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Article 14-11: ENFORCEMENT

14-11.1 COMPLIANCE WITH CHAPTER; QUESTIONS AND APPEALS ~~PURPOSE~~

Comment [JM1]: This is not a purpose section. Combined this with 14-11.2.

(A) -Compliance

All persons shall comply with the provisions of Chapter 14 and any regulations, orders or conditions of approval issued pursuant to this chapter.

Comment [CLG2]: relocated from 14-11.2, and in accordance with 14-3.16

(B) Questions

Questions of administration and enforcement shall be presented first to the Land Use Director proper administrative official. Questions shall be presented to the Board of Adjustment only on by reference by or appeal from the Land Use Director administrative official. Recourse from the decisions of the Board of Adjustment shall be to the Governing Body and then to the courts as provided by law.

Comment [CLG3]: This is contained in §3.17

[RESERVED]

~~It is the intent of this chapter that all questions of administration and enforcement shall first be presented to the administrative official and that such questions shall be presented to the Board of Adjustment only on reference by or appeal from the administrative official and that recourse from the decisions of the Board of Adjustment shall be to the governing body and thence to the courts as provided by law.~~

Comment [CLG4]: relocated from 11.4; addressed in previous paragraph

14-11.2 COMPLIANCE REQUIRED

~~[RESERVED] All persons shall comply with the provisions of this chapter and any regulations, orders or conditions of approval issued pursuant thereto.~~

14-11.23 ENFORCEMENT OFFICER

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One or more ~~An administrative official~~ s designated by the City Manager or his or her designee shall ~~administer and~~ enforce this chapter. The ~~enforcement officer~~ administrative official ~~official~~ may be provided with the assistance of such other persons as the City Manager ~~may direct~~ s.

Comment [CLG5]: LUD administers it

14-11.34 ENFORCEMENT PROCEDURES

It is the intent of this chapter that all questions of administration and enforcement shall first be presented to the ~~administrative official~~ and that such questions shall be presented to the Board of Adjustment only on reference by or appeal from the ~~administrative official~~ and that recourse from the decisions of the Board of Adjustment shall be to the Governing Body and thence to the courts as provided by law.

Comment [CLG6]: relocated

(A) -Complaints of Violations

~~When a violation of the Zoning regulations occurs, or is alleged to have occurred, a~~ Any person may file a written complaint alleging a violation of this chapter. The complaint shall state, ~~stating~~ fully the causes and basis thereof of the complaint, and shall be filed with the enforcement officer ~~administrative official~~. ~~The enforcement officer~~ He shall record the complaint properly, investigate promptly and take action as provided in by this chapter.

Comment [CLG7]: Change primarily for readability

(B) -Notice of Violations

If, in response to a complaint or upon his own initiative, the enforcement officer ~~administrative official~~ finds that any of the provisions of this chapter ~~are being~~ have been violated, he shall issue a written notice of violation ~~which~~ that shall notify, in writing, the owner or tenant of the property, indicating the nature of the violation and ordering the action necessary to correct it. He shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings or structures or of additions, alterations or structural changes; discontinuance of any

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~~illegal work being done; or shall take any other action authorized by this chapter to ensure compliance with or to prevent violations of its provisions.~~

~~_____ (1) _____~~ **d**Describes the specific violation;

~~_____ (2) _____~~ **o**Orders the action necessary to correct the violation;

~~_____ (3) _____~~ **E**Establishes a specific and reasonable period of time for the correction of the _____ violation;

~~_____ (4) _____~~ **s**States that failure to comply with the notice may result in one or more of the _____ following sanctions:

~~_____ (i) _____~~ **e**Enforcement and imposition of penalties pursuant to Section §14-11.45

~~_____ (ii) _____~~ **w**Withholding the recording of plats or plans;

~~_____ (iii) _____~~ **W**Withholding or revoking ~~B~~uilding ~~P~~ermits; or

~~_____ (iv) _____~~ **w**Withholding or revoking certificates of occupancy;

