

ARTICLE

10

Enforcement

10.1 Violations

A. Any of the following shall be a violation of the LDC and shall be subject to the enforcement remedies and penalties provided by this article and by state law:

1. Development without permit
To engage in any development, use, construction, remodeling, or other activity of any nature upon land or improvements thereon subject to the jurisdiction of this Ordinance without all required permits, certificates, or other forms of authorization as set forth in this Ordinance.
2. Development inconsistent with permit
To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form of authorization granted for such activity.
3. Violation by act or omission
To violate, by act or omission, any term, variance, modification, condition, or qualification placed by the city council or its agent boards upon any required permit, certificate, or other form of authorization for the use, development,

or other activity upon land or improvements thereon.

4. Use in violation
To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building or structure or to use any land in violation or contravention of this Ordinance or any other regulation made under the authority conferred thereby.
5. Subdivide in violation
To erect, construct, reconstruct, alter, repair, convert, maintain or use any building or structure or to use any land in violation or contravention of this Ordinance or any other regulation made under the authority conferred thereby.
6. Continue a violation
To continue any of the above violations is a separate and distinct offense.

10.2 Enforcement by the Planning and Building Department

- A. Complaints regarding violations
1. Whenever the Planning and Building Department has reasonable cause to believe that a person is in violation of any provision of

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this Ordinance or receives a written and signed complaint alleging a violation to this Ordinance or any plan, order, or condition which has been approved, issued, or imposed pursuant to this Ordinance, the Department shall immediately notify that person of the violation.

2. The Land Code Administrator may investigate violations of this Ordinance on his own initiative or upon receipt of verbal complaints.
3. The Land Code Administrator shall investigate the complaint, take such action as is warranted and inform the complainant in writing what actions have been or will be taken.

B. Procedures upon discovery of violations

1. No penalty shall be assessed pursuant to Section 10.3 unless and until the person alleged to be in violation has been notified of the violation in accordance with this Section. This notice requirement shall not apply in the case of repeat offender violating the same provision for which notice has been previously given.
2. A notice of violation shall be in writing and shall be served by personal delivery or by mail to the best known address. The notice of violation (including an order to stop any and all work which violates this Ordinance), shall direct the person to correct the violation within a specified reasonable time period (beginning on the date such notice is received), and shall warn that more severe measures (such as a civil penalty or criminal prosecution) may be assessed or brought against the person if he or she fails to take appropriate action to cure or correct the violation. If the violator can be ascertained, then the notice of violation shall be sent to the record owner of the land on which the violation occurs. If the violation is cured or corrected within the time period specified in the notice of violation, then the city shall take no further action against the person.
3. Upon receipt of a written request from the alleged violator or the property owner for an extension of time to cure or correct the

violation, the Department may grant a single extension of time, not to exceed a period of 30 days, in which the alleged violator may cure or correct the violation before the city issues a citation pursuant to Section 10.4.B. Such extension of time shall not be granted unless the alleged violator or the property owner can demonstrate to the Department that the violation cannot be cured or corrected within the time period specified in the notice of violation because the labor or materials needed to take appropriate action are unavailable due to circumstances beyond the control of the alleged violator or the property owner.

4. The final written notice (and the initial written notice may be the final notice) shall state what action is intended if the violation is not corrected and shall advise that the Land Code Administrator decision or order may be appealed to the Board of Aldermen as provided in Section 3.17, Administrative appeals. A civil penalty may not be appealed to the Board of Aldermen if the offender was sent a final notice and did not take an appeal to the Board of Aldermen within the prescribed time.
5. Any person who, after being given a notice of violation pursuant to Section 10.2, does not comply with this Ordinance within the time period set forth in the notice of violation, and who continues such violation, shall be subject to penalties set forth in Section 10.3. The city shall serve a written citation on the alleged violator by personal delivery or by certified or registered mail, return receipt requested. If the violator cannot be ascertained, then the notice of violation shall be sent to the record owner of the land on which the violation occurs. The citation shall again describe the nature of the violation and any actions that the alleged violator must take to cure or correct the violation, and shall specify the amount of any penalty which shall be levied against the alleged violator. The violation shall be cured or corrected within one (1) week of receipt of the citation by the alleged violator, or such other time period, not to exceed 30 days, as

the citation may specify, or the specified fine shall be paid or the violator shall appear in City Court within one (1) week of receipt of the citation if a hearing is desired.

