

Chapter 15.09

ENFORCEMENT AND PENALTIES**Sections:**

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15.09.010 Responsible enforcement entity.

The community development director shall be primarily responsible for enforcing the provisions of this Development Code. The city manager may direct other persons to assist the community development director, including but not limited to the public works and water utilities director, planning director, chief building official, and the parks and open space director. (Ord. 0-2006-73 § 5; Ord. 0-2003-5 § 18; Ord. 0-2001-78 § 1 (part))

15.09.020 Authorization for inspections.

Upon presentation of proper credentials, the community development director, or the director's designee(s), may enter any building, structure, real property, or premises to ensure compliance with this Development Code. Officials shall conduct such inspections during normal business hours unless the community development director determines there is an emergency. Without consent of the property owner or other legal authority, city officials shall enter private property only under a warrant or other authorization from a court of competent jurisdiction. (Ord. 0-2001-78 § 1 (part))

15.09.030 Violations.

It shall be a violation of this Land Development Code to undertake any of the following activities:

A. **Activities Inconsistent with Code.** Erect, construct, reconstruct, remodel, alter, maintain, expand, move, or use any land, building, structure, or sign; or engage in development or subdivision of any land contrary to the regulations and procedures of this Development Code.

B. **Land Disturbing Activities Inconsistent with Code.** Excavate, grade, cut, clear, or undertake any other land disturbance activity contrary to the provisions of this Development Code or without first obtaining all requisite land use approvals or permits required by this Development Code or other applicable regulations.

C. **Nonconformities Inconsistent with Code.** Create, expand, replace, or change a nonconforming use, structure, lot, or sign except in compliance with this Development Code.

D. **Making Lots or Setbacks Nonconforming.** Reduce or diminish the lot area, setbacks, or open space below the minimums required by this Development Code.

E. **Increasing Intensity of Use.** Increase the intensity of use of any land or structure, except according to the standards of this Development Code.

F. **Activities Inconsistent with Approval or Permit.** Engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, agreement, or other form of authorization required to engage in such activity.

G. **Activities Inconsistent with Conditions of Approval.** Fail to comply with any terms, conditions, or limitations placed by the decision-making body upon any final development plan, subdivision plat, site plan, permit, or other form of authorization.

H. **Failure to Remove Signs.** Fail to remove any sign installed, created, erected or maintained in violation of this Development Code, or for which the sign permit has lapsed. (Ord. 0-2001-78 § 1 (part))

15.09.040 Continuing violations.

Each day that a violation occurs or remains uncorrected after receipt of the notice required by this chapter shall constitute a separate offense and violation of this Development Code. (Ord. 0-2001-78 § 1 (part))

15.09.050 Remedies and enforcement powers.

The community development director and relevant decision-making bodies have the following remedies and powers to enforce this Development Code:

A. Civil Remedies and Enforcement Powers.

1. **Deny/Withhold Permits.** Based on consideration of the seriousness of the violation, including whether there is a continuing threat to the public health or safety or to the natural environment while the violation is uncorrected, and the prior violation history of the owner, applicant, or other person responsible for the violation, the city may deny or withhold permits, as follow:

a. The city may deny and withhold all permits, certificates, or other forms of authorization to use or develop any land, structure, or improvements thereon until the alleged violation related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit is responsible for the violation.

b. Where a property owner, agent, or other person has a record of an outstanding violation or violations of this Development Code, the relevant decision-making bodies may deny or withhold all permits, certificates, or other authorization for any use or development activity by such person until the outstanding violation is corrected. This provision shall apply whether or not the property for which the person seeks the permit or other approval is the property in violation.

c. Instead of withholding or denying a permit or other authorization, the relevant decision-making bodies may grant such authorization subject to the condition that the outstanding violation be corrected before the authorization is effective.

2. Revoke Permits.

a. The city may revoke any development permit, approval, or other authorization, after notice, when it is determined that either:

- i. There is a material departure from the approved plans, specifications, or conditions of approval;
- ii. There is a violation of any provision of this Development Code;
- iii. The development permit or approval was obtained by false representation; or
- iv. The development approval or permit was issued in error.

b. The city shall serve written notice of revocation upon the owner, the owner's agent, the applicant, or other person to whom the permit was issued, or such notice may be posted in a prominent location at the place of the violation. The notice shall state the allegations of noncompliance and provide notice of a hearing to determine the facts and remedies. Such hearing shall occur no sooner than ten days from the notice's date of mailing or posting.

c. The decision-making body that originally granted final approval or authorization shall hold the hearing.

d. No work or construction shall proceed after service of the revocation notice.

