

# Article 21

## ENFORCEMENT

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*CASE NUMBER: TA020203*

# ARTICLE 21: ENFORCEMENT

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## ARTICLE 21: ENFORCEMENT

### SECTION 1 – COMPLIANCE REQUIRED

- 21.1.1 No person shall use, occupy, or develop any land, building or other structures, or authorize or permit such use, occupancy or development, except in accordance with all applicable provisions of this Unified Development Code.
- 21.1.2 The owner of any building, structure, or land, or part thereof, and any architect, builder, contractor, agent or any other person employed in connection therewith, who violates, or assists in or contributes to the commission of a violation of this Unified Development Code, shall be deemed guilty of such violation and shall become liable for the penalties herein established.

### SECTION 2 – NOTICE OF INTENT TO SUSPEND OR REVOKE

- 21.2.1 Before suspension or revocation of any permit or authorization pursuant to this Article, the Chief Building Official or Director of Planning, or designee(s), may give notice of the intent to suspend or revoke said permit or authorization, which notice may specify a reasonable time for compliance with this Unified Development Code. If notice of intent is given, suspension or revocation may not occur before the time for compliance has expired.

### SECTION 3 – SUSPENSION OR REVOCATION OF PERMIT

- 21.3.1 When the City determines that a permit has been issued in error or on the basis of incorrect information, or that there has been non-compliance with the provisions of the Unified Development Code, the Chief Building Official or Director of Planning or other Department heads as applicable, may suspend the permit or license pending compliance with this Code. The Chief Building Official or Director of Planning or designee(s) may revoke a permit if compliance is not achieved within a reasonable period of time.
- 21.3.2 Notice of suspension or revocation of a building permit, or certificate of occupancy shall be sent to the permit holder by certified mail, return receipt requested, in accordance with Article 20, “General Procedures”, Section 10, “Notice Provisions” of this Code.
- 21.3.3 A permit or certificate of occupancy may be immediately revoked by the Chief Building Official or the Director of Planning or designee(s) as designated by the City Manager or Deputy City Manager when and if additional noncompliance with this Code occurs after the permit has been suspended.

### SECTION 4 – SUSPENSION OR REVOCATION OF PERMITS CONDITIONED BY A VARIANCE OR SPECIAL EXCEPTION

- 21.4.1 When the applicable Department determines that there is a failure to comply with any term, condition or requirement of a variance or special exception, the Chief Building Official or designee may suspend any permits pending compliance with the terms, conditions or requirements under which the variance or special exception was approved.

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- 21.4.2 Notice of suspension or revocation of a permit shall be sent by certified mail, return receipt requested, in accordance with “Notice Provisions of,” Article 20, “General Procedures,” Section 10, Notice Provisions,” of this Code.
- 21.4.3 The Zoning Board of Adjustment and Appeals (ZBA) shall hold a public hearing no later than forty-five (45) days after notification in accordance with Subsection 20.7.6, of this Code, and upon notice of such public hearing being advertised in the manner prescribed in Article 20, “General Procedures,” Section 10, “Notice Provisions,” of this Code. If the Board determines that there is a failure to comply with any term, condition or requirement of the variance of special exception, it may revoke the variance or special exception or take such action as it considers necessary to ensure compliance.

### SECTION 5 – SUSPENSION AND REVOCATION OF SITE PLAN, SPECIFIC USE PERMIT OR SUBDIVISION CONSTRUCTION/ENGINEERING PLAN

- 21.5.1 When the City determines that a subdivision construction plan has been approved in error or on the basis of incorrect information, or that there has been a failure to comply with the provision of this Unified Development Code, the Director of Planning or designee or Director of Public Works or designee may suspend the approval of the subdivision construction/engineering plan until there is compliance with this Code. The Director or designee may revoke the approval of the subdivision construction/engineering Plan if compliance is not achieved within a reasonable time.
- 21.5.2 Notice of suspension or revocation of the approval of a subdivision construction plan shall be sent by certified mail, return receipt requested, in the manner provided in Article 20, “General Procedures,” Section 10, “Notice Provisions,” of this Code.
- 21.5.3 A site plan or specific use permit may be revoked by the City Council upon public hearing as specified in Article 20, “General Procedures,” if violations of conditions are determined to exist.

### SECTION 6 – SUSPENSION AND REVOCATION OF CERTIFICATE OF OCCUPANCY

- 21.6.1 When the Chief Building Official or designee determines that a certificate of occupancy has been issued in error or on the basis of incorrect information or that the building or structure is in violation of any ordinance or regulation, the Chief Building Official or designee may suspend the Certificate of Occupancy until there is compliance with all ordinances and regulations. The Chief Building Official or designee may revoke a Certificate of Occupancy if compliance is not achieved within a reasonable time.
- 21.6.2 Notice of suspension or revocation of a certificate of occupancy shall be mailed by certified mail, return receipt requested, in the manner provided in Article 20, “General Procedures,” Section 10, “Notice Provisions,” of this Code.
- 21.6.3 A Certificate of Occupancy may be immediately revoked by the Chief Building Official or designee where additional noncompliance occurs after the certificate has been suspended.

