of the city's lien specifying the expenses incurred in abating the nuisance and giving the legal description of the premises sought to be charged shall be filed with the Pacific County auditor within ninety (90) days from the date of the abatement. Such lien may at any time thereafter be collected in the manner provided for foreclosure of mechanic's liens under the laws of the state of Washington.
 - c) In addition to a lien, the debt shall be collectible in the same manner as any other civil debt owing to the city, and the city may pursue collection of the costs of any abatement proceedings under this chapter by any other lawful means, including, but not limited to, referral to a collection agency.
- 3) Hearing Regarding Cost of Abatement
- a) Any person sent an invoice for the costs due for abatement of a nuisance may request a hearing to determine if the costs should be assessed, reduced, or waived.
 - b) A request for a hearing shall be made in writing and filed with the city clerk no later than fourteen (14) calendar days from the date of the invoice.
 - c) Each request for hearing shall contain the name, address and telephone number of the person requesting the hearing and the name, address and telephone number of any person who will be present to represent him or her.
 - d) Each request for hearing shall set out the basis for the request.
 - i) Because the property owner or other person responsible for the violation had an opportunity to appeal the notice of violation and abatement, notice of violation, and/or notice of civil penalty pursuant to Chapter 4 of this title, before any abatement actions were taken, the hearing regarding the costs of abatement shall not provide another opportunity to challenge the legality or validity of the underlying violation, required corrective action(s), required schedule for abatement, or civil penalty.
 - e) Failure to request a hearing within fourteen (14) calendar days from the date of the invoice shall be a waiver of the right to contest the validity of the costs incurred in abatement of the violation.
 - f) If a hearing is requested, the hearing examiner will conduct the hearing no more than thirty (30) calendar days after the public official issues the notice of hearing, unless the hearing examiner or public official finds good cause to continue the matter to another date.

- g) If a hearing is requested, the public official shall mail a notice giving the time, location, and date of the hearing, by regular first class mail, to the person or persons to whom the invoice for the costs of abatement was directed.
 - h) If a hearing is conducted, the public official, as well as the person to whom the invoice for abatement costs was directed, may participate as parties in the hearing, may be represented by counsel, and may call witnesses. The city shall have the burden of proof to establish, by a preponderance of the evidence, that the abatement costs are reasonable.
 - i) The hearing examiner shall issue a written order and determine whether the costs of abatement were reasonable and necessary. The hearing examiner may uphold the amount billed for the costs of abatement, reduce the amount billed, or waive the costs.
 - j) The order of the hearing examiner is the final administrative decision. Such decision may be appealed in accordance with Chapter 4 subsection 1)k) of this title
- 4) Lien Authorized
- a) Costs Included In Lien: The city shall have a lien for any monetary penalty imposed, the cost of any abatement proceedings under this chapter, and all other related costs, including attorney and expert witness fees, against the real property on which the monetary penalty was imposed or any of the work of abatement was performed. The lien shall be subordinate to all previously existing special assessment liens imposed on the same property and shall be superior to all other liens, except for state and county taxes, with which it shall be on parity.
 - b) Filing of Lien: The public official or city administrator shall file with the county recorder a claim for lien within ninety (90) days from the later of the following dates: the date the monetary penalty is due, the date the work is completed, or the date the nuisance is abated.
 - c) Claim of Lien: The claim of lien must contain sufficient information regarding the relevant notice as determined by the public official or city administrator, a description of the property to be charged with the lien and property owner of record, and the total amount of the lien.
 - d) Amendment of Lien: Any such claim of lien may be amended from time to time to reflect changed conditions.
 - e) Lien Period: No such liens shall bind the affected property for a period longer than five (5) years, without foreclosure or an extension agreed to by the property owner.

Section 2. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

Section 3. Referendum and Effective Date. This Ordinance, being an exercise of a power specifically delegated to the city legislative body, is not subject to referendum, and shall take effect and is in full force five (5) days after its passage, approval and publication of an approved summary of the title as provided by law.

**PASSED BY THE CITY COUNCIL OF THE CITY OF ILWACO, AND SIGNED IN
AUTHENTICATION OF ITS PASSAGE THIS 8TH DAY OF JUNE, 2015.**

Mike Cassinelli, Mayor

ATTEST:

Ariel Smith, Treasurer

VOTE	Jensen	Karnofski	Marshall	Chambreau	Ferner	Cassinelli
Ayes	X		X	X	X	
Nays						
Abstentions						
Absent		X				

PUBLISHED: June 17, 2015

EFFECTIVE: June 24, 2015