

# **ARTICLE 9. ENFORCEMENT & PENALTIES**

## **9.1 RESPONSIBLE ENFORCEMENT ENTITY**

The Community Development Director shall be primarily responsible for enforcing the provisions of this Code. The Community Development Director shall be provided with the assistance of such other persons as the City Manager may direct, including but not limited to the Director of Public Works and the head of the Building Division.

## **9.2 AUTHORIZATION FOR INSPECTIONS**

Upon presentation of proper credentials, the Community Development Director, or his or her designee(s), may enter any building, structure, real property, or premises to ensure compliance with the provisions of this Code. Such inspections shall be carried out during normal business hours unless the Community Development Director determines there is an emergency.

## **9.3 VIOLATIONS**

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

### **9.3.1 Activities Inconsistent with Code**

Erect, construct, reconstruct, remodel, alter, maintain, expand, move, or use any building, structure, or sign, or to engage in development or subdivision of any land in contravention of any zoning, subdivision, sign, or other regulation of this Code, including all required approvals.

### **9.3.2 Land Disturbing Activities Inconsistent with Code**

Excavate, grade, cut, clear, or undertake any other land disturbance activity contrary to the provisions of this Code or without first obtaining all requisite land use approvals required by this Code or other applicable regulations.

### **9.3.3 Nonconformities Inconsistent with Code**

Create, expand, replace, or change a nonconforming use, structure, lot, or sign except in compliance with this Code.

### **9.3.4 Making Lots or Setbacks Nonconforming**

Reduce or diminish the lot area, setbacks, or open space below the minimum required by this Code.

### **9.3.5 Increasing Intensity of Use**

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

### **9.3.6 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, or other form of authorization required to engage in such activity.

### **9.3.7 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.

### **9.3.8 Failing to Remove Signs**

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

## **9.4 CONTINUING VIOLATIONS**

Each day that a violation occurs or remains uncorrected after receipt of notice shall constitute a separate violation of this Code.

## **9.5 REMEDIES AND ENFORCEMENT POWERS**

The Zoning Enforcement Officer and relevant Decision-Making Bodies shall have the following remedies and powers to enforce this Code:

### **9.5.1 Civil Remedies and Enforcement Powers**

#### **A. Deny/Withhold Permits.**

1. 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.
2. Where a property owner, agent, or other person has a record of an outstanding serious violation or violations of this Code, the relevant Decision-Making Bodies shall be authorized to deny or withhold all permits, certificates, or other forms of authorization for any use or development activity undertaken by such person until the outstanding violation is corrected. This provision shall apply whether or not 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 Approvals or Permits.

1. Revoke any development approval, permit, or other authorization, after notice and a public hearing by the Decision-Making Body that originally granted the final approval, permit, or other authorization, when it is determined that either:
  - a. There is a material departure from the approved plans, specifications, or conditions of approval;
  - b. There is a violation of any provision of this Code;
  - c. The development approval or permit was obtained by false representation; or
  - d. The development approval or permit was issued in error.
2. Written notice of revocation shall be served upon the owner, the owner's 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 the violation. No work or construction shall proceed after service of the revocation notice.

D. Stop Work Order.

1. Issuance of Stop Work Order. With or without revoking permits, the Community Development Director or Chief Building Official may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this Code or a provision of a permit or other form of authorization issued pursuant to this Code. The stop work order shall specify the Code provisions allegedly being violated. After any such order has been 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.
2. Timing/Notice. The stop work order may be issued at the same time as the notice of the initial violation (see §9.8.1. below), or subsequent to such notice. The stop work order may also specify a shorter time for correction of the violation than the 14-day period specified in §9.8.1 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).

E. Injunctive Relief. Initiate injunction proceedings or other appropriate legal action in the District Court, the Arvada Municipal Court, or other court of competent jurisdiction against any person who fails to comply with any provision of this Code or any requirement or condition imposed pursuant to this Code. In any court proceeding in which the City seeks a preliminary injunction, it shall be presumed that a violation of this 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.

F. Abatement. Seek a court order in the District Court, the Arvada Municipal Court, or other court of competent jurisdiction, 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 which existed before the violation.

- G. Revoke Licenses. The City may revoke the license of any City-licensed contractor or City-licensed business operation where there are repeated violations of this Code. Revocation of licenses shall be processed according to applicable procedures adopted for this purpose by the applicable City Department or entity.

### **9.5.2 Criminal Remedies**

- A. Guilty of Misdemeanor. A person shall be guilty of a misdemeanor upon conviction in any case where a violation of this Code exists, where notice of violation, including any stop-work order, has been properly served, and where such person fails to comply with such notice or stop-work order.
- B. Penalty. Persons found guilty of a misdemeanor pursuant to this Section shall be punishable by a fine of not more than \$999.00 or by imprisonment for not more than 180 days, or by both such fine or imprisonment for each such violation.

## **9.6 REMEDIES CUMULATIVE**

The remedies provided for violations of this 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.

## **9.7 COMPLAINTS REGARDING VIOLATIONS**

Any person may file a complaint alleging a violation of this Code. Such complaint, stating fully the causes and basis thereof, shall be filed with the Zoning Enforcement Officer. The Zoning Enforcement Officer shall properly record such complaint, immediately investigate, and take action as provided by this article.

## **9.8 ENFORCEMENT PROCEDURES**

### **9.8.1 Non-Emergency Matters**

- A. In the case of violations of this Code that do not constitute an emergency or require immediate attention, written notice of the nature of the violation shall be given 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 being violated, and—unless a shorter time frame is allowed by this Article— shall state that the individual has a period of 14 days from the date of the receipt of the notice in which to correct the alleged violations before further enforcement action shall be taken. The notice shall also state any appeal and/or variance procedures available pursuant to this Code.

- B. The Community Development Director may grant an extension of the time to cure an alleged violation, if the Community Development Director finds that due to the nature of the alleged violation, it reasonably appears that it cannot be corrected within 14 days.

### **9.8.2 Emergency Matters**

In the case of violations of this Code that constitute an emergency as a result of safety or public concerns, or violations that will create increased problems or costs if not remedied immediately, the Zoning Enforcement Officer may use the enforcement powers available under this Article without prior notice, but the Officer 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.

### **9.8.3 Options Upon Non-Compliance**

In the event a person fails to comply with a notice of violation or stop work order, or to remedy the violation to the satisfaction of the Zoning Enforcement Officer within the required time period, then the Zoning Enforcement Officer, in consultation with the Community Development Director and City Attorney, shall determine whether to subject the violator to the civil remedies listed in §9.5.1, to criminal liability pursuant to §9.5.2 above, or to any other equitable or other remedy available.