

**CITY OF AMARILLO, TEXAS
CODE OF ORDINANCES**



CHAPTER 4-10 - ZONING

ARTICLE VIII. - ENFORCEMENT

PUBLIC REVIEW DRAFT

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ARTICLE VIII. ENFORCEMENT

Sec. 4-10-295. - Generally.

This Article establishes the procedures to enforce compliance with this Chapter and to mandate corrections for violations of this Chapter or conditions of an approval or permit issued under this Chapter.

Sec. 4-10-296. - Violations.

(a) Generally.

(1) Any person who violates the provisions of this Chapter is subject to the remedies and penalties it provides. The following activities, acts, failures to act, and conditions are violations of this Chapter and will be enforced using the penalties and remedies provided by this Article, this Code, and by Texas state law:

- a. **Development or Use without permit or approval.** Any activity that is not authorized by the acquisition of all required permits, approvals, certificates, and authorizations required by this Chapter;
- b. **Development or use of land inconsistent with this Chapter.** Any activity that is inconsistent with any zoning, development, landscaping, sign, historic district, or general regulation of this Chapter or any amendment to it;
- c. **Development or use inconsistent with conditions of permit.** Any activity that is inconsistent with any term, condition, or qualification placed by the City upon a required permit, certificate, rezoning, plan approval, or other form of authorization granted by the City to allow the Use, Development, placement of Signs, or other activity upon land or improvements of land;
- d. **Making a Lot or Yard nonconforming.** Reducing or diminishing any Lot Area, Lot Width, Lot Depth, or Setback so that the Lot or Yard is smaller than prescribed by the requirements of this Chapter;
- e. **Increasing Lot Coverage.** Increasing Lot Coverage so that it exceeds the maximum allowed by this Chapter;
- f. **Increasing the intensity of Use.** Increasing the intensity or Density of Use of any land or Structure, except in accordance with the procedural and substantive requirements of this Chapter;
- g. **Deficient landscaping and site improvements.** Failing to install or maintain any landscaping, screening, or site improvements required by this Chapter;
- h. **Disrupting notice.** Removing, defacing, obscuring, or interfering with any notice posted or made pursuant to this Chapter;

SEC. 4-10-297 - ENFORCEMENT PROCEDURES.

i. **Displaying a temporary Sign longer than permitted.** Displaying a temporary Sign for a period of time in excess of that stated in the permit; and

j. Any other act that is prohibited by this Chapter or the failure to do any act that is required by this Chapter is a violation under this Section and is punishable under this Chapter.

(2) Each day that any violation of any provision of this Chapter continues constitutes a separate offense.

(3) For purposes of this section, an “activity” or “activities” includes:

a. To erect, construct, reconstruct, remodel, alter, maintain, move, or use any Building or Structure,

b. To erect, construct, reconstruct, remodel, alter, maintain, move, or use any site improvement, including Signs, and

c. The Use, alteration, or maintenance of any land.

(b) **Violations of prior regulations.** All violations of prior zoning regulations of the City that have accrued as of the effective date of this Ordinance shall continue to be violations and are not considered legal nonconforming situations under this Chapter, unless the Use, Development, or activity that is the subject of the violation complies with this Chapter. The City has the authority to enforce penalties and remedies for violations of the prior regulations to the same extent that it may enforce penalties and remedies for violations of this Chapter pursuant to this Article.

Sec. 4-10-297. - Enforcement procedures.

(a) **Notice of violation.**

(1) In the case of violations not involving continuing construction or development or any emergency situation, the City shall give written notice of the nature of the violation to the Owner, occupant, or agent of the property at the last known address.

(2) The contents of the notice shall describe the nature of the violation in terms that would reasonably allow the Property Owner or other responsible person, representative, or tenant to determine the nature of the violation to allow for self-abatement and shall mandate a 10-day time to cure before further enforcement action will be taken.

(3) The person to whom notice is directed shall correct the violation or be subject to further enforcement action.

(4) The notice shall be personally served or sent by certified mail, return receipt requested. Failure to sign for the certified mail or failure to pick up the notice from the post office is not deemed a lack of

notice under this ordinance where delivery was attempted, and a record of this attempt was provided as required by procedures for restricted mail.

(b) **Immediate enforcement.**

(1) If the Planning Director determines that an emergency situation exists or continuing construction is occurring in violation of this Code, the City may immediately use the enforcement powers and remedies available to it pursuant to Sec. 4-10-298 and Sec. 4-10-299.

(2) No other notification procedures are required as a prerequisite to an immediate enforcement action.

(c) The Planning Director is authorized to initiate an action to punish, prevent, restrain, correct, or abate any violation of this Chapter or of any order or ruling made in connection with its administration or enforcement in any Court of competent jurisdiction.

Sec. 4-10-298. - Penalties.

