

ARTICLE 10. – ENFORCEMENT

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7-21-2020, Ordinance No. 2020-10 (Sec. 10-6.4, 10-6.5)

ARTICLE 10. – ENFORCEMENT

Sec. 10.1. - Purpose.

This article establishes procedures through which the city seeks to ensure compliance with the provisions of this chapter and obtain corrections for ordinance violations. It also sets forth the remedies and penalties that apply to violations of this chapter. The provisions of this article are intended to encourage the voluntary correction of violations, where possible.

Sec. 10.2. - Compliance required.

Compliance with all provisions of this chapter is required pursuant to city code section 1-10.

Sec. 10.3. - Violations.

10.3.1. *General violations.*

- (A) Any failure to comply with a requirement, standard, prohibition, or limitation imposed by this chapter or the terms or conditions of any permit or other development approval or authorization granted pursuant to this chapter, shall constitute a violation of this chapter punishable as provided in this article.
- (B) Permits issued on the basis of plans and applications approved by the city council, planning commission, board of zoning appeals, design review panels, administrator, or other officials or agencies where additional approval is required, authorize only the use, arrangement, location and construction set forth in such permits and development approvals, and no other use, arrangement, location or construction.

10.3.2 *Specific violations.* It shall be a violation of this chapter to do any of the following:

- (A) Construct, reconstruct, alter, demolish, change the use of, or occupy any land, building, structure, or sign without first obtaining the appropriate permit or permit approval, or without complying with the terms and conditions of the permit or approval required to engage in such activity, or to engage in development or subdivision of any land in contravention of this chapter, including the conditions and terms of all required permits and development approvals.
- (B) Excavate, grade, cut, clear, or undertake any other land-disturbing activity contrary to the requirements of this chapter or without first obtaining all necessary approvals required by this chapter or other applicable regulations.
- (C) Create, expand, replace, or change any nonconformity except in compliance with this chapter.
- (D) Reduce or diminish the requirements or development standards below the minimum required by this chapter.
- (E) Increase the intensity or density of use of any land or structure except in accordance with the requirements of this chapter.
- (F) Fail to comply with any terms, conditions, or limitations placed by the city council, planning commission, or administrator, upon any development approval, including designation of a planned unit development (PUD) zone district classification, special exception permit, conditional use permit, variance permit, certificate of appropriateness, sign permit, temporary use permit, certificate of compliance, site plan permit, final plat for minor subdivision, preliminary plat for subdivision, final plat for subdivision, land disturbance permit, street name or name change, certificate of conformity, or other form of authorization.
- (G) Fail to remove any sign installed, created, erected, or maintained in violation of this chapter, or for which the sign permit has lapsed.
- (H) Fail to comply with a certificate of appropriateness, which shall include the discontinuance of work or lack of progress toward achieving compliance with a certificate of appropriateness for a period of six months.

Sec. 10.4. - Responsible persons.

Any person who violates this chapter shall be subject to the remedies and penalties set forth in this article.

Sec. 10.5. - Enforcement generally.

- 10.5.1. *Responsibility for enforcement of zoning provisions.* The administrator shall be responsible for enforcing the provisions of this chapter. The administrator shall be provided with the assistance of such other persons as the city manager may direct.
- 10.5.2. *Notice of violations.* When the administrator finds that any building, structure, or land is in violation of this chapter, the administrator shall send a written notice to the person responsible for such violation. Such notice shall be copied to the owner (if the owner is not responsible for the violation) and shall indicate the nature of the violation, order the necessary action to abate the violation, and give a deadline for correcting the violation. If a violation is not corrected within a reasonable period of time as provided in the notification, the administrator shall take appropriate action as provided in subsection 19-10.6.1, remedies and penalties available to city, to correct and abate the violation and to ensure compliance with this chapter.
- 10.5.3. *Complaints regarding violations.* Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a complaint. Such complaint shall state fully the alleged violation and the basis thereof, and shall be filed with the administrator, who shall maintain a record of the complaint. The complaint shall be investigated promptly by the administrator and action taken to abate or correct the violation.
- 10.5.4. *Inspections to ensure compliance.* Upon presentation of proper credentials, the administrator may enter any building, structure, land, or premises to ensure compliance with the provisions of this chapter. These inspections shall be carried out during normal business hours unless the administrator determines there is an emergency necessitating inspections at another time or times.
- 10.5.5. *Right of appeal.* Any person aggrieved or affected by an enforcement action may appeal such action to the planning commission pursuant to procedures for decisions and interpretations of the administrator in Article 2, Administration.

