

# CHAPTER 19.11: ENFORCEMENT

## 19.11.1. PURPOSE

This chapter establishes procedures through which the City seeks to ensure compliance with the provisions of this Code and obtain corrections for violations. It also sets forth the remedies and penalties that apply to violations of this Code.

## 19.11.2. VIOLATIONS

Any of the following shall be a violation of this Code and shall be subject to the remedies and penalties provided for in this Code.

### A. ESTABLISH USE, STRUCTURE, OR SIGN WITHOUT PERMIT OR APPROVAL

To establish or place any use, structure, or sign upon land that is subject to this Code without all of the approvals required by this Code.

### B. DEVELOPMENT OR SUBDIVISION WITHOUT PERMIT OR APPROVAL

To engage in any subdividing, development, construction, remodeling, or other activity of any nature upon land that is subject to this Code without all of the approvals required by this Code.

### C. DEVELOPMENT, SUBDIVISION, USE, OR SIGN INCONSISTENT WITH PERMIT

To 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, certificate, or other form of authorization required in order to engage in such activity.

### D. DEVELOPMENT, SUBDIVISION, USE, OR SIGN INCONSISTENT WITH CONDITIONS OF APPROVAL

To violate, by act or omission, any term, condition or qualification placed by a decision-making body upon any permit or other form of authorization.

### E. DEVELOPMENT, SUBDIVISION, OR SIGN INCONSISTENT WITH DEVELOPMENT CODE

To erect, construct, reconstruct, remodel, alter, maintain, move, or use any building, structure, or sign, or to engage in development or subdivision of any land in violation of any zoning, subdivision, sign, or other regulation of this Code.

### F. MAKING LOTS OR SETBACKS NONCONFORMING

To reduce or diminish any lot area so that the lot size, setbacks, or common open spaces shall be smaller than prescribed by this Code.

### G. INCREASING INTENSITY OR DENSITY OF USE

To increase the intensity or density of use of any land or structure, except in accordance with the procedural requirements and substantive standards of this Code.

### H. REMOVING OR DEFACING REQUIRED NOTICE

To remove, deface, obscure, or otherwise interfere with any notice required by this Code.

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#### I. FAILURE TO REMOVE SIGNS

To fail to remove any sign installed, created, erected, or maintained in violation of this Code or for which the sign permit has lapsed.

#### 19.11.3. CONTINUING VIOLATIONS

After receiving notice of the violation from the City, each day that a violation remains uncorrected shall constitute a separate violation of this Code.

#### 19.11.4. RESPONSIBLE PERSONS

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

#### 19.11.5. RESPONSIBILITY FOR ENFORCEMENT

##### A. DIRECTOR OF BUILDING AND SAFETY

The Director of Building and Safety shall have primary responsibility for enforcing provisions of this Code pertaining to the erection, construction, reconstruction, moving, conversion, or alteration of any building or structure.

##### B. PUBLIC WORKS DIRECTOR

The Public Works Director shall have primary responsibility for enforcing provisions of this Code related to subdivision, including all standards in Chapter 19.9: *Subdivision Design and Improvements*.

##### C. COMMUNITY DEVELOPMENT DIRECTOR

The Community Development Director shall have primary responsibility for enforcing all other provisions of this Code not listed in subsections A or B above. Other officers of the City as authorized by the Community Development Director shall share responsibility for enforcing provisions of this Code.

#### 19.11.6. ENFORCEMENT PROCEDURES

##### A. NON-EMERGENCY MATTERS

In the case of violations of this Code that do not constitute an emergency or do not require immediate attention, the official responsible for enforcement shall give notice of the nature of the violation to the property owner or to any other person who is party to the agreement or to any applicant for any relevant permit in the manner hereafter stated, after which the persons receiving notice shall have ten days to correct the violation before further enforcement action shall be taken. Subsequent violations within a 12-month period at the same property address shall constitute a failure to correct the violation for purposes of further enforcement action. Notice shall be given in person, by United States certified mail or by posting notice on the premises. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

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#### **B. EMERGENCY MATTERS**

In the case of violations of this Code that constitute an emergency as a result of safety, public concerns, or violations that will create increased problems or costs if not remedied immediately, the City may use the enforcement powers available under this chapter without prior notice, but the official responsible for enforcement shall attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the property owner, to any other person who is party to the agreement, and to applicants for any relevant permit.

#### **C. COMPLAINTS REGARDING APPROVED CONDITIONAL USE PERMITS, TEMPORARY USE PERMITS, VARIANCES, AND HOME OCCUPATION PERMITS**

Conditional use permits, temporary use permits, variances, and home occupation permits shall be subject to immediate review upon complaint from any member of the public, whether received from a nearby property owner, other members of the general public or city enforcement personnel. The review process may be implemented as follows:

1. The Community Development Director shall notify the property owner of each complaint.
2. The property owner shall:
  - (a) Propose and initiate a remedy, or
  - (b) Dispute the validity of the complaint.
3. If the Community Development Director determines the complaint is valid, the Community Development Director shall monitor the effectiveness of the initiated remedy, if any is proposed and initiated by the property owner. If the remedy appears to resolve the complaint, no further action shall be required.
4. If the remedy is ineffective or if the property owner fails to propose and initiate a remedy, or if the property owner further disputes the validity of the complaint, the Community Development Director shall initiate revocation proceedings in accordance with this section.
5. The permits and variances listed in this subsection (C) are subject to all other enforcement and compliance procedures described in this chapter, in addition to revocation under part D below, or where no remedial action is proposed and initiated by the property owner.

