

CHAPTER 17. ENFORCEMENT AGAINST VIOLATIONS

17.1.1. Enforcement Responsibility

- (1) The Department of Planning and Development is hereby authorized to enforce the provisions of this Ordinance, with the responsibility being as set forth in the relevant provisions of this Ordinance.
- (2) The Department of Police is hereby authorized to enforce the provisions of Chapter 13, Part 5 of this Ordinance, with the responsibility being set forth in the relevant provisions of this Ordinance. (Ordinance of 6-2-98)

17.1.2. Penalties for Violations

- (1) Liability for violations. Any person who erects, constructs, reconstructs, alters, repairs, converts or maintains any building or structure in violation of this Ordinance, and any person who uses any building, structure or land in violation of the Ordinance, shall be guilty of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000), or shall be imprisoned in jail for not more than thirty (30) days, or shall be punished by both fine and imprisonment for each offense.
- (2) Each day a separate violation. Each day that a violation continues shall constitute a separate and distinct violation or defense.

17.1.3. Notice of Violation and Citation Procedure

- (1) Notice required before penalty. No penalty shall be assessed pursuant to Section 17.1.2 above unless and until the person alleged to be in violation has been notified of the violation in accordance with this Section. This notice requirement shall not apply in the case of repeat offender violating the same provision for which notice has been previously given.
- (2) Notice of violation and opportunity to cure. Whenever the Department of Planning and Development has reasonable cause to believe that a person in violation of any provision of this Ordinance or any plan, order, or condition which has been approved, issued, or imposed pursuant to this Ordinance, the Department shall immediately notify that person of the violation. Such notice of violation shall be in writing and shall be served by personal delivery or by mail to the best known address. The notice of violation (including an

order to stop any and all work which

violates this Ordinance), shall direct the person to correct the violation within a specified reasonable time period (beginning on the date such notice is received), and shall warn that more severe measures (such as a civil penalty or criminal prosecution) may be assessed or brought against the person if he or she fails to take appropriate action to cure or correct the violation. If the violator can be ascertained, then the notice of violation shall be sent to the record owner of the land on which the violation occurs. If the violation is cured or corrected within the time period specified in the notice of violation, then the City shall take no further action against the person.

- (3) Extension for time to cure. Upon receipt of a written request from the alleged violator or the property owner for an extension of time to cure or correct the violation, the Department may grant a single extension of time, not to exceed a period of 30 days, in which the alleged violator may cure or correct the violation before the City issues a citation pursuant to Subsection (d) below. Such extension of time shall not be granted unless the alleged violator or the property owner can demonstrate to the Department that the violation cannot be cured or corrected within the time period specified in the notice of violation because the labor or materials needed to take appropriate action are unavailable due to circumstances beyond the control of the alleged violator or the property owner.
- (4) Citation for violation. Any person who, after being given a notice of violation pursuant to Subsection (b) above, does not comply with this Ordinance within the time period set forth in the notice of violation, and who continues such violation, shall be subject to penalties set forth in Section 16.1.2 above. The City shall serve a written citation on the alleged violator by personal delivery or by certified or registered mail, return receipt requested. If the violator cannot be ascertained, then the notice of violation shall be sent to the record owner of the land on which the violation occurs. The citation shall again describe the nature of the violation and any actions that the alleged violator must take to cure or correct the violation, and shall specify the amount of any penalty which shall be levied against the alleged violator. The violation shall be cured or corrected within 1 week of receipt of the citation by the alleged violator,

or such other time period, not to exceed 30 days, as the citation may specify, or the specified fine shall be paid or the violator shall appear in City Court within 1 week of receipt of the citation if a hearing is desired.

- (5) Action for recovery of penalty. If one of the above actions is not taken within that theme, the matter shall be referred to the City Attorney for institution of a civil action in the name of the City, in a court of competent jurisdiction for recovery of the penalty or for initiation of a criminal prosecution.

17.1.4. Injunctive Relief and Other Remedies

- (1) This Ordinance also may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In any event where a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of the Ordinance, the Department of Planning and Development, and other appropriate agency of the City, or any adjacent or nearby property owner who would be affected by such violation, in addition to other remedies, may institute an injunction action, mandamus action or other appropriate proceeding to prevent the completion or occupation of such building, structure or land and/or to stop any development or other activity that violates this Ordinance.
- (2) Upon determining that an alleged violation is occurring or is threatened, the court shall enter such orders and/or judgments as are necessary to abate or prevent the violation.
- (3) The institution of an action for injunctive or other relief under this Section shall not relieve any party to such proceeding from any civil or criminal penalty prescribed by this Chapter for violations of this Ordinance.