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1.3.1 Purpose

This Section establishes procedures through which the City seeks to ensure compliance with the provisions of this code and obtain corrections for violations of this code. This section also sets forth the remedies and penalties that apply to violations of this code. The provisions of this Section are intended to encourage the voluntary correction of violations, where possible.

1.3.2 Compliance Required

Compliance with all provisions of this code is required by all persons owning, developing, dividing, managing, using, or occupying land or structures. Failure to comply with a standard, requirement, prohibition, or limitation imposed by this code, or the terms or conditions of any permit, approval, or authorization granted in accordance with this code, shall constitute a violation of this code punishable as provided in this Section.

1.3.3 Responsible Persons

The owner, tenant, or occupant of any land or structure, and an architect, engineer, builder, contractor, agent, or any other person who participates in, assists, directs, creates, or maintains a situation that constitutes a violation of these regulations, may be held responsible for the violation and be subject to the remedies and penalties set forth in this Section.

1.3.4 Violations

It shall be unlawful for any building, structure, site element or use of land to be constructed, altered, maintained, or otherwise initiated in violation of these regulations, or in violation of any amendment, order or decision authorized under these regulations. In addition to any other remedy provided in these regulations, the City may institute proper actions or proceedings to prevent the unlawful activity or situation. Activities that constitute a violation include, but are not limited to, the following:

- a. Creating, expanding, replacing, or changing any nonconformity except in compliance with this code;
- b. Reducing or diminishing the requirements for development, design, or dimensional standards below the minimum required by this code;
- c. Increasing the intensity or density of development, except in accordance with the standards of this Code; or
- d. Through any act or omission, failing to comply with any other provisions, procedures, or standards as required by this code
- e. Disturbing any landscaped area or vegetation required to be protected or maintained by this code;
- f. Installing, creating, erecting, altering, or maintaining any sign without first obtaining the appropriate permits or development approvals, and complying with their terms and conditions;
- g. Failing to remove any sign installed, created, erected, or maintained in violation of this code, or for which the permit has expired;

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- h. Creating, expanding, replacing, or changing any nonconformity except in compliance with this code;
- i. Reducing or diminishing the requirements for development, design, or dimensional standards below the minimum required by this code;
- j. Increasing the intensity or density of development, except in accordance with the standards of this code; or
- k. Through any act or omission, failing to comply with any other provisions, procedures, or standards as required by this Code.

1.3.5 Violation Notice

The following procedures shall be used in citing violations of these regulations:

- a. The first notice will be a certified letter or by other provable means of service indicating the violation must cease within 14 calendar days from the date of receipt of the letter. In cases where a health hazard or emergency may exist, or where removal of the violation is deemed imperative by the Director or his or her designated representative, the 14-day limit may be decreased. The letter may indicate potential penalties for violation.
- b. A final notice will be sent if such violation is not corrected within the time period set forth in the first notice. This letter will indicate the dates and time frames previously given and indicate the violation must cease within 7 calendar days from the date of receipt of the letter. Should the violation not cease within 7-days of receipt, the matter will be referred to the City Attorney and that office will act as expeditiously as possible, and the City Attorney may also follow the processes under Section 1.3.8 or 1.3.9.
- c. Violations may be cited by the City.
- d. Notification may also be made by placing a violation notice directly on the property if the provisions of this sub-section cannot be accomplished.
- e. The Director may grant one extension of up to 30 days should an extension be requested. Requests must be in writing and signed by the responsible persons. Should the Director approve the extension, a written approval will be sent to the responsible persons and added to the case file.

