

## **Title 1**

### **GENERAL PROVISIONS**

#### **Chapters:**

**1.01 Code Adoption**

**1.10 Datum Point**

**1.15 Civil Infractions**

**1.20 Public Records Indexes and Records Requests under the  
Public Disclosure Act**



**Chapter 1.01****CODE ADOPTION**

## Sections:

- 1.01.010 Adoption, amendment, and repeal.
- 1.01.020 Reservation of prosecutions.
- 1.01.030 Severability.

**1.01.010 Adoption, amendment, and repeal.**

(1) There is hereby adopted the La Conner Municipal Code which consists of the ordinances of the town that have ongoing effect and which have not expired according to their own terms.

(2) This code may be cited as the La Conner Municipal Code.

(3) This code may be amended by reference to code section without the necessity of referring to the underlying ordinance.

(4) New ordinances may be added to the code, and if an ordinance is enacted with a numbering system inconsistent with the code numbering system, the town clerk is authorized to assign an appropriate code number and to codify the ordinance accordingly.

(5) The repeal of any code section does not revive the original text of the code section, but rather, repeal of an existing section repeals the underlying ordinance section and all of its amendments. [Ord. 710 § 1, 1998.]

**1.01.020 Reservation of prosecutions.**

The adoption of this code shall not affect any prosecution for violations of ordinances, which violations were committed prior to the effective date of the adoption of the La Conner Municipal Code, nor shall the adoption of the code be construed as a waiver of any license, fee, or penalty due and owing at the effective date of the code adoption, nor shall adoption affect the validity of any bond or cash deposited with the town pursuant to the terms of any ordinance, upon its codification; but rather, all rights and obligations pertaining under ordinances in effect prior to codification shall remain in full force and effect. [Ord. 710 § 1, 1998.]

**1.01.030 Severability.**

If any section, subsection, clause or phrase of this code is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

The town declares that it would have enacted this code, and each section, subsection, sentence, clause and phrase thereof irrespective of the fact that one or more sections, subsections, sentences, clauses or phrases had been declared invalid or unconstitutional. [Ord. 710 § 1, 1998.]

## **1.10.010**

### **Chapter 1.10**

#### **DATUM POINT**

Sections:

1.10.010 Established.

#### **1.10.010 Established.**

All documents requiring or reporting a vertical elevation control shall utilize and reference the North American Vertical Datum – 1988 (NAVD-88). [Ord. 1000 § 2, 2007; Ord. 91 § 1, 1893.]

**Chapter 1.15****CIVIL INFRACTIONS**

## Sections:

- 1.15.010 Civil infractions.
- 1.15.020 Notice of infraction – Issuance service, filing.
- 1.15.030 Delivery of notice – Person receiving notice – Identification.
- 1.15.040 Effect of notice – Determination final unless contested.
- 1.15.050 Contested notices of civil infraction – Hearing examiner.
- 1.15.060 Response procedure (contested infraction).
- 1.15.070 Judicial appeal.
- 1.15.080 Civil infraction penalties.
- 1.15.090 Collection of civil penalty.

**1.15.010 Civil infractions.**

(1) This chapter applies to all civil infractions set forth in the LCMC or town ordinance.

(2) A civil infraction is unlawful conduct pursuant to the La Conner Municipal Code (“LCMC”) for which civil penalties may be assessed for each violation or for each day or part of day that the violation continues. This chapter contains procedures for notice and hearing of civil infractions and imposition of civil penalties. [Ord. 839 § 1, 2001.]

