

CHAPTER XII: VIOLATIONS AND ENFORCEMENT**Sec. 12.01 – ENFORCEMENT**

- 1) It shall be the duty of the Community Development Director, or his/her designee, to enforce the provisions of this Ordinance in the manner and form and with the powers provided in the laws of the State of Georgia and in the Zoning Ordinance of City of Dallas.

Sec. 12.02 – ZONING VIOLATIONS

1) DESCRIPTION OF A VIOLATION



- a) Whoever violates any of the provisions below shall be guilty of an ordinance violation. Each day during which a set of facts exists that constitutes a violation or offense, it shall constitute a separate offense.
 - i) Failure to comply with any rightful order issued pursuant to the regulations of this Ordinance.
 - ii) Failure to obtain the necessary Land Disturbance Permit, or failure to obtain the necessary Certificate of Occupancy or any other necessary permit as established in this Ordinance.
 - iii) Failure to comply with the provisions or regulations of this Ordinance in the construction, reconstruction, erection, location, alteration, occupancy, or use of a building, structure or any part thereof, or the use of any land.
 - iv) Permitting another person to use a building, structure, or land owned by him, who fails to comply with any of the foregoing.
 - v) Failure to comply with a representation made in the application for a zoning certificate or an occupancy certificate or any other permit.
 - vi) Failure to comply with zoning requirements.
 - vii) Failure to meet any obligation or requirement of this Ordinance.
- b) Whoever knowingly makes a false statement, or knowingly swears or affirms the truth of a false statement previously made when any of the conditions set forth in the provisions below apply, shall be guilty of an ordinance violation for each separate offense. Where contradictory statements relating to the same fact are made by the offender within the applicable period of the statute of limitations, it is not necessary to show which statement was false, but only that any of them were false, to constitute a violation of this Ordinance.
 - i) The statement is made for the purpose of misleading any member of the Planning & Zoning Commission, City Council, Council of Commissioners or any City Official into performing any duty or making any determination required under this Ordinance.
 - ii) The statement is made with purpose to secure the issuance of any permit or certificate.
 - iii) The statement has been sworn or affirmed before a notary public or other person empowered to administer oaths.
 - iv) The statement is in writing or in connection with a report, application, or study that is required or authorized.
- c) No person shall fail or refuse to comply with an order issued by the Community Development Director, or his/her designee. Furthermore, no person shall construct, modify, alter, use or occupy any structure or property in violation of the City of Dallas Zoning Ordinance.

- 2) COMPLAINT REGARDING VIOLATION. Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may register a complaint. The complaint stating fully the causes and basis of the complaint shall be filed with the Community Development Director. The Director, or his/her designee, shall properly record the complaint, investigate, and take action on the complaint as provided by this Ordinance.
- 3) NOTICE OF VIOLATION. The notice of any violation of this Zoning Ordinance shall be as follows:
 - a) Whenever the Director, or his/her designee, determines that there is a violation of any provision of this Zoning Ordinance, a notice of such violation shall be issued. Such notice shall:
 - i) Be in writing;
 - ii) Identify the violation;
 - iii) Include a statement of the reason or reasons why it is being issued and refer to the section of this Zoning Ordinance being violated; and
 - iv) State the time by which the violation shall be corrected.
 - b) Service of notice of the violation shall be as follows:
 - i) By personal delivery to the person or persons responsible, or by leaving the notice at the usual place of residence of the owner with a person of sixteen (16) years or older; or
 - ii) By certified mail, and first class mail simultaneously, addressed to the person or persons responsible at a last known address. Service shall be deemed complete when the fact of the mailing is entered of record, provided that the first class mail envelope is not returned by the Postal Authorities with an endorsement showing failure of delivery; or
 - iii) By posting a copy of the notice form in a conspicuous place on the premises found in violation.
- 4) ACTION AGAINST A VIOLATION. For any building or structure that is, or is proposed to be, located, erected, constructed, reconstructed, enlarged, changed, maintained or used, or any land that is proposed to be used in violation of this Ordinance or any amendment or supplement thereto, the City Council, the City of Dallas Planning & Zoning Commission, Zoning Board of Appeals, the Community Development Director, or any adjacent or neighboring property owner who would be specifically damaged by such violation may, in addition to other remedies provided by law, institute appropriate action or proceedings to prevent such unlawful location, erection, construction, reconstruction, alteration, conversion, maintenance or use which may include the holding of building permits, Certificates of Occupancy, or other permits; to restrain, correct or abate such violation to prevent the occupancy of the said building, structure or land or to prevent any illegal act, conduct, business or use in or about, such premises.
- 5) VIOLATION OF WRITTEN COMMITMENTS. Written commitments may be enforced jointly or severally by:
 - a) The City of Dallas Planning & Zoning Commission, Zoning Board of Appeals, or City Council;
 - b) Owners of all parcels of ground adjoining the real estate to a depth of two (2) ownerships, but not exceeding six-hundred sixty (660) feet from the perimeter of the real estate, and all owners of real estate within the area included in the petition who were not petitioners for approval; and,
 - c) Any party the owner designates on the Development Commitment Recording Form at the time of recording.

