

## CHAPTER 10: ENFORCEMENT

### 10.10.1 ~~PURPOSE~~GENERAL PROVISIONS

#### A. Purpose

~~This Chapter establishes procedures through which the Town seeks to ensure compliance with the provisions of this UDC and obtain corrections for violations of this UDC. The purpose of this Chapter also is to~~ sets forth the remedies and penalties that apply to violations of this UDC. The provisions of this Chapter are intended to encourage the voluntary correction of violations, where possible.

#### B. Compliance Required

~~No person shall develop or use any land, building, or structure within the Town in violation of this UDC, regulations authorized under this UDC, or the terms and conditions of permits or other approvals/entitlements issued under this UDC.~~

#### C. Permits and Approvals

~~No permit or approval may be issued under this UDC unless all structures and uses of land and structures permitted under the entitlement conform to this UDC, the regulations promulgated under this UDC, and the terms and conditions of the other permits and approvals issued under this UDC that apply to the use or structure. A permit or approval issued in violation of this Section is void.~~

#### D. Continuation of Prior Enforcement Actions

~~Nothing in this UDC shall prohibit the continuation of previous enforcement actions undertaken by the Town pursuant to previous regulations.~~

#### E. Continuing Violations

~~Each day that a violation occurs or remains uncorrected shall constitute a separate and distinct violation of this UDC.~~

### 10.10.2 RESPONSIBILITIES FOR ENFORCEMENT

~~The provisions of this UDC shall be administered and enforced by the Community Development Director/Director of Planning and Development or such other person as may be designated by the Community Development Director/Director of Planning and Development.~~

### 10.10.32 VIOLATIONS

Each of the following activities ~~is~~shall constitute a violation of this UDC:

#### A. Activity Inconsistent with this UDC

Any erection, construction, reconstruction, remodeling, alteration, maintenance, expansion, movement, or use of any building, structure, or sign, or development or subdivision of any land, in contravention of any provision of this UDC or any regulation promulgated under this UDC.

#### B. Activity Inconsistent with Permit or Approval

Any development, use, construction, remodeling, or other activity in any way generally inconsistent with the terms or conditions of any permit or approval required to engage in such activity, whether issued under or required by this UDC.

#### C. Separate Violations

Each day that a violation occurs or remains uncorrected shall constitute a separate and distinct violation of this UDC.

#### C. Illustrative Examples

~~Examples of activities generally inconsistent with this UDC or with permit or approval issued under this UDC include, but are not limited to, the following:~~

- ~~1. Use of any land, structure, or improvement except in accordance with the requirements of this UDC;~~
- ~~2. Increasing the density or intensity of any use of any land or structure except in accordance with the requirements of this UDC;~~
- ~~3. Filing or recording of a subdivision plat in any public office without approval for recording pursuant to this UDC;~~
- ~~4. Storage or maintenance of goods, materials, products, or other items outside and in plain view including, but not limited to operable vehicles or equipment, abandoned vehicles, or snow, except in compliance with this UDC;~~
- ~~5. Reduction or diminishment of lot area, setbacks, vegetative buffers, or open space below the minimum requirements set forth in this UDC;~~
- ~~6. Damage to or removal of vegetation generally inconsistent with this UDC;~~
- ~~7. Creation, expansion, replacement, or change of a nonconformity generally inconsistent with this UDC and all other applicable regulations;~~
- ~~8. Failure to remove any sign installed, created, erected, or maintained in violation of this UDC, or for which the sign permit has lapsed;~~
- ~~9. Failure to remove a temporary use once authorization for the temporary use under this UDC and all other applicable regulations has lapsed; and~~
- ~~10. Failure of a Homeowner's Association to construct, improve, or maintain any amenity, landscaping, buffers, fencing, or other improvements required by the terms of any permit or approval.~~

#### **10.10.43 REMEDIES AND PENALTIES**

~~The Community Development Director~~Director of Planning and Development shall have the following remedies and powers to enforce this UDC:

##### **A. ~~Civil Remedies and~~ Enforcement Powers**

###### **1. ~~Deny/Withhold Entitlements~~**

~~The Community Development Director~~Director of Planning and Development may deny or withhold all entitlements, including certificates of occupancy, or other forms of authorization to use or develop any land, structure, or improvements, until an alleged violation, associated civil penalty, ~~and/~~ or lien resulting from a previous final order related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit or other approval is responsible for the violation.

