

**Chapter 19.94
ENFORCEMENT**

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19.94.010 Enforcement authority.

The director or his authorized agent is designated as the officer charged with the enforcement of this title.

19.94.020 Powers and duties.

A. The director is authorized to inspect or cause to be inspected all buildings and structures in the course of construction, modification or repair and to inspect land uses to determine compliance with the provisions of this title; provided, however that no such inspection shall be required as a condition precedent to commencement or continuation of any construction, modification or repair of building or structure.

B. The director shall enforce all of the provisions of this title, employing all legal means available to do so. In the enforcement of this title, the director or his designee shall have the right to enter any building for the purpose of determining the use thereof or to enter the premises for the purpose of determining compliance with the provisions of this title, provided that such right of entry shall be exercised only at reasonable hours and that in no case shall entry be made to any occupied building in the absence of the owner or tenant thereof

without the written order of a court of competent jurisdiction.

19.94.030 Unlawful use prohibited.

A. No land, building or structure shall be used for any purpose or use not allowed in the zone in which such land, building or structure is located.

B. Violation of any of the provisions contained in this title is prohibited. Any person who violates the provisions of this title shall be subject to the criminal and civil penalties set forth in this chapter.

19.94.040 Violation—Penalties and remedies.

A. Violation of any of the provisions of this title is punishable as a Class “C” misdemeanor upon conviction. In addition, the provisions of this title may also be enforced by injunctions, mandamus, abatement, civil penalties, or any other remedies provided by law.

B. Any one, all, or any combination of the penalties and remedies set forth in subsection (A) of this section may be used to enforce the provisions of this title.

C. Each day that any violation continues after notification by the director or his designee that such violation exists shall be considered a separate offense for purposes of penalties and remedies set forth in this title.

D. Accumulation of penalties for continuing violations, but not the obligation for payment of penalties already accrued, shall stop upon correction of the violation.

19.94.050 Violation—Persons liable.

Any person, corporation or other entity, whether as owner, occupant, agent or employee, who causes, permits or otherwise participates in any violation of the provisions of this title may be held responsible for the violation, suffer the

penalties, and be subject to the remedies provided by law.

19.94.060 Violation—Notice and order.

A. Upon inspection and discovery that any provision of this title is being violated, the director shall provide a written notice of violation and order to the property owner and to any other party who may be responsible for the violation.

B. The written notice and order shall: (1) indicate the nature of the violation; (2) order the action necessary to correct the violation; (3) give information regarding the established warning period for the violation; and (4) state the action the director intends to take if the violation is not corrected within the warning period.

C. The written notice shall be delivered personally or mailed to the property owner, as shown on the records of the county recorder, and to any other person who may be responsible for the violation. Receipt of notice shall mean three days after the date written notice is delivered or mailed as provided herein.

D. The written notice shall serve to start any warning periods provided in this chapter, commencing upon receipt of notice. If the violation remains uncured within five days after the expiration of the warning period, a second notice of violation and order shall be delivered in the same manner as the first notice. The second notice shall serve to start the civil penalties.

E. In cases where the director determines that a delay of enforcement would pose a danger to the public health, safety or welfare, or would otherwise compromise the effective enforcement of this title, the director may seek immediate enforcement without prior written notice by instituting any appropriate remedies,

other than civil penalties, authorized by section 19.94.040.

19.94.070 Civil penalties.

A. Violations of the provisions of this title shall result in civil penalties as specified in the consolidated fee schedule.

B. *Daily violations.* Each day a violation is continued or maintained after receipt of notice shall give rise to a separate civil penalty for each day of violation.

C. *Violation appeal procedure.*

1. The city council shall appoint such hearing officers as the board deems appropriate to consider matters relating to the violation of this title.

2. Any person having received notice of such violation, or the owner of any affected property, may appear before a hearing officer and present and contest such alleged violation of this title.

3. The burden to prove any defense specified in subsection (C)(4) below shall be upon the person raising such defense.

4. If the hearing officer finds that no violation occurred and/or a violation occurred but one or more of the defenses set forth in this section is applicable, the hearing officer may dismiss the written notice of violation. Such defenses are:

(a) At the time of the receipt of the written notice of violation, compliance would have violated the criminal laws of the state.

(b) Compliance with the subject ordinances would have presented an imminent and irreparable injury to persons or property.

5. If the hearing officer finds that a violation of this title occurred and no applicable defense exists, the hearing officer may, in the interest of justice and on behalf of the city, enter into an agreement for the timely or periodic

payment of the applicable penalty by the violator.

6. No action by a hearing officer shall relieve the violator from complying with any of the provisions of this title.

D. Abatement for Correction and Payment.

1. Civil penalties shall be partially abated after the violation is cured and in the discretion of a hearing officer, considering the following guidelines and other factors:

(a) Prompt Cure. Reductions are generally appropriate for promptly curing the violation pursuant to the following schedule, but the hearing officer may grant greater or lesser abatements depending on the facts of the case:

(i) Cured within 14 days after second notice: 75% reduction;

(ii) Cured with 28 days after second notice: 50% reduction; or

iii. Cured within 56 days after second notice: 25% reduction.

(b) If strict compliance with the notice and order would have caused an imminent and irreparable injury to persons or property.

(c) If the violation and inability to cure were both caused by an event such as war, act of nature, strike, or civil disturbance.

(d) Such other mitigating circumstances as may be approved by the city attorney or designee.

(e) If a change in the actual ownership of the property was recorded in the recorder's office after the first or second notice was issued and the new owner is not related by blood, marriage or common ownership to the prior owner.

2. If the hearing officer finds that the notices violation occurred and no applicable defense applies, the hearing officer may, in the interest of justice and on behalf of the city, enter into an agreement for the delayed or periodic payment of the applicable penalty.

E. Collection of civil penalties.

1. If the penalty imposed pursuant to this chapter remains unsatisfied after 40 days or when the penalty amounts to \$5,000 from the receipt of notice, or 10 days from such date as may have been agreed to by the hearing officer, the city may use such lawful means as are available to collect such penalty, including costs and attorney fees.

2. Commencement of any action to remove penalties shall not relieve the responsibility of any penalty to cure the violation or make payment of subsequently-accrued civil penalties, nor shall it require the city to reissue any of the notices required by this chapter.