**1.15.020 Notice of infraction – Issuance service, filing.**

(1) Notice of Civil Infraction. In addition to other civil remedies, the mayor or his or her designated enforcement officer may issue a notice of civil infraction to any person or entity that commits a civil infraction. The notice shall be filed with the municipal court clerk and served in the manner hereinafter provided. The notice shall state that a civil penalty has been or may be assessed against the person to whom the notice of civil infraction was directed and shall accrue for each violation or each and every day or portion thereof during which the violation continues, and shall notify the person or entity of its right to appeal. The amount of the penalty shall be, for each violation, as specified in LCMC 1.15.080. The notice, except for parking and moorage violations, shall be in substantially the following form:

**NOTICE OF CIVIL INFRACTION**

TO: \_\_\_\_\_ (Name and address of person or entity or unknown owner or occupant)

*The Town of La Conner has determined that you have committed a civil infraction as follows:*

*[insert description of act or omission and date and time]*

*A civil infraction is a noncriminal offense for which imprisonment may not be imposed as a sanction. A civil penalty of \$\_\_\_\_\_ per day has been/will be assessed against you for each day the infraction continues from and after \_\_\_\_\_ [insert date].*

*You must respond to this notice within fifteen (15) DAYS OF THE DATE THIS NOTICE. You may respond to this notice in any one of the following ways:*

*(a) If you do not contest the violation, complete the appropriate portion of the notice below and submit it to the Town in accordance with the instructions below, along with your payment for the penalty assessed;*

*(b) If you do contest the violation, complete the appropriate portion of the notice below to request a hearing, and submit it to the Town in accordance with the instructions below; and*

*(c) If you do not contest the violation, but believe that there are mitigating circumstances surrounding the infraction, complete the appropriate portion of the notice below to request a hearing on mitigating circumstances and submit it to the Town in accordance with the instructions below.*

*If you contest the violation at any hearing to determine if the violation occurred, the Town has the burden of proving, by a preponderance of the evidence, that the civil infraction was committed. You have the right to subpoena witnesses to the hear-*

ing, including the person who issued the notice of civil infraction.

*If you do not contest the violation but believe that there are mitigating circumstances, you will have the burden to prove by a preponderance of the evidence that mitigating circumstances exist. By seeking mitigation, you will be deemed to have committed the offense, and you will not be entitled to subpoena witnesses.*

*A failure to respond to this notice or to appear at a hearing you have requested will result in a default being entered against you for the amount of the penalty set forth in this notice and you will lose the right to any adjudication or appeal.*

*You are required to respond to this notice by signing it below and stating your response. Your failure to sign below is a default and will eliminate your right to any mitigation, adjudication or appeal.*

DATED: \_\_\_\_\_

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**ENFORCEMENT OFFICER**

*I am the party or entity to whom the Notice of Civil Infraction has been issued. My signature appears below. My response to the Notice of Civil Infraction is as follows (check appropriate line):*

\_\_\_\_ (a) *I do not contest the violation, and my payment of the assessed penalty of \$\_\_\_\_\_ accompanies this response.*

\_\_\_\_ (b) *I do contest the violation, and request a hearing in the Town Municipal Court. Notify me of the date and time of the hearing at the following address: \_\_\_\_\_*

\_\_\_\_ (c) *I do not contest the violation, but there are mitigating circumstances, and I request consideration of those mitigating circumstances. Notify me of the date and time of the hearing at the following address: \_\_\_\_\_*

DATED: \_\_\_\_\_

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**SIGNATURE**

*Return the duplicate of this Notice of Civil Infraction which you have signed and on which you have stated your response within fifteen (15) days after the date of the notice. You may return your response by mailing it to the Town, properly addressed and with proper postage, first class mail to the following address: Deputy Court Clerk, Town of La Conner, P.O. Box 400, La Conner, Washington 98257.*

*Alternatively, you may deliver your response to the Town by delivering it within the fifteen (15) day deadline to: Deputy Court Clerk, Town of La Conner, 204 Douglas Street, La Conner, Washington.*

(2) A notice of parking or moorage violation shall be issued by the mayor or his or her designee and shall set forth the following: vehicle make, license number, state, location, and date, time and nature of violation; penalty amount and that notice of the violator's right to mitigation or appeal may be obtained at Town Hall. Such notice shall be signed by a town official.