(a) **Enforcement by the City.** The City has the following remedies and enforcement powers:

(1) **Violation is a misdemeanor.** Any person who violates any provision of this Chapter by performing an act prohibited by it or by failing to perform an act required by it is guilty of a Class C misdemeanor. Each day on which a violation exists or continues to exist shall be a separate offense. The City may institute all necessary proceedings in Municipal Court or other appropriate venue to prosecute violations under this Chapter.

(2) **Fines.** Violations of this Chapter's regulations are punishable by a fine not to exceed two thousand dollars (\$2,000.00) per day for each violation.

(3) **Withholding of permits or approvals.**

a. The City may deny or withhold all permits, certificates, plan or plat approvals, or other forms of authorization on any Building, Structure, land, or improvements upon land on which there is an uncorrected violation of any provision of this Chapter or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the City.

b. The City may, instead of withholding or denying an authorization, grant the authorization subject to the condition that the violation be corrected.

c. This subsection applies regardless of whether the current Owner or Applicant is responsible for the violation in question.

(4) **Stop work.** With or without revoking permits, the City may order stop work on any Development, Building, or Structure on any land on which there is an uncorrected violation of a provision

of this Chapter or a violation of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the City.

(5) **Revocation of permits and approvals.** The City may revoke all permits, certificates, plan or plat approvals, or other forms of authorization on any Building, Structure, land, or improvements upon land for which there is an uncorrected violation of any provision of this Chapter or of a condition or qualification of a permit, certificate, approval, or other authorization previously granted by the City.

(6) **Civil remedies.**

a. The City may maintain civil suits or actions in any court of competent jurisdiction to enforce this Chapter and to abate nuisances maintained in violation of this Chapter.

b. If a Building or other Structure is erected, constructed, reconstructed, altered, repaired, converted, or maintained or if a Building, other Structure, or land is used in violation of this Chapter, the City may institute appropriate action to:

1. Prevent the unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance, or use;
2. Restrain, correct, or abate the violation;
3. Prevent the occupancy of the Building, Structure, or land; or
4. Prevent any illegal act, conduct, business, or use on or about the premises.

(7) **Mobile and Manufactured Homes.** The City may exercise its powers pursuant to Chapter 214 of the Texas Local Government Code and other applicable laws if any Mobile or Manufactured Home is or becomes dilapidated, substandard, unfit for human habitation, and is a hazard to the public health, safety, and welfare.

(8) **Other remedies.** In addition to the enforcement powers and remedies specified in this title, the City may exercise any and all enforcement powers and remedies granted to it by Texas state law, as it may be amended from time to time.

(b) **Private enforcement.** The City confers and extends the right to bring suit in court of competent jurisdiction to the owner of any landmark or any contributing property in any Historic District if the property is affected by a violation of the terms of this Chapter, and the owner may obtain the remedies that may be available at law or in equity for the protection of the rights of property owners.

SEC. 4-10-299 - REVOCATION OF PERMIT OR APPROVAL.

(c) **Exceptions and exemptions not required to be negated.**¹ In any suit or proceedings brought for the enforcement of any provision of this Chapter, the City shall not be required to negate by affirmative allegations or proof any exception, excuse, proviso, or exemption contained in this Chapter. The burden of proof of any exception, excuse, proviso, or exemption shall be upon the defendant or person charged.

(d) **Remedies are cumulative.** The remedies provided for in this Section are cumulative.

Sec. 4-10-299. - Revocation of permit or approval.

(a) **Basis for revocation.** A permit or approval may be revoked by the Planning Director issuing the permit at any time prior to the completion of the Use, Building, Structure, Development, site improvement, or subdivision for which the permit was issued, when the Planning Director determines that one (1) or more of the following conditions is present:

(1) There is departure from the plans, specifications or conditions as required under the terms of the permit;

(2) That the permit was procured by materially incorrect information;

(3) That the permit was issued in error; or

(4) That any of the provisions of this Ordinance are being violated.

(b) **Notice.** Written notice of the revocation shall be served upon the Owner, the Owner's agent or contractor, or any person employed in the Building or Structure for which the permit was issued or shall be posted in a prominent location on the property. Where notice of revocation is served or posted, all further construction, Use, or Development of the property shall cease.

(c) **Appeal of revocation.** Any revocation of a permit may be appealed to the Zoning Board of Adjustment as provided in Article V, *Procedures*.

Sec. 4-10-300. - Reserved.

Sec. 4-10-301. - Reserved.

Sec. 4-10-302. - Reserved.

Sec. 4-10-303. - Reserved.

Sec. 4-10-304. - Reserved.

¹ This section carries forward [Sec. 4-10-5](#) and attempts to clarify it. The original section defines the burden of proof in enforcement actions. Compare original text of [Sec. 4-10-5](#): "In any complaint and in any action or proceedings brought for the enforcement of any provision of this chapter, it shall not be necessary to negative any exception, excuse, proviso or exemption contained in this chapter. The burden of proof of any such exception, excuse, proviso or exemption shall be upon the defendant or person charged."

