

CHAPTER EIGHT

ADMINISTRATION & ENFORCEMENT

8.1 DIRECTOR

The Director may delegate the authority, duties and powers pursuant to this Code.

8.2 INSPECTION

The Director may enter or inspect any building, structure, lot, parcel or property to ensure compliance with the provisions of this Code. Such inspection shall be carried out during business hours unless the Director determines that an emergency exists. Entry onto those portions of private property which are not open to the public, business invites and others for the purpose of conducting owner's business, shall be made only after contact with the owner of the premises, whose permission for the inspection should be obtained. Application for any approval, development, or project constitutes permission to inspect all of the property including structures relating to the application. Failing permission from the owner, no inspection of private portions of property shall be undertaken without an order from the Municipal Court or another court of competent jurisdiction.

8.3 CODE VIOLATIONS AND ENFORCEMENT

The remedies provided for violation(s) of any provision of this Code, City regulation or the Code of Ordinances, whether civil or criminal, shall be cumulative and be in addition to any other legal or equitable remedy. Except as otherwise provided, any development or use which is initiated or maintained or is not in compliance with the provisions of this Code is prohibited and shall be an "unlawful" development or use.

8.4 CONTINUING VIOLATIONS

Each day that a violation of any provision of this Code exists, occurs or remains uncorrected shall constitute a separate violation.

8.5 CIVIL REMEDIES AND ENFORCEMENT POWERS

- A. **Withhold Permit.** The Director, for any unlawful use or development, may:
1. Deny or withhold any permit(s), certificate(s) or other form(s) of authorization to use or develop any land, structure or improvements thereon. This provision shall apply regardless of whether the current owner or applicant is responsible for the violation.
 2. Revoke any development permit or other authorization when the Director determines:
 - a. That there is departure from the plans, specifications or conditions as required under terms of the permit or other authorization;
 - b. That the development permit was procured by false representation or was issued by mistake; or

- c. That any of the term(s), condition(s) or provision(s) are being violated or reasonably believed to be violated. Written notice of revocation shall be served upon the owner, the owner's agent or contractor that such permit was issued to or notice may be posted in a conspicuous or prominent location at the place of violation.
- 3. With or without revoking permits, stop work on a property where there is a violation of a provision of this Code or of a permit or other form of authorization issued hereunder.
- 4. Upon notice to the applicant the Director may petition the Planning Commission to, at public hearing, revoke the plan or other approval or condition its continuance on strict compliance with this Code, the provision of a financial guarantee or other security to ensure that construction is completed in compliance with approved plans or such other conditions as the Planning Commission may reasonably impose.
- 5. Initiate injunctive relief or abatement proceedings or other appropriate legal action in Municipal Court or another 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. The Director shall act to prevent, enjoin, abate or terminate violations.
- 6. Seek a court order in the nature of mandamus, abatement, injunction prohibition or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed prior to the violation.

B. Civil Penalty.

- 1. Any person who fails to comply with any provision of this Code shall be subject to a civil penalty of not less than \$100.00 or more than \$1000.00 for each offense.
- 2. Each day that a violation exists shall constitute a separate offense however, the maximum civil penalty that may be imposed, even in circumstances where there are multiple and continuing offenses, shall be \$10,000.
- 3. Every such action shall be brought before the Municipal Court of the City. Municipal Court shall have original jurisdiction to hear and decide such cases.
- 4. The City is entitled to recover judgment against any person failing to comply with any provision of this Code for reasonable attorney's fees in an amount determined by the Municipal Court.
- 5. The City, its officers and employees may initiate an action under this section, but neither the City nor its officers or employees shall be liable for any claim or cause of action.

C. Other Remedies. The City shall have such other powers and remedies as are and as may be provided by Colorado law for the violation of this or any duly and lawfully enacted Code.

D. Continuation. Nothing in this Code shall prohibit the continuation of enforcement

actions undertaken by the City pursuant to previous lawful and valid ordinances, laws, rules or regulations.

8.6 CRIMINAL PENALTY

A violation(s) of any provision of this Code or any requirement or condition imposed pursuant to this Code, including violations of standards and requirements adopted by reference shall be a misdemeanor. Upon conviction, any person found in violation shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than one (1) year or by both fine and/or imprisonment, for each violation. Violations of Section 4.2.D, Temporary Signs, by the same owner and/or occupant which involves enforcement action more than once within a one (1) year period are subject to the following fine schedule:

Second offense (up to).....\$ 50.00

Third offense (up to).....\$250.00

Each person violating this Code or any requirement or condition imposed pursuant to this Code, whether the person directly commits the act or aids or abets the same, whether present or absent, may be prosecuted and punished as a principal.

8.7 ENFORCEMENT PROCEDURES

A. Nonemergency Matters.

1. For violations of this Code that do not constitute an emergency, the Director shall give notice of the general nature of the violation to the property owner, agent, occupant or any applicant for any relevant permit in a manner reasonably calculated to afford notice.
2. Enforcement action shall be stayed for a period of ten (10) days after notice, as provided in this section, has been posted on the property, mailed to the last known owner of the property or been hand delivered. Lack of personal notice shall not defeat any enforcement action.
3. Notice may be given in person, by United States mail, or by posting notice on the premises.
4. Notice of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.
5. Notices are deemed to run with the land and may be recorded by the Director in the Mesa County land records.
6. Notices of violation are effective for twelve (12) months from the date of issue.

B. **Emergency Matters.** For violations of this Code, actual or alleged, that constitute an emergency as determined by the Director, City Council, City Manager or declaration of the county, state or federal government, the City may use the enforcement powers available under this Chapter without prior notice.