(3) A civil infraction proceeding is initiated by the issuance, service, and filing of a notice of civil infraction.

(4) A notice of civil infraction may be issued by an enforcement officer when the civil infraction occurs in the officer's presence or there is substantial evidence and/or witness that such infraction occurred.

(5) Service of the notice of civil infraction issued under the above subsection (4) of this section shall be performed by the enforcement officer at the direction of the mayor.

(6) A notice of civil infraction shall be filed with the town clerk within 48 hours of issuance, excluding Saturdays, Sundays, and holidays. (A notice not filed within the time limits prescribed in this section may be dismissed without prejudice.) [Ord. 839 § 2, 2001.]

**1.15.030 Delivery of notice – Person receiving notice – Identification.**

Where no person is present at the site of a civil infraction, notice of civil infraction may be issued by leaving such notice as set forth in LCMC 1.15.020 upon the real or personal property of the offending party, whether as owner or occupant. Where notice is issued to a person, he or she shall identify himself or herself to the enforcement officer by giving his or her name, address, and date of birth. Upon the request of the officer, the person shall produce reasonable identification, including a drivers' license or identicard. [Ord. 839 § 3, 2001.]

**1.15.040 Effect of notice – Determination final unless contested.**

(1) A notice of civil infraction represents a determination that a civil infraction has been committed. The determination is final unless contested as provided in this chapter.

(2) Any person who receives a notice of civil infraction shall respond to such notice as provided in this section within 15 days of the date of the notice.

(3) If the person determined to have committed the civil infraction does not contest the determination, the person shall respond by completing the appropriate portion of the notice of civil infraction and submitting it, either by mail or in person, to the deputy court clerk or his/her designee as specified on the notice. A check or money order in the amount of the penalty prescribed for the civil infraction must be submitted with the response. The deputy court clerk or his/her designee may accept cash in payment for an infraction. When a response that does not contest the determination is received, an appropriate order shall be entered in town's records.

(4) If the person determined to have committed the civil infraction wishes to contest the determination, the person shall respond by completing the portion of the notice of civil infraction requesting a hearing and submitting it, either by mail, or in person as specified on the notice. The municipal court shall notify the person in writing of the time, place and date of the hearing, and that date shall not be earlier than seven days nor more than 90 days from the date of the notice of hearing, except by agreement.

(5) If the person determined to have committed the civil infraction does not contest the determina-

tion but wishes to explain mitigating circumstances surrounding the infraction, the person shall respond by completing the portion of the notice of civil infraction requesting a hearing for that purpose and submitting it, either by mail or in person, as specified on the notice. The municipal court shall notify the person in writing of the time, place, and date of the hearing, and that date shall not be earlier than seven days nor more than 90 days from the date of the notice of hearing, except by agreement.

(6) The municipal court shall enter a default judgment assessing the monetary penalty prescribed for the civil infraction and may notify the town attorney of the failure to respond to the notice of civil infraction or to appear at a requested hearing if any person issued a notice of civil infraction:

(a) Fails to respond to the notice of civil infraction as provided in subsection (3) of this section; or

(b) Fails to appear at a hearing requested pursuant to subsections (4) and (5) of this section. [Ord. 839 § 4, 2001.]

**1.15.050 Contested notices of civil infraction – Hearing examiner.**

If a notice of civil infraction is contested, it shall be heard by the municipal court. The decision of the municipal court shall be final and conclusive with, in the case of a nondefault decision, right of appeal to the district court of Skagit County; provided, that infractions issued pursuant to LCMC Title 15 shall be heard by the hearing examiner, with right of appeal to superior court as provided by state law. [Ord. 839 § 5, 2001.]

**1.15.060 Response procedure (contested infraction).**

(1) A response shall be limited to the following:

(a) The infraction did not occur;

(b) The infraction did occur, but there were mitigating circumstances;

(c) The enforcement officer misinterpreted the applicable town regulations, ordinance or other state law or regulation.

