

CHAPTER 8:

ENFORCEMENT

Section 8.101. Enforcement

(Petition No. 2005-78 §8.101,06/20/05), (Petition No. 2006-116 §8.101, 01/16/07)

The Zoning Administrator or other staff as authorized by the Zoning Administrator, is authorized to enforce the provisions of this ordinance.

(Petition No. 2006-116 §8.101, 01/16/07)

Section 8.102. Enforcement procedures

(Petition No. 2005-78 §8.102,06/20/05)

If an inspection by the professional staff identified in Part 5 of Chapter 3 reveals a violation of these regulations, the Zoning Administrator, individually, or by and through his or her authorized designees, shall notify the violator and give the violator a specified time to correct the violation.

If the violation continues or is not corrected, proceedings for enforcement shall be initiated as described in this Chapter. *(Petition No. 2006-116 §8.102, 01/16/07)*

Section 8.103. General enforcement provisions.

(Petition No. 2005-78 §8.103,06/20/05)

The provisions of this Chapter may be enforced by any one, all, or a combination of the remedies authorized and prescribed by this Chapter. If a person continues to fail to comply with a particular provision of these regulations after the imposition of any one type of penalty, the person shall continue to remain subject to the remedies prescribed by this Chapter for the continued violation of the particular provision of these regulations. The Zoning Administrator, individually, or by and through his or her authorized designees, including the professional staff identified in Part 5 of Chapter 3, shall have the power to impose fines and penalties for violation of the Zoning Ordinance, as provided herein, and may withhold approval for building permits and certificates of occupancy, and secure injunctions and abatement orders to further ensure compliance with the Zoning Ordinance as provided for in this Chapter. Each day's continuing violation shall be a separate and distinct offense and may be subject to any one, all, or a combination of the remedies authorized and prescribed by this Chapter. *(Petition No. 2006-116 §8.103, 01/16/07)*

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Section 8.104. Criminal penalties.

Any person, firm or corporation who knowingly or willfully violates any provision of these regulations shall have committed a misdemeanor, and upon conviction thereof, shall be subject to a fine not exceeding \$500 or by imprisonment for a period not to exceed thirty (30) days.

Section 8.105. Citations.

(Petition No. 2005-78 §8.105(1)(3), 06/20/05)

- (1) The Zoning Administrator, individually, or by and through his or her authorized designees, including the professional staff identified in Part 5, Chapter 3, is authorized to issue citations to any person if there is a reasonable cause to believe that the person has violated any provision of these regulations. A violator shall be deemed to be the owner of the premises, the agent of the owner authorized to be responsible for the premises, or the occupant of the premises. Citations may be directly issued to the occupant, lessee, or person having immediate beneficial use of the property. The non-occupant owner or agent responsible for the premises each has a duty to maintain the premises in compliance with these regulations. A citation shall not be issued to a non-occupant owner, agent or occupant for those premises unless there has been written notice delivered to the owner, agent, or occupant, or mailed to the last known mailing address as shown by public records, or by making other reasonable efforts to communicate the existence of the violation to the owner, agent, or occupant.
(Petition No. 2006-116 §8.105(1), 01/16/07)
- (2) The initial citation for each violation shall be \$50.00. The issuance of a second citation for any violation that has not been corrected shall be in an amount up to \$200.00 upon the day of issuance, up to \$500.00 for the third citation, and up to \$500.00 thereafter. Any unpaid citations and delinquency charges shall be cumulative and shall subject the violator to a possible civil penalty to be recovered in a civil action in the nature of debt. The citations may be delivered in person to the violator or, if the violator cannot be readily found, then the citation may be mailed.
- (3) The citation shall direct the violator to make payment to the issuing department within fifteen (15) days of the date of the citation, or alternatively pay the citation by mail. If the violator does not make such payment or does not mail the citation and payment within fifteen (15) days of the issuance, a delinquency charge of ten dollars (\$10.00) shall be added to the amount shown on the citation. The citation shall inform the violator that a civil complaint or criminal summons may be filed if the citation and delinquency charge is not paid within fifteen (15) days from the date of delinquency. Further, the citation shall state that the violation is a continuing violation and additional citations may be issued with escalating amounts for a continuing violation. *(Petition No. 2007-159, § 8.105(3), 01/22/08)*

Section 8.106. Civil judicial remedies.

- (1) If a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure or land is used in violation of these regulations or other regulation made under authority conferred thereby, the City, in addition to other remedies, may institute any appropriate action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, to restrain, correct or abate the violation, to prevent occupancy of the building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises. The General Court of Justice shall have jurisdiction to issue such orders as may be appropriate.
- (2) If the Zoning Ordinance makes unlawful a condition existing upon or use made of real property, then the Zoning Ordinance may be enforced by injunction and order of abatement and the General Court of Justice shall have jurisdiction to issue such orders. When a violation of such an ordinance occurs the City may apply to the appropriate division of the General Court of Justice for a mandatory or prohibitory injunction and order of abatement commending the defendant to correct the unlawful condition upon or cease the unlawful use of the property.
- (3) In addition to an injunction, the court may enter an order of abatement as a part of the judgment in the cause. An order of abatement may direct that buildings or other structures on the property be closed, demolished, or removed or that any other action be taken that is necessary to bring the property into compliance with the ordinance. If the defendant fails or refuses to comply with an injunction or with an order of abatement within the time allowed by the court, he may be cited for contempt, and the City may execute the order of abatement. The City shall have a lien on the property for the cost of executing an order of abatement in the nature of a mechanic's and material man's lien. The defendant may secure cancellation of an order of abatement by paying all costs of the proceedings and posting a bond for compliance with the order. The bond shall be given with sureties approved by the clerk of superior court in an amount approved by the judge before whom the matter is heard and shall be conditioned on the defendant's full compliance with the terms of the order of abatement within a time fixed by the judge. Cancellation of an order of abatement shall not suspend or cancel an injunction issued in conjunction therewith.

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Section 8.107. Other remedies.

(Petition No. 2006-116 §8.107(1,2,3 & 4), 01/16/07)

- (1) In addition to other remedies provided for under the Zoning Ordinance, the professional staff identified in Part 5 of Chapter 3 is authorized to withhold approval for the issuance of a building permit or a certificate of occupancy to prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, moving, maintenance, use or occupancy of the land, project, structure, or building, or to prevent any illegal act, conduct, business, or use in or about the site or premises.
- (2) In addition to other remedies provided for under the Zoning Ordinance, the professional staff identified in Part 5 of Chapter 3 is authorized to suspend or revoke a building permit or revoke a certificate of occupancy issued under the provisions of this ordinance if it is determined that the permit or certificate of occupancy was issued in error, or on the basis of incorrect information. Revocation of a certificate of occupancy or a building permit is also authorized when the site, parcel, building or structure, or any portion thereof, is in violation of any applicable provision of these regulations that would create a public health and safety hazard.
- (3) Written notice of the suspension or revocation of a building permit or a certificate of occupancy pursuant to Section 8.107(2) shall be given in accordance with the provisions for issuance of citations set out in Section 8.105.
- (4) Any party aggrieved by the suspension or revocation of a building permit or certificate of occupancy pursuant to Section 8.107(2) may appeal the decision in accordance with the provisions of Chapter 5.