1.3.26 Investigatory Powers

- a. The Director is authorized to enter upon any property, excluding dwelling units, and at any reasonable time for the purpose of inspecting properties or performing other duties under these regulations.
- ab. The City may investigate, and to the extent necessary administer an oath or affirmation, and upon request of any party, may subpoena witnesses, compel own motion, or upon request of any party, may subpoena witnesses, compel their attendance, adduce evidence, and require the production of any matter which is relevant of the investigation, including the existence, description, nature, custody, condition and location of any books, documents or other relevant facts or any other matter reasonably calculated to lead to discovery of admissible evidence.
- ~~b. If any person subject to the provisions of these regulations has records, as described in Wyoming Statutes 18-5-311(b), located outside the State of Wyoming, the person shall either make them available directly to the City, or available to a representative of the City to examine in the place where they are maintained.~~
- c. Upon failure without lawful excuse to obey a subpoena or to give testimony and upon reasonable notice to all persons affected thereby, the City may apply to any district court for an Order compelling compliance.
- ~~d. The Director is authorized to enter upon any property, excluding dwelling units, and at any reasonable time for the purpose of inspecting properties or performing other duties under these regulations:~~

1.3.27 Penalties

Any ~~person, firm or corporation~~ responsible persons which who fails to comply with or violates any of these regulations shall be subject to any penalties permitted by the Wyoming Statutes authorizing these regulations, or any other remedy available to the City including:

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- a. **Injunction.** If any building or structure is erected, constructed, reconstructed, repaired, converted, or any building, structure, or land is used in violation of these regulations, the Director or any adjacent or other property owner who would be damaged by such violation, in addition to other remedies, may institute an injunction, mandamus, or other appropriate action or proceeding to stop the violation.
- b. **Fine Generally.** ~~Any person, upon conviction of violating any provision of these regulations shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than \$100.00 for each offense. Each day such violation continues shall constitute a separate offense. Any person violating any provisions of these regulations is guilty of a separate offense for each and every day during any portion of which any violation of any provision of these is committed, continued, or permitted by any such person and shall be punished by a fine of the maximum allowed by the State Statute for each offense. Daily fines may be calculated from the date of first notice to the date of the hearing being scheduled or until date of remedy if remedied prior to a hearing date being established.~~
- c. **Fine for Misrepresentation of Subdivisions.** Any person who knowingly authorizes, directs or aids in the publication, advertisement, distribution or circulation of any false statement or misrepresentation concerning any subdivision/development for sale, in this or any other state, and every person with knowledge that any such advertisement, prospectus, pamphlet or letter concerning land of any subdivision/development thereto contains any written statement that is false or fraudulent in any material part or who issues, circulates, publishes or distributes the same or who causes the same to be circulated, published or distributed, shall upon conviction be imprisoned for a period not to exceed 30 days or be fined ~~not to exceed \$750.00~~ the maximum allowed by the State Statute. Each day of violation constitutes a new offense.
- d. **Revocation or Suspension of Permit or License.** Violations of these regulations may result in revoking or suspending a permit, license, or approval where the terms of the approval are not being met as provided in subsection 1.3.8, below.
- e. **Abatement of Violation.** Violations of these regulations may be abated at the election of the Planning Director. This procedure shall not be the sole remedy available, and the City may enforce these regulations in any manner provided by law as provided in section 1.3.9, below.
- f. **Stay of Fines.** Should a remedy be initiated by the responsible persons or during a public hearing process, a stay of fines may be permitted.

1.3.8 Revocation or Suspension of Permit or License

Revocation or suspension of any City issued permit, license or approval issued in accordance with these regulations or the Municipal Code may be made under the procedures and standards of this Section.

- a. A permit or approval shall be revoked or suspended if any of the following findings is made:
 1. A use or development action upon the parent property has not obtained approvals required by this code; or
 2. The physical development, use, development option, or subdivision, violates the terms or conditions of the permit or any approval of this code; or
 3. The permit, approval, or license was issued on the basis of erroneous or misleading information or misrepresentation.
- b. Rules of Procedure
 1. A revocation proceeding shall be governed by the contested case rules adopted by the City.
- c. Process
 1. The process shall follow the proceedings of Section 2.92.020 of the Municipal Code of the City of Cheyenne.

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1.3.9 Abatement of Violations

Abatements of violations of these regulations shall be made under the procedures and standards of this Section.