~~_____ (5) _____~~ **i**s **Be** posted on the property in a conspicuous place or mailed by certified mail, _____ return receipt requested, to the last-known address of the property owner and _____ to the tenant, if applicable; and

~~_____ (6) _____~~ **i**nforms the property owner or tenant that **he**they may appeal the notice pursuant _____ to Section

§14-3.17. |

Comment [CLG8]: This subsection revised to provide a clearer, more objective NOV procedure

14-11.45 REMEDIES AND PENALTIES

_____ (A) _____ Remedies

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If any ~~B~~building or ~~S~~structure is erected, constructed, reconstructed, ~~a~~altered, ~~-~~repaired, converted or maintained, or any ~~B~~building, ~~S~~structure, or Property land is used in violation of this chapter, or if any ~~of the regulations promulgated thereunder,~~ other violation of this chapter occurs, the Governing Body, City attorney, enforcement officer ~~administrative official~~ or any other proper City official may institute ~~any~~ appropriate action or proceedings to prevent, ~~such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation~~ or to mandate compliance; ~~to prevent the occupancy of such building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.~~

Comment [CLG9]: 'structure' includes 'building'

Comment [CLG10]: using defined terms

Comment [CLG11]: we do not have provision for administrative regulations, only procedures

Comment [CLG12]: 'violation' is comprehensive

Comment [CLG13]: revised to track what the legal theory would be

(B) ~~-~~ Fines Penalties

Comment [CLG14]: revised to distinguish between administrative penalties and criminal fines

Any ~~if any building or structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any structure or land is used in~~ violations of this chapter or of terms of approvals made pursuant to this chapter, ~~or if there is violation of any condition or requirement in connection with special exceptions, variance or rezoning under the terms of this chapter,~~ such violations may ~~shall~~ be punished as provided ~~for in~~ Section ~~Article~~ §1-3 of the Santa Fe City Code.

Comment [CLG15]: again, 'violation' is comprehensive

Comment [JM16]: I made this plural to mitigate the "any", which sweeps up nonsubstantive as well as substantive violations

Comment [CLG17]: revised for clarity

Comment [JM18]: Should be "may"

(C) Civil Penalties

In addition to other penalties or remedies, a penalty fee may be assessed for Construction without proper Permit approvals, in accordance with a schedule adopted by resolution of the Governing Body

14-11.56 ~~—~~ -ENFORCEMENT OF SANTA FE HOMES PROGRAM O. ~~ANY PERSON WHO VIOLATES THIS CHAPTER OR FAILS TO COMPLY WITH ANY OF ITS REQUIREMENTS SHALL, UPON CONVICTION, BE PUNISHED FOR EACH NONCOMPLIANCE AS PROVIDED FOR BY §1-3.~~

(C) PENALTIES FOR VIOLATIONS OF FLOOD REGULATIONS

A PERSON WHO VIOLATES ANY PROVISION OF THE FLOODPLAIN REGULATIONS SET FORTH IN §14-8.3, 30 DAYS AFTER NOTIFICATION OF THE VIOLATION, SHALL BE PUNISHED BY A FINE NOT

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~~TO EXCEED \$300.00 OR IMPRISONMENT FOR NOT TO EXCEED 90 DAYS OR BOTH. EACH DAY OF VIOLATION IS CONSIDERED A SEPARATE OFFENSE.~~

~~(D) SANTA FE HOMES PROGRAM VIOLATIONS; PENALTIES~~

~~(ORD. NO. 2005-30(A) §19)~~

~~(1) INSIDE THE CITY LIMITS~~

~~(A) IT SHALL BE UNLAWFUL FOR ANY PROPERTY OWNER SUBJECT TO THE SANTA FE HOMES PROGRAM TO VIOLATE ANY PROVISION OF OR FAIL TO COMPLY WITH ANY OF THE REQUIREMENTS OF §14-8-11 OR §26-1 SFCC.~~

