

ARTICLE II

Enforcement

Sec. 16-2-10. Designation of Zoning Administrator; authority to inspect.

(a) Designation. The Administrator is hereby designated as the Zoning Administrator, and shall enforce these regulations. He or she may be provided with the assistance of such other persons as the City may direct.

(b) Authority to Inspect. Under the powers of this Chapter, the City shall have the authority through the exercise of any appropriate legal remedies to enter onto property within the City limits to inspect or to investigate suspected violations of this Chapter.

(1) Premises Occupied. If the building or premises upon which the suspected violation is located is occupied, the City shall present proper identification and request access. If access is denied, the City shall have recourse to every remedy provided by law to secure entry.

(2) Premises Unoccupied. If the building or premises upon which the suspected violation is located is unoccupied, the City shall make reasonable efforts to locate the person having charge of the premises. If entry is refused, the City shall have recourse to every remedy provided by law to secure entry.

(c) Complaint. Any person aggrieved by a violation or apparent violation of the provisions of this Chapter may file a written complaint with the Zoning Administrator. The Zoning Administrator may, upon good cause, inspect the property in response to the complaint, shall provide notice to the violator as specified in Section 16-2-20 below, and shall be authorized to order the violation to be remedied, as specified in Section 16-2-30 below. (Ord. 03, 2002 §9-2-1; Ord. 01, 2005 §1; Ord. 2005-07 §1)

Sec. 16-2-20. Notification to violator.

If the Zoning Administrator finds that any of the provisions of this Chapter are being violated, the Zoning Administrator shall notify the person responsible for such violations if known, and the owner of the property, in writing. The written notice shall state the nature of the violation and shall order the action necessary to correct it. The notice shall order the necessary corrections to be made within a reasonable period of time, as determined by the Zoning Administrator and shall be mailed by certified mail. (Ord. 03, 2002 §9-2-2; Ord. 01, 2005 §1; Ord. 2005-07 §1)

Sec. 16-2-30. Remedies.

When the City finds a violation of any of the provisions of this Chapter, it shall be authorized to order the following remedies.

(1) Discontinuance of Use Violation. The City may order any use of land, buildings or structures which violates the provisions of this Chapter to be discontinued or abated. The City shall order the immediate repair or removal of hazardous conditions, including

hazardous signs. If a use, sign or structure poses an immediate threat to life, property or the environment, the City may take such remediation as authorized by law.

(2) Removal of Buildings. The City may order any buildings, structures, additions, alterations or structural additions which violate the provisions of this Chapter to be removed. Any sign placed upon or over City property or a public right-of-way may be impounded in accordance with the law as evidence.

(3) Stoppage of Illegal Development. The City may order any development activities in violation of the provisions of this Chapter to cease.

(4) Enjoin Illegal Transfers. The City may enjoin, by action for injunction brought in any court of competent jurisdiction, any offer to sell, agreement to sell, sale or transfer of any subdivided property before a final plat has been approved by the City and recorded or filed in the office of the County Clerk and Recorder.

(5) Other Actions. The City may order such other actions to be taken as are necessary and as are authorized by this Code, by statute or by law, to ensure compliance with or to abate violation of the provisions of this Chapter.

(6) Remedies are Cumulative. All remedies provided for in this Section are cumulative, are not exclusive and shall be in addition to any other remedies provided by law. (Ord. 03, 2002 §9-2-3; Ord. 01, 2005 §1; Ord. 2005-07 §1)

Sec. 16-2-40. Penalties.

(a) Misdemeanor. Violation of the provisions of this Chapter or any order issued by the Administrator shall be punishable as set forth in Section 1-4-20 of this Code.

(b) Each Lot a Separate Offense. Each lot or parcel offered for sale, agreed to be sold, sold or transferred in violation of the provisions of this Chapter shall be considered a separate and distinct offense. (Ord. 03, 2002 §9-2-4; Ord. 01, 2005 §1; Ord. 2005-07 §1)

Sec. 16-2-50. Void permits.

(a) Permits Issued Which Conflict With Land Use Code. All officials of the City vested with the authority to issue permits shall comply with the provisions of this Chapter. No permit, certificate or license for the use, construction or occupancy of structures or land shall be issued which conflicts with the provisions of this Chapter.