- a. An Order to Abate shall be issued if there is:
 1. Competent, substantial evidence that a violation of this Code does exist; and
 2. Sufficient cause to evict or relocate an illegal use or rehabilitate, demolish, remove or repair an illegal development.
- b. Effect
 1. If an Order to Abate is issued it shall mean that the land or development is in violation of this Code and the illegal activity shall be discontinued and rehabilitated, repaired, removed, or demolished in the manner and means specifically set forth in the Order to Abate.
- c. Rules of Procedure
 1. An abatement proceeding shall be governed by the Wyoming Administrative Procedures Act, §16-3-101.
- d. Process
 1. Notice to Abate. If the Director has issued a Final Notice as specified in Section 1.3.5.c and the responsible persons is found to not be in compliance after the timeline specified in the final notice, a notice to abate may be mailed to the landowner stating the date and time the abatement will take place. Notice shall be sent at least 14 days prior to the abatement.
 2. Notice of Hearing to Abate. Should the responsible persons request to appeal the notice to abate after receiving the notice, a notice of a hearing to abate shall be mailed to the landowner stating the date, time, and location of the public hearing by certified mail, return receipt requested and stating the provisions of these regulations being violated. Notice shall be sent at least 14 days prior to the hearing.
 3. Hearing officer recommendation. If, after the conclusion of the hearing, the Officer finds that an Order to Abate shall be issued, the Hearing Officer shall prepare a recommended Order to Abate outlining findings and specifying the nature of the violation, the method of abatement, and the time within which the abatement shall be commenced and completed. The Hearing Officer shall provide the landowner a copy of the recommended Order to Abate, by mail, on the day the recommended order is forwarded to the Governing Body for a final decision. A recommendation will be made within 30 days of the hearing.
 4. Governing Body Decision. The Governing Body shall make a final decision on whether to issue an Order to Abate following conduct of a public hearing. The Director shall provide the landowner notice of the hearing by certified mail, return receipt requested, a minimum of 14 calendar days prior to the date of the hearing. Notice shall also be published in a newspaper of general circulation in the City substantially in the format set forth in these regulations for other hearings. At the hearing, the Governing Body shall provide the landowner or the landowner's authorized representative and Director an opportunity to make statements about the record established in the Hearing to Abate and the recommended Order to Abate. The Governing Body shall then review the record and recommended Order to Abate. Continuances of the hearing may be granted by the Governing Body on request of the landowner, for good cause shown. The hearing shall be held within 30 days of the hearing officers' recommendation. Governing Body Decision shall be made within 30 days after closing of the hearing.
 5. Abatement. The City's right to abate a violation of this Code, as provided in this Section, shall be cumulative to any other remedy provide by law.
- e. Costs of abatement; notice of assessment
 1. Upon completion of abatement by the city, the city shall complete a statement of costs. The statement shall include the costs of abatement and any other expenses incurred by the city, plus an administrative fee in the amount of fifty (50) percent of the abatement costs.
 2. The city shall send written notice of the city's costs of the abatement to the owner of the property by certified mail, return receipt requested.

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3. The city will engage an independent contractor for abatement of a violation, the city is authorized to bill the costs of the abatement plus the administrative fee provided by UDC 1.3.9.e.1, above, to the owner of the property that is the subject of the abatement.
- f. Collection of costs of abatement; filing of lien
 1. If an owner or occupant of property to which a statement of costs has been sent fails to pay the costs of abatement within thirty (30) days after notification, the city attorney may file an appropriate lien with the county clerk and ex officio registrar of deeds for Laramie County. The lien shall contain the legal description of the property involved, the amount of the unpaid bill, and a notice that the city claims a lien for its costs of abatement. A lien for abatement costs may be foreclosed in accordance with the laws of the state of Wyoming. In addition, the city may pursue any remedies provided by law including assignment of the claim for costs of abatement to a collection agency.

1.3.510 Appeals

- d. **Appeal of an Administrative Decision.** A process to decide if any final administrative decision made by an administrative official in the interpretation or enforcement of the standards in Article 5 and Article 6 is of this code are correct.
- e. ~~**Other Appeals.** Any other appeal not addressed by the procedures in Article 2 shall be processed to the Planning Commission and City Council in the same manner as a text amendment.~~