#### **D. REVOCATION**

##### **1. Duties of Enforcement Official**

The revocation process shall be initiated by the official responsible for enforcement of the subject provision upon a determination by that official that there are reasonable grounds for revocation of the subject permit or development approval.

##### **2. Authority to Revoke**

The decision-making body that approved the permit or development approval shall be authorized to revoke the permit or development approval.

##### **3. Notices and Public Hearing**

###### **(a) Notice**

Notice of a revocation hearing shall be given in the same manner as required for the public hearing at which approval was granted. If no notice was required for

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approval, none shall be required for the revocation hearing, provided that notice shall be mailed to the owner of the use or structure for which the permit was granted at least ten days prior to the hearing.

**(b) Hearing**

At the public hearing, the decision-making body shall hear testimony of City staff, the owner of the use or structure for which the permit was granted, if present, and any other interested person.

**(c) Appeals**

Any decision rendered at a revocation hearing is subject to the appeal procedures set forth in Section 19.6.9.E, *Appeals*.

**4. Required Findings**

The decision-making body shall revoke the permit upon making one or more of the following findings:

**(a)** The permit was issued on the basis of erroneous or misleading information or misrepresentation.

**(b)** The terms or conditions of approval of the permit have been violated or other laws or regulations have been violated.

**(c)** There has been a discontinuance of the exercise of the entitlement granted by the permit for 180 consecutive days.

**5. Decision and Notice**

**(a) Matters Subject to Public Hearing**

Within ten working days of the conclusion of the hearing, the decision-making body shall render a decision and shall mail notice of the decision to the owner of the use or structure for which the permit was revoked and to any other person who has filed a written request for such notice.

**(b) Matters Not Subject to Public Hearing**

Within three working days of a decision on a revocation matter that is not the subject of a public hearing, the decision-making body shall mail notice of the decision to the owner of the use or structure for which the permit was revoked and to any other person who has filed a written request for such notice.

**6. Effective Date**

A decision to revoke a permit shall become final ten days after the date of the decision unless an appeal is filed in accordance with the procedures set forth in Section 19.6.9.E, *Appeals*. In such cases, the decision shall become final ten days after the date of the appellate body's decision. No property that is the location of any permit or variance revoked pursuant to the procedures of this chapter can be the subject of an application for the same permit or variance within two years following revocation.

## 19.11.7. REMEDIES AND ENFORCEMENT POWERS

The City shall have the following remedies and enforcement powers:

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#### **A. WITHHOLD PERMIT**

1. The City may deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements upon a determination that there is an uncorrected violation of a provision of this Code or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the City. This enforcement provision shall apply regardless of whether the current owner or applicant is responsible for the violation in question.
2. The City may deny or withhold all permits, certificates, or other forms of authorization on any land or structure or improvements owned or being developed by a person who owns, developed, or otherwise caused an uncorrected violation of a provision of this Code or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the City. This provision shall apply regardless of whether the property for which the permit or other approval is sought is the property in violation.

#### **B. PERMITS APPROVED WITH CONDITIONS**

Instead of withholding or denying a permit or other authorization, the City may grant such authorization subject to the condition that the violation be corrected.

#### **C. REVOKE PERMITS**

Any development permit or other form of authorization required under this Development Code may be revoked when the Community Development Director determines that:

1. There is departure from the plans, specifications, or conditions as required under terms of the permit;
2. The development permit was procured by false representation or was issued in error; or
3. Any of the provisions of this Code are being violated.

#### **D. STOP WORK**

With or without revoking permits, the City may stop work on any building or structure on any land on which there is an uncorrected violation of a provision of this Code or of a permit or other form of authorization issued hereunder, in accordance with its power to stop work under its building codes.

#### **E. INJUNCTIVE RELIEF**

The City may seek an injunction or other equitable relief in court to stop any violation of this Code or of a permit, certificate, or other form of authorization granted hereunder.

#### **F. ABATEMENT**

The City may seek a court order in the nature of mandamus, abatement, injunction, or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

#### **G. PENALTIES**

Any violation of the provisions of this Code constitutes a misdemeanor and is subject to the punishment provided by law in such cases, as amended from time to time. The City may also seek such civil penalties as are provided by law.

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#### **H. OTHER REMEDIES**

The City shall have such other remedies as are and as may be from time-to-time provided by law for the violation of zoning, subdivision, sign, or related Code provisions.

#### **I. OTHER POWERS**

In addition to the enforcement powers specified in this chapter, the City may exercise any and all enforcement powers granted by law.

#### **J. CONTINUATION**

Nothing in this Code shall prohibit the continuation of previous enforcement actions undertaken by the City pursuant to previous and valid ordinances and laws.

### **19.11.8. REMEDIES CUMULATIVE**

The remedies and enforcement powers established in this chapter shall be cumulative, and the City may exercise them in any order or combination, at any time.