###### **2. ~~Revoke Entitlements~~**

~~Any entitlement or other form of authorization required under this UDC may be revoked when the Community Development Director determines that:~~

- ~~a. There is a departure from the approved plans, specifications, limitations, or conditions as required under the entitlement;~~
- ~~b. The entitlement was procured by false representation;~~
- ~~c. The entitlement was issued in error; or~~
- ~~d. There is a violation of any provision of this UDC.~~

~~Written notice of revocation shall be served upon the property owner, agent, applicant, or other person to whom the entitlement was issued, or such notice may be posted in a~~



~~prominent location at the place of violation. No work or construction shall proceed after service of the revocation notice. An entitlement shall only be revoked by way of a procedure that is equivalent (in terms of due process) to the proceeding that originally granted the entitlement.~~

### **3.2. Stop-Work Orders**

- a. Whenever any building, ~~or~~ structure or site or part thereof is being demolished, constructed, reconstructed, altered, or repaired ~~in a hazardous manner, in substantial violation of the building code any State or local building law,~~ or in a manner that endangers life or property, the ~~Community Development Director~~ Director of Planning and Development ~~is authorized~~ has the authority to issue a stop-work order for the specific part of the work that is in violation or presents the hazard.
- b. With or without revoking permits, the ~~Community Development Director~~ Director of Planning and Development may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this UDC or a provision of an entitlement or other form of authorization issued under this UDC.
- c. The stop-work order shall be in writing and posted at the site of the work, and shall specify the ~~alleged violations provisions of this Title or other law allegedly in violation.~~ After any such order has been posted, 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.
- d. ~~Once conditions for resumption of the work have been met, the Community Development Director~~ Director of Planning and Development ~~shall rescind the stop-work order.~~

### **B. Civil Penalties**

1. Violation of this UDC may be punishable through imposition of a civil penalty as set forth in the Town's Municipal Code.

#### **2. Injunctive Relief**

The ~~Community Development Director~~ Director of Planning and Development ~~Town~~ may seek injunctive relief or other appropriate relief in district court or other court of competent jurisdiction against any person who fails to comply with any provision of this UDC or any requirement or condition imposed pursuant to this UDC. In any court proceedings in which the Town seeks a preliminary injunction, it shall be presumed that a violation of this UDC is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject UDC violation.

### **C. Abatement**

The Town may abate ~~any~~ the violation of this UDC as follows pursuant to this Subsection:

- e.d. Before action is taken to abate a violation, a final warning notice shall be posted on the property and served personally or by first class United States ~~certified~~ mail ~~with return receipt required~~ to the owner of record of the property.
- f.e. Unless this notice is appealed, pursuant to Section 7.22, to the Board of Adjustment within 10 days of the posting of the final warning, the ~~Town~~ Community Development Director ~~Director of Planning and Development~~ shall proceed to abate the violation.
- g.f. The ~~Community Development Director~~ Director of Planning and Development ~~Town~~ shall keep an account of the cost, including incidental expenses, incurred by the Town in the abatement of any violation. The ~~Town~~ Community Development Director ~~Director of Planning and Development~~ shall forward a bill for collection to the violator and owner of record of the property specifying the nature and costs of the work performed. For purposes of this Section, the term "incidental expenses"

shall include ~~without limitation but not be limited to~~ the actual expenses and costs to the Town in the preparation of the notices, specifications and contracts, work inspection, and interest from the date of completion at the rate prescribed by law for delinquent real property taxes.

~~h.g.~~ The responsibility for payment of the charges for abatement as set forth in this Section shall rest solely upon the owners of the property upon which the abatement occurred. ~~Such charges become a lien upon the real property upon which the violation was located.~~ When charges for abatement remain unpaid after 30 days from billing, the ~~Community Development Director~~ Director of Planning and Development Town shall record a ~~claim of first and prior~~ lien against the property, to be collected by the County Treasurer in the same manner as property taxes. ~~at the district recorder's office.~~ The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state or municipal property taxes, with which it shall be upon a parity. The lien shall continue until the charges and all interest due and payable thereon are paid.

#### **Criminal Remedies and Enforcement Powers**

##### **4. Misdemeanor**

~~A person shall be guilty of a misdemeanor upon conviction in any case where a violation of this UDC exists, where notice of violation, including any stop work, enforcement, or compliance order has been properly served, and where such person fails to comply with such notice stop work, enforcement, or compliance order.~~

##### **5. Penalty**

~~Persons found guilty of a misdemeanor pursuant to this Section shall be punishable by a fine of not more than \$1,000.00 or by imprisonment for not more than 10 days, or by both such fine or imprisonment, for each violation.~~

#### **C. Remedies Cumulative**

The remedies provided for violations of this UDC, whether civil or criminal, shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order. The exercise of one remedy shall not preclude the exercise of any other available remedy.

ection 10.11.1 General Rules of Construction