

ARTICLE 30

ENFORCEMENT, VIOLATION AND PENALTY

Sections:

- 30-1 Responsibility for Enforcement
- 30-2 Violations
- 30-3 Continuing Violations
- 30-4 Liability
- 30-5 Remedies and Enforcement Powers
- 30-6 Enforcement by Others
- 30-7 Continuation of Previous Enforcement Actions
- 30-8 Remedies Cumulative

ARTICLE 30-1 RESPONSIBILITY FOR ENFORCEMENT

30-101. The Zoning Administrator is responsible for enforcing these Regulations, except as otherwise expressly stated.

ARTICLE 30-2 VIOLATIONS

30-201.

- a. **Compliance Required.** All Buildings and land used and all Buildings and structures erected, converted, enlarged, reconstructed, moved or structurally altered shall comply with all applicable provisions of these Regulations.
- b. **Types of Violations.** Unless otherwise expressly stated by these Regulations or State law, any violation of these Regulations, including but not limited to the following, will be subject to the remedies and penalties provided for in this Article:
 - 1. to use land or buildings in any way not consistent with the requirements of these Regulations;
 - 2. to engage in development activity in any way not consistent with the requirements of these Regulations;
 - 3. to engage in the use of a building or land, the use, or development activity requiring one or more permits or approvals under these Regulations without obtaining all such required permits or approvals;
 - 4. to engage in the use of a building or land, the use, or development activity requiring one or more permits under these Regulations in any way

inconsistent with any such permit or approval or any conditions imposed thereon;

5. to violate the terms of any permit or approval granted under these Regulations or any condition imposed on such permit or approval;
6. to obscure, obstruct or destroy any notice required to be posted or otherwise given under these Regulations; or
7. to violate any lawful order issued by any person or entity under these Regulations.

c. Any lawful use of property, which use is subject to these Regulations, which as a result of the adoption of these Regulations is not a permitted use in the zoning district in which the property is located, but which use is a conditional use in that district in accordance with these Regulations, is deemed to be a conditional use effective upon adoption of these Regulations without the necessity of the granting of a conditional use permit.

SECTION 30-3 CONTINUING VIOLATIONS

30-301. Each day that a violation remains uncorrected after receiving notice of the violation from the City constitutes a separate violation of these Regulations for purposes of calculating cumulative penalties.

SECTION 30-4 LIABILITY

30-401. The owner, tenant or occupant of any land or structure, shall be presumed to know of activity occurring on the premises and thus may be charged with a violation of these Regulations for any violation found on any premises subject to these Regulations. Where an architect, contractor, builder or other person appears to have participated directly in a violation of these Regulations, the Zoning Administrator may also charge such person with a violation of these Regulations. All persons found to be responsible for the actions or inactions leading to a violation may be charged jointly and severally with violations as a result of the same incident or circumstances.

SECTION 30-5 REMEDIES AND ENFORCEMENT POWERS

30-501. The Zoning Administrator may use any of the following remedies and enforcement powers:

- a. **Withhold Permits & Approvals.** Deny or withhold all permits, certificates or other forms of authorization on any land, or structure or improvements thereon:

- (1) upon which there is an uncorrected violation of a provision of these Regulations or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City; and
 - (2) owned or being developed by a person who owns, developed or otherwise caused an uncorrected violation of a provision of these Regulations or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City.
- b. **Approval of Permits & Approvals with Conditions.** Instead of withholding or denying a permit or other authorization, the Zoning Administrator may grant such authorization only if adequate assurances are in place to ensure correction of the violation and provided that granting the permit or authorization will not compromise the public health, safety or general welfare.
- c. **Revoke Permits & Approvals.** Any permit or other form of authorization required under these Regulations may be revoked by the Zoning Administrator or by any City official with authority to issue such permit when that City official determines: (1) that there is departure from the plans, specifications, or conditions as required under terms of the permit, (2) that the development permit was procured by false representation or was issued by mistake, or (3) that any of the provisions of these Regulations are being violated.
- (1) Where permits are mistakenly issued, an applicant will be entitled to appeal the permit revocation to the Board of Zoning Appeals.
 - (2) Written notice of revocation shall be served upon the owner, the owner's agent or contractor, or upon any person employed on the building or structure for which such permit was issued, or shall be posted in a prominent location, and thereafter construction shall stop.
- d. **Stop Work.** Whenever a building or part thereof is being constructed, reconstructed, altered or repaired in violation of these Regulations, the Zoning Administrator may order the work to be immediately stopped.
- (1) The stop-work order shall be in writing and directed to the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.
 - (2) Violation of a stop-work order is a violation of these Regulations.
- e. **Revoke Plans or Related Approvals.** Where a violation of these Regulations involves a failure to comply with approved plans, or conditions to which the approval of such plans was made subject, the City may, upon notice to the

applicant and other known parties in interest (including any holders of building permits affected), revoke the plan or other approval or condition its continuance on strict compliance with these Regulations, the provision of financial security to ensure that construction is completed in compliance with approved plans, or such other conditions as the City may reasonably impose. Any required financial security shall be in a form approved by the City.

- f. **Legal Relief.** Pursuant to K.S.A. 12-761(b), the City may commence a civil action or proceeding in District Court to stop any violation of these Regulations or of a permit, certificate or other form of authorization granted hereunder, to remove a violation, or to restore the premises in question to the condition in which they existed prior to violation. The relief sought may include:
 - (1) an injunction or other equitable relief;
 - (2) an order in the nature of mandamus or abatement;
 - (3) a judgment or order enforcing any requirement of, or under, these Regulations to pay a fee or reimburse or compensate the City, including when the City is required or authorized to take specified action at the expense of the landowner; or
 - (4) any other judgment or order available under Kansas law.

- g. **Criminal Penalties.** Pursuant to K.S.A. 12-761(a), any person, firm, or corporation who shall violate any of the provisions of these Regulations, or fail to comply with any order or regulation thereunder, or who shall engage in development activity in violation of any specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, shall, for each and every violation and non-compliance respectively be deemed guilty of a misdemeanor, and upon conviction therefore shall be, for each offense:
 - (1) fined in a sum not less than \$10 nor more than \$500;
 - (2) imprisoned for not more than six months; or
 - (3) both fined and imprisoned.

- h. **Other Penalties and Remedies.** The City may seek such other penalties and remedies, and employ such other enforcement powers, as are provided by Kansas law for violations of zoning, subdivision, sign, or related provisions.

SECTION 30-6 ENFORCEMENT BY OTHERS

30-601.

- a. **Citizens.** Pursuant to K.S.A. 12-761(b), any person, the value or use of whose property is or may be affected by a violation of these Regulations, is authorized to maintain a suit or action in any court of competent jurisdiction to enforce the provisions of these Regulations and to abate nuisances maintained in violation thereof.
- b. **State Officials.** Pursuant to K.S.A. 12-761(c) and in the case of violations to the floodplain management regulations of these Regulations, the Attorney General and the Chief Engineer of the Division of Water Resources of the Kansas State Board of Agriculture are authorized, in addition to other remedies, to institute injunction, mandamus, or other appropriate actions or proceedings to prevent, correct or abate the violation.

SECTION 30-7 CONTINUATION OF PREVIOUS ENFORCEMENT ACTIONS

30-701. Nothing in these Regulations prohibits the City's continuation of previous enforcement actions, undertaken by the City pursuant to previous and valid ordinances and laws.

SECTION 30-8 REMEDIES CUMULATIVE

30-801. The remedies and enforcement powers established in these Regulations are cumulative, and the City may exercise them in any order.