(2) Within 10 days following timely filing of a response regarding a hearing, notice of the date, time and place for the public hearing shall be mailed to the alleged violator, and any other parties of record.

(3) Accrual of Penalty Pending Appeal. The civil penalty for a continuing violation does not

accrue during the pendency of a timely appeal; however, the municipal court may impose a daily civil penalty from the date of service of the notice of civil infraction if the municipal court finds that the appeal is frivolous or is solely intended to delay compliance or if the response is not timely or if the party fails to appear at a contested hearing.

(4) A hearing shall be held in accordance with the notice for the purpose of contesting the determination that a civil infraction has been committed, or that there are mitigating circumstances.

(5) The municipal court may consider the notice of civil infraction and any other written report made under oath submitted by the enforcement officer who issued the notice or whose written statement was the basis for the issuance of the notice in lieu of the officer's personal appearance at the hearing. The person named in the notice may request witnesses and the officer who issued the notice to be present at the hearing only if the infraction is contested. The person named in the notice has the right to present evidence and examine witnesses at the time of the hearing.

(6) The burden of proof is upon the town to establish the commission of the civil infraction by a preponderance of evidence. The burden is on the person alleged to have committed a violation to establish mitigating circumstances.

(7) After consideration of the evidence and argument, the municipal court shall determine whether the civil infraction was committed. Where it has not been established that the civil infraction was committed, an order dismissing the notice shall be entered into the town's records. Where it has been established that the civil infraction was committed, an appropriate order shall be entered into the town's records. If mitigating circumstances exist, the order shall address the mitigating circumstances. Such findings shall be prepared in writing by the municipal court and sent via U.S. mail to all parties within 15 working days from the hearing.

(8) Any violation that is required by state law to be prosecuted as a criminal offense shall not be prosecuted as a civil infraction under this code.

(9) If the notice is not timely or correctly contested or if the contest by the contestor fails, the penalty shall be considered as a personal obligation of the owner to the town and shall be enforceable by the town in the same manner as other monetary claims. [Ord. 839 § 6, 2001.]

#### 1.15.070 Judicial appeal.

(1) The decision of the municipal court shall be final and conclusive with right of appeal to the district court of Skagit County in the case of a non-default decision only.

(2) Notice of the appeal and any other required pleadings shall be filed with the court as required by law.

(3) The cost of transcribing and preparing all records ordered certified by the court or desired by the appellant for such appeal shall be borne by the appellant. [Ord. 839 § 7, 2001.]

#### 1.15.080 Civil infraction penalties.

The following penalties shall be assessed and imposed for the civil infractions set forth below. Such amounts shall be paid in contested and uncontested matters and may be adjusted by the municipal court or hearing examiner pursuant to a mitigation hearing. Any civil penalty not paid in a timely manner shall accrue interest at 12 percent per annum from the day after the date due, until paid in full.

Violation	Penalty
Chapter 5.05 LCMC (business licenses)	For each month of delinquency, or part thereof, 20 percent of license fee due
Chapter 5.20 LCMC (amusement devices)	\$25.00 per day/unlicensed
Chapter 7.10 LCMC (nuisance)	\$100.00 per day of violation
LCMC 7.35.050(3) (alarm systems)	\$250.00 for the first violation; \$500.00 for second violation within any six-month period; \$750.00 for the third violation in a 12-month period; \$1,000 for the fourth and subsequent violation(s) with within a 12-month period.
Chapter 8.05 LCMC (smoking in town-owned buildings)	\$50.00
Chapter 9.10 LCMC (parking)	See LCMC 9.10.050
Chapter 9.15 LCMC (storage of recreational and commercial vehicles)	\$25.00 first violation; \$50.00 second violation; \$75.00 third and subsequent violations
Chapter 9.35 LCMC (parades)	\$250.00



