

Chapter 249 Enforcement

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249.02 Permits, Licenses, Certificates, and Approvals

Any permit, license, certificate, or approval granted in conflict with any provision of this code shall be void. All uses for which permits are issued or approvals granted shall remain in compliance with the ordinance code and evidence of failure to remain in compliance shall be deemed grounds for permit revocation. The cost of issuing permits and of enforcing compliance with the requirements and conditions of zoning permits, conditional use permits, and other discretionary approvals may be recovered through charges or fees in connection with issuance of such permits, as established by resolution of the City Council.

249.04 Enforcement Responsibilities

The Director shall enforce all provisions of this ordinance code and shall have responsibility for revocation of discretionary permits, as provided in Section 249.06.

249.06 Revocation of Discretionary Permits

- A. Duties of Director. Upon determination by the Director that there are reasonable grounds for revocation of conditional use permits, variance, development plan approval, or other discretionary approval authorized by this code, a revocation hearing shall be set before the original hearing body.
- B. Notice and Public Hearing. Notice shall be given in the same manner required for a public hearing to consider approval. If no notice is required for the permit, none shall be required for the revocation hearing.
- C. Hearing. The Planning Commission or Zoning Administrator shall hear testimony of City staff and the owner of the use or structure for which the permit was granted, if present. At a public hearing, the testimony of any other interested person shall also be heard. A public hearing may be continued to a specific date, time, and place without additional public notice.

- D. Required Findings. The Planning Commission or Zoning Administrator shall revoke the permit upon making one or more of the following findings:
 1. That the permit was issued on the basis of erroneous or misleading information or misrepresentation;
 2. That the terms or conditions of approval of the permit have been violated or that other laws or provisions have been violated;
 3. That there has been a discontinuance of the exercise of the entitlement granted by the permit for twelve consecutive months.

- E. Decision and Notice. Within ten days of the conclusion of the hearing, the Planning Commission or Zoning Administrator shall render a decision and the Director shall mail notice of the decision to the owner of the use or structure for which the permit was issued and to any other person who has filed a written request for such notice.

- F. Effective Date; Appeals. A decision to revoke a discretionary permit shall become final ten days after the date of the decision, unless appealed.

- G. Rights Cumulative. The City's right to revoke a discretionary permit, as provided in this section, shall be cumulative to any other remedy allowed by law.

249.08 Enforcement Penalties

Each violation of the zoning and subdivision ordinances may be alternatively enforced as follows. Each method set forth herein is not intended to be mutually exclusive and does not prevent concurrent or consecutive methods being used to achieve compliance against continuing violations. Each and every twenty-four (24) hour period any such violations exist constitutes a separate offense.

- A. Misdemeanor Infraction. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of Titles 20-25 of this code may be prosecuted for a misdemeanor or an infraction. Written citations for misdemeanors may be issued by police officers or code enforcement officers.

All citations issued under this chapter shall be delivered to the City Attorney who shall have the prosecutory discretion as to the filing of a misdemeanor complaint with the court as required by California Penal Code Section 853.6.

Any person convicted of a misdemeanor under the provisions of this chapter shall be punished by a fine not to exceed five hundred dollars (\$500.00) or imprisonment for a term not to exceed six (6) months, or both fine and imprisonment. Any person convicted of an infraction shall be punished by a fine not to exceed five hundred dollars (\$500.00).

- B. Civil Action. The City Attorney at the request of the City Council may institute an action in any court of competent jurisdiction to restrain, enjoin or abate the condition(s) found to be in violation of the provisions of Titles 20-25 of this code, as provided by law.

- C. Payment of any fine or penalty shall not relieve a person, firm, or corporation from the responsibility of correcting the condition consisting of the violation.

249.10 Abatement Procedure

- A. Notification of Violations. Whenever the Director determines that any property within the City is being maintained contrary to the provisions of this ordinance code, the Director shall give written notice ("Notice to Abate") to the owner, sent by certified mail to his last known address, stating the section(s) or standards being violated. Such notice shall set forth a reasonable time limit, in no event less than seven days, for correcting the violation(s).
- B. Administrative Hearing to Correct Violations. In the event said owner shall fail, neglect or refuse to comply with the "Notice to Abate," the Director shall require the Zoning Administrator to conduct an administrative hearing to ascertain whether abatement should be required.
- C. Notice of Hearing. Notice of said hearing shall be mailed to the owner not less than ten days before the time fixed for hearing. Failure of any person to receive notice shall not affect the validity of the abatement proceedings hereunder.
- D. Administrative Hearing. At the time stated in the notice, the Zoning Administrator shall hear and consider all relevant evidence, objections or protests and shall receive testimony relative to such alleged zoning violation and to the proposed eviction or relocation of an illegal use or the rehabilitation, repair, removal or demolition of an illegal structures. Said hearing may be continued from time to time. If the Zoning Administrator finds that a zoning violation does exist and there is sufficient cause to evict or relocate an illegal use or rehabilitate, demolish, remove or repair an illegal structure, the Zoning Administrator shall prepare findings and an order specifying the nature of the violation, the method(s) of abatement and the time within which the work shall be commenced and completed. The order shall include reference to the right of appeal set forth in subsection (F) below. A copy of the findings and order shall be mailed to the property owner by certified mail. In addition, a copy of the findings and order shall be forthwith conspicuously posted on the property.
- E. Procedure, No Appeal. In the absence of any appeal, the illegal use shall be discontinued or property shall be rehabilitated, repaired, removed, or demolished in the manner and means specifically set forth in the order of abatement. In the event the owner fails to abate the violation as ordered, the Zoning Administrator shall cause the same to be abated by city employees or private contract. The costs shall be billed to the owner. The Zoning Administrator is expressly authorized to enter upon said property for such procedure.
- F. Appeal Procedure, Hearing by City Council. The owner may appeal the Zoning Administrator's findings and order to the City Council by filing an appeal with the City Clerk within seven days of the date of the Zoning Administrator's decision. The appeal shall contain:
 - 1. A specific identification of the subject property:
 - 2. The names and addresses of the appellants;