(b) Permits Issued Based on False or Erroneous Information. Any permit, certificate or license issued for the use, construction or occupancy of structures or land which is issued in reliance upon any materially false or erroneous statement in the application, in supporting documents or in oral statements is null and void and shall be revoked. (Ord. 03, 2002 §9-2-5; Ord. 2005-07 §1)

Sec. 16-2-60. Appeals process.

(a) Appeal. An order, decision or interpretation rendered by the Administrator, any Commission or any Board may be appealed to the designated body outlined in Table 16-A. Decisions by the designated body shall be final and may not be appealed further except in court.

TABLE 16-A Appealing Body From Specific Orders, Decisions or Interpretations		
Decision Appealed From:	Type of Land Development Application	Decision Appealed To:
Administrator	Interpretation Verification of zoning compliance Reuse, change in use or further development Sign permits and comprehensive sign plans	Planning Commission
Board of Adjustment	Variance	Court system
Board of Appeals	Appeal	Court system
Building Official	Interpretation of codes enforced by the Building Official	Board of Appeals*
City Council	Amendment to Official Zoning Map or text of Code Overall development plan or final development plan Annexation Minor and major subdivision - final plat Designation of a historic district or landmark Off-premises sign	Court system
Fire Chief	Interpretation of codes enforced by the Fire Chief	Board of Appeals*
Historic Preservation Commission (HPC)	Certificate of Appropriateness – minor Certificate of Appropriateness – major	HPC - Whole Commission City Council
Planning Commission	Conditional use Creative sign Comprehensive sign plans for multiple owners Sketch plan Preliminary plat	City Council
Planning Chair	Subdivision exemption	Planning Commission
* Refer to Chapter 18, Article VIII, Building Regulations, Appeals Process for additional information		

(b) Appeal Contents. The appeal shall be in the form of a written letter of appeal delivered or postmarked to the Administrator within fifteen (15) days of the date the interpretation or decision was first postmarked. Such notice shall identify the date and nature of the order, decision or interpretation at issue and set forth in plain and concise language the:

(1) Facts and Reasons. The facts and reasons for the appeal, including any relevant citation to any rule, regulation or Code section relied upon.

(2) Copy. A copy of the order, decision or interpretation being appealed if the same was issued in writing.

(c) Actions Following Receipt of Appeal. Upon receipt of the appeal, the Administrator shall schedule the appeal for a regular or special meeting of the appropriate body within thirty-one (31) days of the filing of the notice to appeal.

(d) Notice. Written notice of the time, date and location of the hearing shall be sent by regular mail to the appellant not less than fifteen (15) days prior to the hearing. In cases where a decision rendered during a public hearing is being appealed, notice shall be provided as outlined in Subsection 16-10-50(b), Manner of Notice, of this Chapter.

(e) Appeal Hearing.

(1) Evidence. Formal Rules of Evidence shall not be followed during hearings. The chairman shall have the power to decide what evidence is material to the appeal. Written documents presented at the hearing shall be made part of the record, and public testimony shall be taken if the appeal required public notice. The burden of persuasion on appeal shall rest with the appellant.

(2) Basis of a Decision. An appealing body shall not have the authority to override the provisions of this Land Use Code. Any decision shall include a basis for the decision and cite specific sections of this Code.

(3) Recording. Audio recordings of the hearing shall be necessary. A written summary of the audio recording shall be made in a timely fashion following the hearing. Whenever a written verbatim transcript of such recording is requested by the appellant or when a transcript is furnished by the City pursuant to court order, the cost of preparing the transcript shall be borne in full by the appellant.

(4) Notice of Decision. The appropriate appealing body shall hear all relevant evidence, and within a reasonable time and in no event more than fifteen (15) days thereafter, shall render its decision. The appealing body may reverse, modify or confirm the order, decision or interpretation. All decisions on appeal shall be reduced to writing, contain a concise listing of facts and reasons supporting the same and shall be promptly mailed by regular mail to the appellant. (Ord. 03, 2002 §9-3-2; Ord. 01, 2005 §1; Ord. 2005-07 §1; Ord. 2006-01 §2; Ord. 2006-08 §4; Ord. 2007-11 §§2, 3)