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### SECTION 7 – NONCOMPLIANCE WITH CONDITIONS OF CERTIFICATE OF OCCUPANCY, SPECIFIC USE PERMIT, AND VARIANCES

- 21.7.1 For the purposes of this Article, any violations of this Unified Development Code, after a certificate of occupancy, specific use permit or variance has been granted, shall be investigated by the Code Compliance Supervisor, or designee and they shall also be responsible for any enforcement action necessary.
- 21.7.2 The Code Compliance Supervisor, or designee, after establishing a violation to this Code, specific use permit or variance, may request revocation of any Certificate of Occupancy, being enacted by the Chief Building Official or designee.
- 21.7.3 The Zoning Board of Adjustment may hear appeals to the Chief Building Official's decision to revoke the Certificate of Occupancy when it is alleged that there was an error law in his order, requirement, decision or determination. (Reference Article 20, "General Procedures")

### SECTION 8 – CEASE AND DESIST ORDER

- 21.8.1 When the City determines that there has been noncompliance with any material, term, condition or requirements of this Unified Development Code, the City may order any person having a proprietary interest in the property or any person engaged in the development of or construction on the property to cease and desist from engaging in any further development or construction activities on the site. The Cease and Desist Order shall be in writing and shall be posted on the site. The order shall specifically state the nature of the noncompliance and the acts prohibited.
- 21.8.2 The appropriate Department may bring suit in a court of competent jurisdiction to restrain and enjoin any person attempting or allowing development or construction without a permit or other authorization or who fails to cease and desist from further development or construction after notice of a Cease and Desist Order has been posted in accordance with this Article.
- 21.8.3 When the City determines that, there has been noncompliance with this Unified Development Code which constitutes a health or safety hazard, a Cease and Desist Order shall be issued and shall remain in effect until there has been compliance with this Unified Development Code. This Article shall not override the Health Director or Designee's ability to suspend, or reinstate food or childcare permits in conformance with state and federal laws.

### SECTION 9 – APPEAL OF CEASE AND DESIST ORDER, REVOCATION OR SUSPENSION

- 21.9.1 Appeal of a Cease and Desist Order, suspension or revocation may be made to the Chief Building Official or to the Director of Planning or their designee(s), as appropriate, by any person aggrieved, by giving written notice no later than three (3) days after the Cease and Desist Order is posted, or notice of the suspension or revocation is received. The notice shall state:

- A. The name and address of the person making the appeal;

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- B. The facts surrounding a particular appeal;
- C. The nature of the Cease and Desist Order, suspension or revocation; and
- D. The reasons why the ruling should be set aside.

21.9.2 The Chief Building Official or Director of Planning or designee(s) shall hear the appeal, together with any technical testimony presented on behalf of the appellant and that of the City no later than ten (10) calendar days after the appeal has been filed. The Chief Building Official or Director of Planning or designee(s) shall either affirm or reverse the decision appealed, no later than seven (7) calendar days after the hearing. The person bringing the appeal shall be given written notice of the decision accompanied by a statement of reasons for the decision.

21.9.3 Appeal of the Chief Building Official's or Director of Planning's decision may be made by any aggrieved person to the City Council, in the case of a suspension or revocation of an approved subdivision construction plan, or of an appeal from suspension or revocation of a site plan or a special use permit; or to the appropriate Board, in the case of an appeal from suspension or revocation of a permit, or a Cease and Desist Order. The applicant shall give written notice to the City Council or Board in the manner provided in Subsection 21.9.1 of this Section, within three (3) days of receiving notice of the decision appealed from.

21.9.4 The Council or appropriate Board shall hear the appeal at its next regularly scheduled meeting following receipt of the notice of appeal, in the manner provide din Article 20, "General Procedures."

21.9.5 An appeal brought under this section shall not stay the Cease and Desist Order, suspension or revocation.

### SECTION 10 – CRIMINAL ENFORCEMENT

21.10.1 The violation of any of the provisions of this Unified Development Code shall be unlawful and shall constitute a misdemeanor. Each day that the violation continues shall constitute a distinct and separate violation offense.

21.10.2 Any criminal violation of this Unified Development Code shall be fined in an amount not to exceed \$1,000 per offense.

21.10.3 Nothing in this section shall limit in any manner the authority of the City to seek any injunctive or other Civil relief available under the laws of the State of Texas.

### SECTION 11 – CIVIL REMEDIES

21.11.1 If any building, structure, or land is used, constructed, maintained, repaired, or altered, or any development is undertaken in violation of this Unified Development Code, the City may institute any appropriate action to prevent, restrain, correct or abate the violation authorized by the

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State of Texas, including but not limited to the following:

- A. To impose a civil penalty, not to exceed \$2,000 a day, for the kinds of violations enumerated in Texas Local Government Code 54.012;
- B. To enjoin violations or threatened violations of Article 12, "Platting," of this Unified Development Code relating to the subdivision of land;
- C. To recover damages from the owner of a tract of land in violation of Article 12, "Platting," of this Unified Development Code in an amount adequate for the City to undertake any construction or other activity to bring about compliance with such regulation.

21.11.2 The imposition of any penalty shall not preclude the City from instituting any other appropriate action to require compliance with this Unified Development Code and with administrative orders and determinations made pursuant to this Code.