3. A statement of appellant's legal interest in the subject property;
4. A statement in ordinary and concise language of the specific order or action protested and the grounds for appeal, together with all material facts in support thereof;
5. The date and signature of all appellants; and
6. The verification of at least one appellant as to the truth of the matters stated in the appeal.

As soon as practicable after receiving the appeal, the City Clerk shall set a date for the Council to hear the appeal, which date shall be not less than seven days nor more than 30 days from the date the appeal was filed. The City Clerk shall mail each appellant written notice of the time and the place of the hearing at least five days prior to the date of the hearing. Continuances of the hearing may be granted by the Council on request of the owner for good cause shown, or on the Council's own motion.

- G. Decision by Council. Upon the conclusion of the hearing, the Council shall determine whether any use or structure on the property or any part thereof, as maintained, constitutes a zoning violation. If the Council so finds, the Council shall adopt a resolution declaring such a violation, setting forth its findings and ordering the abatement of the same by having the illegal use evicted or relocated or the illegal structure rehabilitated, repaired, removed, or demolished in the manner and means specifically set forth in the resolution. The resolution shall set forth the time within which such work shall be completed by the owner, in no event less than 30 days. The decision and order of the Council shall be final.
- H. Notice of Order to Abate. A copy of the resolution of the Council ordering the abatement of such violation shall be sent by certified mail to the property owner(s). Upon abatement in full by the owner, the proceedings hereunder shall terminate.
- I. Abatement by City. If such nuisance is not abated as ordered within the prescribed abatement period, the Director shall cause the same to be abated by City employees or private contract. The Director is expressly authorized to enter upon said property for such purposes. The cost, including incidental expenses, of abating the violation shall be billed to the owner and shall become due and payable 30 days thereafter. The term "incidental expenses" shall include, but not be limited to, personnel costs, both direct and indirect; costs incurred in documenting the violation; the actual expenses and costs of the City in the preparation of notices, specifications and contracts, and in inspecting the work; and the costs of printing and mailing required hereunder.
- J. Limitation of Filing Judicial Action. Any action appealing the Council's decision and order shall be commenced within 30 days of the date of mailing the decision.
- K. Demolition. No illegal structure shall be found to be a zoning violation and ordered demolished unless the order is based on competent sworn testimony

and it is found that in fairness and in justice there is no way other than demolition reasonable to correct such violation.

- L. Recorded Notice of Intent to Demolish Required. A copy of any order or resolution requiring abatement by demolition shall be recorded with the County Recorder.

249.12 Lien Procedure

- A. Record of Cost of Abatement. The Director shall keep an account of the cost, including incidental expenses, of abating zoning violation on each separate lot or parcel of land where the work is done by the City and shall render an itemized report in writing to the City Council showing the cost of abatement, including the cost of eviction or relocation of illegal uses or rehabilitation, demolition, or repair of illegal structures, including any salvage value relating thereto; provided that before said report is submitted to the City Council, a copy of the same shall be posted for at least five days upon the lot or parcel where the violation occurs, together with a notice of the time when said report shall be heard by the City Council for confirmation. A copy of said report and notice shall be served upon the property owner(s) at least five days prior to submitting it to the City Council. Proof of posting and service shall be made by affidavit filed with the City Clerk.
- B. Assessment Lien. The total cost for abating a zoning violation, as so confirmed by the City Council, shall constitute a special assessment against the respective lot or parcel of land to which it relates, and upon recordation in the Office of the County Recorder of a Notice of Lien, as so made and confirmed, shall constitute a lien on said property for the amount of such assessment.

After such confirmation and recordation, a certified copy of the Council's decision shall be filed with the County Auditor-Controller on or before August 1 of each year, whereupon it shall be the duty of said Auditor-Controller to add the amounts of the respective assessments to the next regular tax bills levied against said respective lots and parcels of land for municipal purposes and thereafter said amount shall be collected at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to such special assessment.

In the alternative, after recordation, such lien may be foreclosed by judicial or other sale in the manner and means provided by law.