6. If one of the above actions are not taken within that time, the matter shall be referred to the City Attorney for institution of a civil action in the name of the City, in a court of competent jurisdiction for recovery of the penalty or for initiation of a criminal prosecution.
7. Notwithstanding the foregoing, in cases where delay would seriously threaten the effective enforcement of this Ordinance or pose a danger to the public health, safety or welfare, the Land Code Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in Section 10.3.

10.3 Penalties for violation

A. Persons liable

The owner, tenant or occupant of any building, land or part thereof and any architect, builder, contractor, agent or other person who participates in, assists, directs, creates or maintains any situation contrary to the requirements of this Ordinance may be held responsible for the violation, suffer the penalties and be subject to the remedies herein provided.

B. Penalties and remedies for violations

1. Any person who erects, constructs, reconstructs, alters, repairs, converts or maintains any building or structure in violation of this Ordinance, and any person who uses any building, structure or land in violation of the Ordinance, shall be guilty of a misdemeanor and shall be fined not more than one thousand dollars (\$1,000), or shall be imprisoned in jail for not more than thirty (30) days, or shall be punished by both fine and imprisonment for each offense.
2. Each day that a violation continues after notification by the Land Code Administrator shall constitute a separate and distinct violation or offense for the purposes of the penalties and remedies specified in this article.

C. Permit revocation

1. A permit issued under this Ordinance shall be revoked if the permit recipient fails to develop or maintain the property in accordance with the plans submitted, the requirements of this Ordinance, or any additional requirements lawfully imposed by the permit-issuing authority.
2. Before a permit may be revoked, all of the notice, hearing and other requirements of Section 3.17, Administrative appeals, shall be met. The notice shall inform the permit recipient of the alleged grounds for the revocation.
 - a. The burden of presenting evidence sufficient to allow the permit-issuing authority to conclude that a permit should be revoked shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.
 - b. A motion to revoke a permit shall cite, insofar as practical, the specific reasons or findings of fact that support the motion. Such motion is adopted if passed by a majority vote, a quorum being present.
3. Before a permit which does not require a public hearing can be revoked, the Land Code Administrator shall give the permit recipient 10 days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of their right to obtain an informal hearing on the allegations. If the permit is revoked, the Land Code Administrator shall provide to the permittee a written statement of the decision and the reasons for such decision.
4. No person may continue to make use of land or buildings in the manner authorized by any permit authorized by this Ordinance after such permit has been revoked.

D. Stop work order

Whenever there is a land disturbing activity and/or a building, structure, sign or part thereof is being constructed, reconstructed, altered, or repaired in

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violation of this Ordinance, the Land Code Administrator may order the specific part of the work in violation of this Ordinance to be immediately stopped.

1. A stop work order issued under this section shall be in writing, directed to the person doing the work and shall state the specific work to be stopped, the specific reasons therefore and the conditions under which the work may be resumed. A copy of the stop work order shall also be sent forthwith to the owner of the property where the work is taking place and the developer, if different from the owner.
2. Any person aggrieved by the issuance of a stop work order may appeal the issuance of the order to the Board of Aldermen, pursuant to Section 3.17, Administrative appeals. However, an appeal shall not stay the operation of the stop work order except as provided in the following paragraph of this section.
3. The Board of Aldermen shall meet and act upon the appeal within 15 working days after the receipt of the appeal notice. If the Board fails to comply with this requirement, the stop work order shall be stayed automatically beginning on the day following the expiration of the 15-working-day period, and the stay shall remain in effect until the Board of Aldermen meets and acts on the appeal.
4. Neither the person whom a stop work order is served nor an owner or developer served with a copy under paragraph 1. above, may thereafter cause, suffer, or permit a violation of the order while it remains in effect, except

during a period in which the operation of the order is stayed under paragraph 3., above.

10.4 Injunctive relief and other remedies

- A. This Ordinance also may be enforced by an appropriate equitable remedy issuing from a court of competent jurisdiction. In any event where a building or structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained, or any building, structure, or land is used in violation of the Ordinance, the Planning and Building Department, and other appropriate agency of the City, or any adjacent or nearby property owner who would be affected by such violation, in addition to other remedies, may institute an injunction action, mandamus action or other appropriate proceeding to prevent the completion or occupation of such building, structure or land and/or to stop any development or other activity that violates this Ordinance.
- B. Upon determining that an alleged violation is occurring or is threatened, the court shall enter such orders and/or judgments as are necessary to abate or prevent the violation.
- C. The institution of an action for injunctive or other relief under this Section shall not relieve any party to such proceeding from any civil or criminal penalty prescribed by this Article for violations of this Ordinance.

10.5 Judicial review

Every final decision of the Board of Aldermen shall be subject to judicial review by the Circuit Court of Stone County.