Sec. 12.03 – CONSTRUCTION PROCESS VIOLATIONS

- 1) STOP WORK ORDERS. The Community Development Director or Chief Building Official may place a Stop-Work Order on any land/property improvement process.
 - a) Procedure. Stop-Work Orders shall be issued by written letter that shall state the nature of the violation and that the work and/or any other illegal activity must stop immediately until the matter is resolved. If the property is occupied by someone other than the property owner, a copy of said Stop-Work Order shall be provided to said occupant(s). This letter shall be posted in a conspicuous place and be delivered/ mailed to the property owner.
 - b) Reasons. Reasons for a Stop-Work Order include, but are not limited to:
 - i) Not complying with any element of the development standards and/or any regulation of this Ordinance.
 - ii) Not obtaining a Land Disturbance Permit or any other required permit or approval prior to the construction or installation of any improvement for which an approval or permit is required by this Ordinance.
 - iii) Not completing structures or other improvements consistent with any approved Land Disturbance Permit, variance, Special Exception, or other approval.
 - iv) Not meeting the conditions or commitments of a Special Exception, variance, rezoning, or other approval whether recorded or not.
 - v) Not meeting the conditions of a Site Development Plan, Planned Unit Development Detailed Plan, or any written commitment associated therewith.
 - vi) Illegal use or illegal expansion of use of structures, or structures and land in combination.
- 2) MEMORANDUM OF AGREEMENT. The Director must meet with the person(s) served the Stop-Work Order notice within seven (7) days of any such meeting being requested. A Memorandum of Agreement shall be drafted stating the conditions by which construction or action may be resumed. This Memorandum of Agreement must be signed by the Director and the property owner responsible for the violation.
- 3) APPEALS. Any Stop-Work Order issued as a result of the enforcement of this Ordinance, may be appealed to the Zoning Board of Adjustment. This appeal shall follow the provisions established in *Section 11.11 - Administrative Appeals Procedure* of this chapter.
- 4) Resumption of Construction Activities. The Stop-Work Order shall be lifted and construction activity may resume upon either:
 - a) The resolution of the violation(s) to the satisfaction of the Director; or
 - b) The execution of all tasks required by the Memorandum of Agreement.

Sec. 12.04 – IMMEDIATE PUBLIC RISK VIOLATIONS

- 1) GENERAL REQUIREMENTS. Any violation of this Ordinance that presents an immediate risk to the health, safety, or welfare of the public or to property within The City of Dallas may be corrected by the Director, or a person, firm, or organization selected by the Director without prior notice to the

property owner or other person responsible for the violation.



