

Article 24. Enforcement and Recovery of Fines and Enforcement Costs

Sections:

- Sec. 2401 - Permits, Certificates and Licenses**
- Sec. 2402 - Duties of Zoning Administrator**
- Sec. 2403 - Violations; Penalties**
- Sec. 2404 - Recovery of Fines and Enforcement Costs**

Sec. 2401. Permits, Certificates and Licenses: All officials, departments and employees of the County of Kings vested with the authority or duty to issue permits, certificates or licenses shall comply with the provisions of this Development Code and shall issue no permit, certificate or license which conflicts with the provisions of this Development Code. A court of competent jurisdiction may, in an appropriate and timely action, declare any permit, certificate or license issued in material conflict with the provisions of this Development Code to be void. Any permit, certificate or license issued in contravention of public policy shall be void ab initio.

Sec. 2402. Duties of Zoning Administrator: The Zoning Administrator shall be the official responsible for the enforcement of this Development Code. In the discharge of this duty, and subject to the Fourth Amendment, the Zoning Administrator's authorized employees shall have the right to enter on any site or to enter any structure for the purpose of investigation and inspection provided that the right of entry shall be exercised only at reasonable hours. The Zoning Administrator may serve notice requiring the removal of any structure or use in violation of this Development Code on the owner or his authorized agent, on a tenant, or on an architect, builder, contractor or other person who commits or participates in any violation. The Zoning Administrator's authorized employees shall have the authority to take any enforcement action described in Chapter 1 and Chapter 1A of the *Kings County Code of Ordinances* for violations of this Development Code.

Sec. 2403. Violations; Penalties:

- A. Any person, firm, corporation or organization violating any provision of this Development Code shall be guilty of an infraction and, upon conviction thereof, shall be punishable according to the provisions of Section 1-8.1 of the *Kings County Code of Ordinances*. Any second or subsequent violation of the same provision within a period of 12 months shall, at the discretion of the District Attorney, constitute a misdemeanor and be punishable according to the provisions of Section 1-8 of the *Kings County Code of Ordinances*. For the purposes of this Subsection, a bail forfeiture shall be deemed to be a conviction of the offense charged. A person, firm, corporation or organization shall be deemed guilty of a separate offense for each day during any portion of which a violation of this Development Code is committed, continued or permitted by the person, firm, corporation or organization and shall be punishable as herein provided.
- B. Any person, firm, corporation or organization willfully failing to pay a lawfully imposed fine for a violation of any provision of this Development Code within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due is guilty of a misdemeanor regardless of the full payment of the fine after such time and, upon conviction thereof, shall be punishable according to the provisions of Section 1-8 of the *Kings County Code of Ordinances*.
- C. Any structure erected, moved, altered, enlarged or maintained or any building, structure or land used in violation of this Development Code or any regulation made under authority conferred hereby, shall be and is hereby declared to be unlawful and a public nuisance. Subsequent to a determination that work is being done contrary to this Development Code, the Zoning Administrator or designated agent shall write a stop work order and post it on the premises involved. Removal of a stop work order, except by the order of the Zoning Administrator or designated agent, shall constitute a punishable violation of this Code.
- D. The violation of any term or condition imposed as a condition of approval or requirement in the Conditional Use Permit process, the Site Plan Review process, the administrative approval process or the Planned Unit Development process shall



be a violation of this Development Code and shall be punishable as such under the provisions of Subsection A of this Section.

- E. In the event of a violation of this Development Code or any regulation made under authority conferred herein, in addition to other remedies, the District Attorney or County Counsel, within their respective areas of responsibility with respect to legal proceedings, may institute any appropriate prosecution, action or other proceedings to punish the perpetrator of such violation; to prevent such unlawful erection, movement, alteration, enlargement, maintenance or use; to restrain, enjoin, correct, or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use in or about such premises.
- F. In addition to criminal or civil proceedings pursuant to Subdivisions A and E of this section, as well as administrative proceedings pursuant to Chapter 1A of the *Kings County Code of Ordinances*, the Zoning Administrator may order the summary abatement of any violation of this Development Code or any other nuisance that constitutes an immediate threat to public health or safety. Where physical abatement of a nuisance by the County is deemed necessary, but the nuisance does not constitute an immediate threat to public health or safety, upon notice and a hearing, the Board of Supervisors (“Board”) may order the nuisance abated pursuant to Government Code section 25845, subdivision (a). Notice of hearing shall be served on the property owner and anyone known to the Board to be in possession of the affected parcel at least 15 days, but not more than 60 days, prior to the scheduled hearing date, and shall identify the date, approximate time and location of the nuisance, conditions constituting the nuisance, and the specific code violated, if any. Service of the hearing notice shall be given as described in subsection (b) of *Kings County Ordinance Code* section 1A-5. To the extent that the procedures set forth in subsections (b) and (d) through (h) of section 1A-10 of the *Kings County Ordinance Code* are applicable, those procedures shall be used by the Board to conduct its hearing. The Board shall only consider evidence that is relevant to whether a nuisance exists on the subject property, and whether there is substantial evidence that physical abatement of the nuisance by County employees is necessary to ensure appropriate and timely abatement of the nuisance. Following the hearing, the Board shall announce its decision orally on the record. Costs incurred by the County in physically abating any nuisance may be recovered pursuant to Section 2404 of this article.
- G. All remedies provided for herein shall be cumulative and not exclusive.

