

## Chapter 135. Planning and Design

# **ARTICLE 11. ADMINISTRATION AND ENFORCEMENT**

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### 135-11.1 Review and Decision-Making Bodies

#### 11.1.1 PLAN AND ZONING COMMISSION

The plan and zoning commission has the powers and duties that are expressly identified in this chapter and in [Chapter 82, Article II](#) of this code.

#### 11.1.2 COMMUNITY DEVELOPMENT DIRECTOR

The community development director has the powers and duties expressly identified in this chapter. For purposes of this chapter, "community development director" includes designees of the community development director.

#### 11.1.3 ZONING ENFORCEMENT OFFICER

There is established within the community development department a zoning enforcement officer who shall be appointed by and responsible to the community development director.

##### A. Powers and Duties.

The zoning enforcement officer shall exercise the following powers and duties:

1. The zoning enforcement officer or the officer's designees shall exercise all enforcement powers under this chapter, including the investigation of complaints of planning and design violations, issuance of notices and municipal infraction citations to violators, and the preparation and submission to the legal department of reports of planning and design violations which continue unabated for such legal action as the facts of each report may require.
2. In all cases in which the city commences court action, the zoning enforcement officer shall cooperate with the assistant city attorney by performing such additional investigative work as the assistant city attorney shall require.
3. The zoning enforcement officer shall attend the meetings of the plan and zoning commission as requested by that body.
4. If the legal department, after analysis of the report, institutes legal proceedings, the zoning enforcement officer will cooperate fully with the legal department in the perfecting of such proceedings.
5. The zoning enforcement officer or the officer's designees may provide a written determination regarding the application of this chapter to a specific site to any person requesting such information upon receipt of a fee in the amount

set in the schedule of fees adopted by the city council by resolution.

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### 135-11.2 Enforcement

#### 11.2.1 RESPONSIBILITY FOR ENFORCEMENT

- B. The zoning enforcement officer, under the direction and supervision of the community development director, is responsible for enforcing the regulations of this chapter. All departments, officials, agencies and employees vested with the authority to review, recommend or issue development approvals, permits or licenses must act in accordance with the provisions of this code.
- C. The zoning enforcement officer is authorized to enter at reasonable times onto and into open unobstructed property and structures to inspect, and a property owner or occupant is required to allow such inspection. If entry onto real estate for the purposes described in this chapter is refused, the community development director may pursue a municipal infraction or obtain an administrative search warrant as provided by law to gain entry onto the real estate for the purpose of inspection or otherwise as provided by law.

#### 11.2.2 VIOLATIONS

Appropriate actions and proceedings may be taken by law or in equity to prevent any violation of this chapter; to prevent unlawful construction; to recover damages; to restrain, correct, or abate a violation; and to prevent illegal occupancy of a building, structure or premises. Unless otherwise expressly limited by state law, violations may also be subject to the penalties described in section 1-15 of this code and the remedies and enforcement powers identified in [section 135-11.2.4 of this article](#).

#### 11.2.3 CONTINUING VIOLATIONS

Each day that a violation continues constitutes a separate violation of this chapter.

#### 11.2.4 REMEDIES AND ENFORCEMENT POWERS

The city has all remedies and enforcement powers allowed by law, including, without limitation, all of the following:

- A. **Fines.** Any person violating any provisions of this chapter or failing to comply with any of its requirements may be deemed guilty of a misdemeanor or municipal infraction punishable in accordance with [section 1-15](#) of this code.

**B. Withhold Permit**

1. The community development director may deny or withhold all related permits, certificates or other forms of authorization on any land or structure or improvements upon which there is an existing violation of a provision of this chapter or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the city. This enforcement provision may be used regardless of whether the current owner or applicant is responsible for the subject violation.
2. Instead of withholding or denying a permit or other authorization, the community development director may grant such authorization subject to the condition that the violation be corrected.

**C. Revoke Permits**

1. A permit, certificate or other form of authorization required under this chapter may be revoked by the community development director when the community development director determines:
  - a. That there are unapproved departures from approved plans or permits; or
  - b. That any provision of this chapter or approval previously granted by the city has not been met is being violated.
2. Written notice of revocation must be sent by regular mail to the subject property owner and all persons to whom the permit was issued.

**D. Stop Work**

1. If the zoning enforcement officer finds work being performed in a manner contrary to the provisions of this chapter or in a dangerous or unsafe manner, the zoning enforcement officer is authorized to issue a stop work order.
2. A stop work order must be in writing and must be posted at the site of the violation. A copy of the order must also be provided to the owner of the subject property, to the owner's authorized agent, or to the person doing the work. Upon issuance of a stop work order, the cited work must cease immediately. The stop work order must state the reason for the order and the conditions under which the cited work is authorized to resume.
3. Any person who continues any work after having been served with a stop work order, except such work as that person is directed to perform

to remove a violation or unsafe conditions, is subject to penalties and enforcement as set out in this section.

**E. Injunctive Relief.** The city may seek an injunction or other equitable relief in court to stop any violation of this chapter or of a permit, certificate or other form of authorization granted under this or previous ordinances.

**F. Abatement**

1. The city may seek a court order for abatement, injunction or other action requiring the owner to correct a violation and order that the city's costs for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property on which the violation occurred, or both.
2. The city may seek a court order authorizing the city to abate or correct the violation and order that the city's costs for abatement or correction of the violation be entered as a personal judgment against the defendant or against the property on which the violation occurred, or both.

**G. Other Penalties, Remedies and Powers.** The city may institute any other proper action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use of any building, structure or site element; to restrain, correct, or abate such violation; to prevent the occupancy of the building, structure, land; or to prevent any illegal act, conduct, business or use in or about the premises.

**H. Continuation of Previous Enforcement Actions.**

Nothing in this chapter prohibits the continuation of previous enforcement actions, undertaken by the city pursuant to previous ordinances and laws.

**I. Stay of Enforcement Proceedings.** A request for further review of a Type 1 or Type 2 design alternative stays all enforcement proceedings in furtherance of the action under review, unless the zoning enforcement officer determines that a stay would, in his or her opinion, cause imminent peril to life or property.

**11.2.5 REMEDIES CUMULATIVE**

The remedies and enforcement powers established in this chapter are cumulative, and the city may exercise them in any combination or order.

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## Enforcement

### 11.2.6 PERSONS SUBJECT TO PENALTIES

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, or agent, or other person who commits, participates in, assists in, or maintains such violations may each be found guilty of a separate offense and be subject to penalties, remedies and enforcement actions.

### 11.2.7 ENFORCEMENT PROCEDURES

**A. Non-Emergency Matters.** In the case of violations of this chapter that do not constitute an emergency or require immediate attention, the subject property owner must be given notice by regular mail. Notices of violation must 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.

**B. Emergency Matters.** In the case of violations of this chapter that constitute an emergency situation as a result of public health or safety concerns if not remedied immediately, the city may use the enforcement powers available under this chapter without prior notice to the subject property owner.  
[END OF ARTICLE]