Violation	Penalty
LCMC 9.40.010(4) and (5) (loading/unloading zones)	\$10.00 per infraction
Chapter 10.05 LCMC (port facilities)	\$75.00
Chapter 11.05 LCMC (street and building numbers)	\$10.00
Chapter 11.10 LCMC (street excavations)	\$100.00
Chapter 11.25 LCMC (sidewalk construction)	\$50.00
Chapter 12.15 LCMC (water systems)	\$100.00
Chapter 13.20 LCMC (chimney and fire flues)	\$100.00
Chapter 15.135 LCMC (UDC)	See LCMC 15.135.330

[Ord. 925 § 4, 2004; Ord. 839 § 8, 2001.]

#### **1.15.090 Collection of civil penalty.**

(1) The civil penalty constitutes a personal obligation of the person to whom the notice of civil infraction is directed. Any civil penalty assessed must be paid to the town clerk within 15 calendar days from the date of service of notice of civil infraction or, if the infraction is contested, within 15 calendar days of the decision of the municipal court. Any civil penalty not paid in a timely manner shall accrue interest at a rate of 12 percent per annum commencing the first day after the due date herein established.

(2) Payment of a civil penalty pursuant to this section does not relieve a person of the duty to conform to the requirements of the code.

(3) The town attorney, on behalf of the town, or any assignee of the civil penalty, is authorized to collect the civil penalty by using appropriate legal remedies, the seeking or granting of which shall neither stay nor terminate the accrual of additional civil penalties as long as the violation continues. The costs of such collection, including attorney fees, including those on appeal shall be added to the civil penalty and awarded to the town or its assignee.

#### **(4) Other Remedies Preserved.**

(a) The provisions of this chapter are not exclusive of other rights and remedies of the town under other provisions of the La Conner Municipal Code.

(b) In addition to the town's right to assess costs and penalties as provided in its ordinances, the town shall retain all rights of lien and other rights against property in question for costs that remain unpaid, in the manner and form provided by state law and town ordinances.

(c) Continuing Duty to Correct. Payment of a civil penalty pursuant to this chapter does not relieve a person of the duty to abate a nuisance that was ordered by the code enforcement officer. [Ord. 839 § 9, 2001.]

**Chapter 1.20**

**PUBLIC RECORDS INDEXES AND  
RECORDS REQUESTS UNDER THE  
PUBLIC DISCLOSURE ACT**

those records which are public and not protected by the exemption portion of the statute, namely RCW 42.17.310. [Ord. 953 § 1, 2005.]

Sections:

1.20.010 Findings.

1.20.020 Order regarding public records index.

**1.20.010 Findings.**

(1) The Revised Code of Washington (RCW) requires all cities and public agencies to maintain and make available a current index of all public records.

(2) The RCW also states that if maintaining such an index would be unduly burdensome, or interfere with agency operation, the agency must issue and publish a formal order specifying the reasons why and the extent to which compliance would be unduly burdensome.

(3) When such an order is made, all indexes maintained by that agency must be made available to provide identifying information on those records that are available for inspection and/or copying.

(4) The town of La Conner is comprised of several departments, which maintain separate databases and/or record-keeping systems.

(5) Because the town has records which are diverse, complex and stored in multiple locations and in multiple computer systems and databases, it is unduly burdensome, if not physically impossible, to maintain a central index of records.

(6) The town will fully comply with the provisions of the RCW as they relate to the Public Disclosure Act, under Chapter 42.17 RCW. [Ord. 953 § 1, 2005.]

**1.20.020 Order regarding public records index.**

Based upon the findings set forth in LCMC 1.20.010, and pursuant to RCW 42.17.260(4)(a), the town council orders the following:

(1) The town of La Conner is not required to maintain an all-inclusive index of public records, due to findings of the town council that the requirement is unduly burdensome and such a list is nearly impossible to create and/or maintain.

(2) The town of La Conner shall make available all public records and any indexes created for internal use upon request by any citizen. Said indexes shall be maintained and released in order to obtain