Sec. 2404. Recovery of Fines and Enforcement Costs: This Section establishes procedures for the recovery of administrative fines imposed for a violation of this Development Code and the Kings County Code of Ordinances. These procedures also shall be used for the recovery of costs incurred by the County in the abatement or correction of any nuisance whether incurred in administrative proceedings, judicial proceedings, or summary abatement. The Zoning Administrator may waive or reduce enforcement costs where he or she determines such waiver to be in the public interest. Code enforcement recovery costs shall not be charged to a property owner in cases where the property owner voluntarily corrects the violations listed in a notice of violation or final warning prior to the issuance of an administrative citation or where an appeal to an administrative citation is filed and the property owner prevails.

- A. **Collection of Fines:** The failure of any person to pay the civil fines assessed by an administrative citation within the time specified on the citation may result in the filing of a judicial proceeding which shall be filed in small claims court if the amount sued for falls within the jurisdictional limits of the small claims court. Alternatively, the County may pursue any other legal remedy, including but not limited to, a special assessment lien against an applicable property, or placed on the unsecured roll, and collected at the same time and in the same manner as ordinary county taxes are collected pursuant to Government Code Section 25845. The County may also recover its collections costs according to proof.
- B. **Definition of Costs:** For the purpose of this chapter, “costs” shall mean administrative costs, including staff time expended and reasonably related to the violation abatement case including, but not limited to, actual costs incurred in the physical abatement of any nuisance, investigation, site inspection and monitoring, reports, correspondence, mailing costs, and meetings with affected parties. Attorney’s fees shall also be deemed “costs” if the County elects, at the initiation of an individual action or proceeding, to seek recovery of such fees, in which case attorney’s fees may be awarded to any party that prevails in the proceeding.
- C. **Cost Accounting and Recovery Required:** The Zoning Administrator shall maintain records of all administrative costs incurred by responsible county departments associated with the enforcement process pursuant to this chapter and shall recover cost from the property owner as provided in this Section. Staff time shall be calculated at an hourly rate as



established and revised periodically by the Director of the Community Development Agency, and shall reflect employee salaries, benefits, and a reasonable amount for overhead cost recovery.

- D. **Notice of Cost Recovery Requirements:** The Zoning Administrator shall include in the first notice of violation, a statement of the intent of the county to charge the property owner for all administrative costs associated with enforcement, if voluntary compliance is not achieved prior to the issuance of an administrative citation. The statement of intent shall also include notification to the property owner that such costs associated with enforcement shall be due and payable 30 days after receipt of the summary of costs and that if reimbursement of costs is not received within the 30 days, delinquent fees shall be assessed at the rate of 25 percent of the total summary of costs.

- E. **Summary of Costs:** At the conclusion of the enforcement case, the Zoning Administrator shall send a summary of costs associated with enforcement to the property owner by certified mail. The summary shall include a notice which states that if the costs are not paid within 30 days from the date of the issuance of the summary of costs the county will file a civil action in the name of the county, in any court of competent jurisdiction within the county in order to recover the cost of enforcement.

- F. **Collection of Charges:** The County shall be reimbursed for all of the costs associated with the enforcement action within 30 days from the date of the issuance of the summary of costs to the property owner. Payment may be made to the Community Development Agency by cash, check or money order. Delinquent fees shall be subject to 25 percent of the total summary of costs and shall become part of the debt immediately due and owing to the county. If payment is not received, such costs shall be recoverable in a civil action in the name of the County in any court of competent jurisdiction.



This page was left blank intentionally