~~(B) WHENEVER THE CITY FINDS THAT A PROPERTY OWNER HAS VIOLATED OR IS VIOLATING A REQUIREMENT OF §14-8-11 OR §26-1 SFCC, THE CITY SHALL ISSUE A WRITTEN NOTICE OF VIOLATION.~~

~~(C) A NOTICE OF VIOLATION SHALL:~~

~~(i) SET FORTH THE SPECIFIC VIOLATION FOUND;~~

~~(ii) ESTABLISH A SPECIFIC AND REASONABLE PERIOD OF TIME FOR THE CORRECTION OF THE VIOLATION FOUND;~~

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~~(III) — STATE THAT FAILURE TO COMPLY WITH THE NOTICE MAY RESULT IN THE FOLLOWING SANCTIONS, DEPENDING UPON WHICH IS DEEMED MOST EFFECTIVE AND APPROPRIATE CONSIDERING THE NATURE OF THE NONCOMPLIANCE:~~

~~A. — WITHHOLDING OF THE RECORDING OF PLATS OR PLANS;~~

~~B. — WITHHOLDING OF BUILDING PERMITS;~~

~~C. — ISSUING STOP WORK ORDERS;~~

~~D. — REVOKING BUILDING PERMITS; OR~~

~~E. — WITHHOLDING OR REVOKING CERTIFICATES OF OCCUPANCY.~~

~~(IV) — BE HAND DELIVERED TO THE PROPERTY OWNER OR MAILED REGISTERED MAIL, RETURN RECEIPT REQUESTED TO THE LAST KNOWN ADDRESS.~~

~~(V) — INFORM THE PROPERTY OWNER THEY MAY REQUEST A HEARING.~~

~~(D) — THE HEARING SHALL BE CONDUCTED BY THE DIRECTOR OF THE OFFICE OF AFFORDABLE HOUSING AFTER GIVING NOTICE TO THE PERSON REQUESTING THE HEARING.~~

~~(I) — ALL PARTIES SHALL BE ALLOWED TO RESPOND AND PRESENT EVIDENCE AND ARGUMENT ON ALL ISSUES INVOLVED.~~

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~~(II) — A RECORD OF THE HEARING SHALL BE MADE.~~

~~(III) — FINDINGS OF FACT SHALL BE BASED EXCLUSIVELY ON THE EVIDENCE PRESENTED AND ON MATTERS OFFICIALLY NOTICED.~~

~~(IV) — NOTICE OF THE FINAL DECISION SHALL BE IN WRITING AND HAND DELIVERED TO THE PROPERTY OWNER OR MAILED REGISTERED MAIL, RETURN RECEIPT REQUESTED TO THE LAST KNOWN ADDRESS.~~

~~(E) — DECISIONS MADE BY THE DIRECTOR OF THE OFFICE OF AFFORDABLE HOUSING SHALL BE FINAL AND MAY BE APPEALED TO DISTRICT COURT.~~

~~(F) — IF THE PROPERTY OWNER FAILS TO COMPLY WITH THE FINAL DECISION, THE OFFICE OF AFFORDABLE HOUSING SHALL NOTIFY THE CITY MANAGER AND THE LAND USE DEPARTMENT OF THE NONCOMPLIANCE AND REQUEST THAT APPLICABLE SANCTIONS BE IMPOSED. (ORD. NO. 2007-45-§-30)~~

~~(2) — OUTSIDE THE CITY LIMITS~~

Comment [CLG19]: This is incorporated into the general enforcement procedures – and enforcement is probably through Chapter 26 and not Chapter 14 anyway.

If, after having been given notice as set forth in [Section §26-1.19 of the SFCC](#), a property owner subject to a ~~Santa Fe Homes Program~~ [SFHP](#) agreement fails to comply with this [section, Section § 14-8.11](#) or [Section Article §26-1](#), the Office of Affordable Housing may request that the [City Manager](#) authorize the [City Attorney's office](#) ~~to~~ to pursue enforcement of specific performance requirements in accordance with the SFHP agreement ~~in an appropriate court of law.~~

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