Sec. 10.6. - Remedies and penalties.

- 10.6.1. *Remedies and penalties available to city.* The city may use any combination of the following enforcement actions, remedies, and penalties pursuant to city code section 1-10 to correct, stop, abate, and enjoin a violation of this chapter:
- (A) *Citation noting violation.* The administrator may issue a citation to the person pursuing the activity or activities in violation of this chapter, requiring appearance before the municipal court.
 - (B) *Stop order.* The administrator may issue and serve upon a person pursuing the activities in violation of this chapter a stop work order requiring that the person stop all activities in violation of this chapter.
 - (C) *Permit suspension or revocation.* Any development permit, approval, certificate, or other form of authorization required under this chapter may be suspended or revoked if the administrator determines that:
 - (1) There is a failure to comply with the approved plans, specifications, terms or conditions required under the permit or development approval;
 - (2) The permit or development approval was procured by false representation; or
 - (3) The permit or development approval was issued in error.Written notice of suspension or revocation shall be mailed or served upon the property owner, agent, applicant, or other person to whom the permit was issued or such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the notice.
 - (D) *Civil remedies.* In addition to all other remedies and penalties outlined in this article, the administrator may initiate an action or proceeding for injunction or mandamus or other appropriate action or

proceeding to prevent, abate, or correct a violation of this chapter or to prevent the occupancy of the building, structure or land.

(E) *Criminal remedies.* Criminal penalties shall be as provided by city code section 1-10.

10.6.2 *Private civil relief.* In case a building, structure, or land is or is proposed to be used in violation of this chapter, an adjacent or neighboring property owner or tenant who would be specially damaged by the violation may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, or to correct or abate the violation, or to prevent the occupancy of the building, structure, or land.

10.6.3 *Additional remedies available for sign violations.* In addition to the remedies and penalties provided in subsection 10.6.1, remedies and penalties available to city, and subsection 10.6.2, private civil relief, signs that are in violation of the provisions of this article shall be subject to the following provisions:

(A) *Notice of violation.* The administrator may send notice to the sign owner, the sign installer, and anyone deemed to have an interest in the subject sign stating the nature of the violation, and granting an appropriate period of time, not to exceed 30 days, to correct the violation.

(B) *Impoundment.*

(1) The administrator may impound the sign and send notice stating that the sign has been impounded, the reason for the impoundment, and the process for claiming the sign. An impounded sign shall be held for ten calendar days from the date of the notice, during which time the sign owner may recover the sign. If the sign is not claimed within the ten-day period, the administrator may dispose of the sign without compensation to the sign owner.

(2) The administrator may impound signs displayed on public rights-of-way or other public properties and dispose of without notice.

(C) *Payment of costs of sign removal.* If the administrator determines that it is necessary to remove a sign, the sign removal may be assigned either to city staff or to a private contractor approved by the city pursuant to its rules of procurement. Upon completion of the removal, the city department or the city's contractor shall submit an invoice to the city's finance officer for payment. The sign owner shall pay the costs directly to the city or the costs will become a lien against the real property upon which incurred, and shall be collected in the same manner as city taxes or by other method permitted by law.

Notice may be provided to the sign owner, tenant or property owner by regular mail addressed to the last known address, by facsimile, by email, or any combination, as reasonable under the circumstances.

10.6.4 *Additional remedies available for mural violations.* In addition to the remedies and penalties provided in subsection 10.6.1, remedies and penalties available to city, and subsection 10.6.2, private civil relief, murals that are in violation of the provisions of this chapter shall be subject to the following provisions:

(A) *Notice of violation.* The administrator may send notice to the owner of the structure upon which the mural is located stating the nature of the violation, and granting an appropriate period of time, not to exceed 30 days, to correct the violation.

(B) *Costs for Repair or removal of murals.* If the mural is not repaired or removed within the prescribed time period of the violation notice, the city or a private contractor approved by the city pursuant to its rules of procurement may enter the premises to repair or remove the mural. Upon completion of the repair or removal, the city or the city's contractor shall submit an invoice to the city's finance officer for payment. The sign owner shall pay the costs directly to the city or the costs will become a lien against the real property upon which incurred, and shall be collected in the same manner as city taxes or by other method permitted by law.

Notice may be provided to the owner of the structure by regular mail addressed to the last known address, by facsimile, by email, or any combination, as reasonable under the circumstances.

Sec. 10.6.5 *Remedies cumulative.* The remedies provided for violations of this chapter, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.