3. Stop Work Order.

a. Issuance of Stop Work Order. With or without revoking permits, the community development director may issue an order to stop work on any property on which there is an uncorrected violation of either this Development Code or a permit or authorization issued under this Development Code. The stop work order shall specify the Code provisions allegedly being violated. After a stop work order is served, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order.

b. Timing/Notice. The stop work order may be issued at the same time as the notice of the initial violation (see

Section 15.09.080, "Enforcement Procedures," below), or subsequent to such notice. The stop work order may also specify a shorter time for correction of the violation than the thirty-day period specified in Section 15.09.080 below. The stop work order shall also indicate that failure to comply with the order may subject the violator to civil and/or criminal liability as penalty for the violation(s).

4. Injunctive Relief. The city may initiate injunction proceedings or other appropriate legal action in the district court or other court of competent jurisdiction against any person who fails to comply with any provision of this Development Code or any requirement or condition imposed under this Development Code. In any court proceeding in which the city seeks a preliminary injunction, it shall be presumed that a violation of this Development Code is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the Code violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject Code violation.

5. Abatement. The city may seek a court order in the nature of mandamus, abatement, injunction, or other action to abate or remove a violation or to otherwise restore the premises to the condition that existed before the violation.

B. Criminal Remedies and Enforcement Powers.

1. Criminal Offense. It is a violation of this Development Code, after service of a notice of violation including any stop-work order, to fail to comply with such notice or stop-work order.

2. Penalty. Persons convicted of violating this Development Code shall, for each such violation, be punishable by a fine of up to five hundred dollars or imprisonment for up to ninety days, or by both such fine and imprisonment. (Ord. 0-2001-78 § 1 (part))

15.09.060 Remedies cumulative.

The remedies provided for violations of this Development Code, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order. (Ord. 0-2001-78 § 1 (part))

15.09.070 Complaints regarding violations.

Any person may file a complaint alleging a violation of this Development Code. Such complaint, stating fully the causes and basis thereof, shall be filed with the community development director. The community development director shall properly record such complaint, investigate as soon as reasonably possible, and take action as provided by this chapter. (Ord. 0-2001-78 § 1 (part))

15.09.080 Enforcement procedures.**A. Non-Emergency Matters.**

1. In the case of violations of this Development Code that do not constitute an emergency or require immediate attention, the enforcing official shall give written notice of the nature of the violation to the property owner, agent, occupant, or to the applicant for any relevant permit. Notice shall be given in person, or by U.S. mail, or by posting notice on the premises. The notice shall specify the Code provisions allegedly violated and the time period within which to correct the alleged violations before further enforcement action. The notice shall also advise the recipient of any appeal or variance procedures available under this Development Code.

2. The community development director may grant an extension to cure an alleged violation, up to a total of ninety days beyond the original time period, if the director finds that due to the nature of the alleged violation or other substantial hardship, it reasonably appears that it cannot be corrected within the original time period.

B. Emergency Matters. For violations of this Development Code that constitute an emergency as a result of public safety or health concerns, or violations that will create increased problems or costs if not remedied immediately, the community development director may use the enforcement powers available under this chapter without prior notice. In such cases, the community development director shall attempt to give notice simultaneously with beginning enforcement action or as soon thereafter as practicable. Notice may be provided to the property owner, agent, occupant, or to the applicant for any relevant permit.

C. Options Upon Non-Compliance. If a person fails to comply with a notice of violation or stop work order, or to remedy the violation to the satisfaction of the community development director within the required time period, then the community development director shall consult with the city attorney and determine whether to invoke the civil remedies listed in Section 15.09.050(A), the criminal remedies under Section 15.09.050(B) above, or other equitable or other remedies available. (Ord. 0-2006-73 § 6; Ord. 0-2001-78 § 1 (part))