- 2) IMMEDIATE PUBLIC RISK VIOLATION DEFINED. Immediate Public Risk violations shall include but not limited to:
 - a) Obstructions. Signs, structures, landscaping or other materials placed in an easement, sight visibility triangle, or other non-public right-of-way in violation of this Ordinance;
 - b) Distractions. Any sign, structure, landscaping, or other material located on private property that serves to distract or inhibit operators of motor vehicles on adjacent public streets, pedestrians, or other members of the general public; and
 - c) Other Threats. Any other immediate threat to public welfare as determined by any representative of The City of Dallas, or by the City Council based upon the advice and recommendation of the Director.
- 3) NOTICE OF VIOLATION. The Director shall provide notice to the owner of the property, as listed in the records of the County Recorder's Office, upon which the violation was located, or any discernible appropriate owner of materials placed within the right-of-way in violation of this Ordinance, by placing a notice in a conspicuous place on the property and by mailing a letter to that property owner.
 - a) Notice Contents. The letter and posted notice shall include the following:
 - i) A citation of the section(s) of the Ordinance that were violated and the characteristic(s) of the violation that posed an immediate threat to public welfare; and
 - ii) The address and phone number of the Director and the name of the person to be contacted by the property owner to discuss the violation.
- 4) LIABILITY. Neither the Director, The City of Dallas, nor any other official or entity involved in the seizure of items in violation of this Zoning Ordinance shall be liable for any damage to the seized materials or the property from which they were taken.

Sec. 12.05 – TRIAL FOR VIOLATIONS

- 1) PROCEDURE. A person who receives a notice of violation may elect to stand trial for the offense by indicating on the notice of violation his intent to stand trial and returning a copy of the notice of violation to the issuing agency. The returned copy of the notice of violation shall serve as notice of the person's intent to stand trial, and additional monetary fines prescribed in *Section 12.06 – Monetary Fine and Penalties* shall be stayed upon receipt of the notice. Depending on the nature of the infraction, the City may issue a citation for a violation of the ordinance and send the offending party to Municipal Court for adjudication.
- 2) CIVIL REMEDIES. If a person who receives a notice of violation fails to remedy the situation on their own, and fails to give notice of his intention to stand trial as prescribed in this section, The City of Dallas, the City Council on behalf of the City or any officer designated by the City Council on behalf of the City may file suit for injunction against any violation of this Zoning Ordinance, or if the violation has caused damages to the City for a judgment for damages and any person, property owner or occupant of property who can show that the person, property owner or occupant of property has suffered harm or whose property has suffered harm as a result of violations of this Zoning Ordinance may file suit for injunction or damages to the fullest extent provided by the law.
- 3) COURT COST AND FEES. A person adjudged to have committed a civil zoning violation is liable for the

court costs and fees. No cost shall be assessed against the enforcement agency in any such action.

- a) Burden. In proceedings before the court for a civil zoning violation, the *Georgia Civil Practice Act embodied in O.C.G. A. 9-11-1 et. seq.*, shall govern. The designated enforcement entity has the burden of proving the civil zoning violation by a preponderance of the evidence.
- b) Relief or Remedy. Seeking a civil penalty as authorized by this section does not preclude the City from seeking alternative relief from the court in the same action, or from seeking injunctive relief or other remedy in a separate action for the enforcement of this Ordinance.
- c) Change of Venue. If the City is successful in an action brought under this section, the respondent shall bear the costs of the action. A change of venue from the County Superior Court may not be granted in such an action.

Sec. 12.06 – MONETARY FINE AND PENALTIES

1) **APPLICABILITY**. Any person who uses property in violation of the Zoning Ordinance of City of Dallas shall be deemed to have committed a civil zoning violation and may receive a notice of violation by the Dallas Code Enforcement division.



2) **FINE**. A separate offense shall be deemed committed each day upon which a violation occurs or continues and may be subject to a fine of two-thousand five-hundred dollars (\$2,500.00) per violation.



3) **ACCOUNTABILITY**. The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, realtor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.



4) **COST OF ATTORNEY, INVESTIGATION, AND OTHER FEES**. If the City of Dallas is required to utilize the services of an attorney in investigating a possible violation of this Ordinance or in enforcing the provisions of this Ordinance pursuant to this section or any other Section; and such investigation results in a determination that a violation has occurred, or if the City Council or City is successful in its enforcement of the Ordinance by way of suit, appeal or other appropriate proceeding; the respondent, defendant or party investigated for a violation shall pay the City's reasonable attorney fees and all costs related to the investigation of the violation and/or the enforcement of this Ordinance, unless such attorney fees or the costs are specifically waived by the Dallas City Council.

5) **WAIVING FINES**. The Community Development Director may, at his/her discretion, waive the assessed fine for timely correction of the violation.

Figure 12.1: Code Compliance Process – City of Dallas

