

## **ARTICLE 24. ENFORCEMENT AND RECOVERY OF FINES AND ENFORCEMENT COSTS**

(Ord. No. 269.65, §§ 171, 10-28-08)

### **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 ordinance and shall issue no permit, certificate or license which conflicts with the provisions of this ordinance. Any permit, certificate or license issued in conflict with the provisions of this ordinance shall be void.

### **Sec. 2402. Duties of zoning administrator.**

The zoning administrator shall be the official responsible for the enforcement of this ordinance. In the discharge of this duty, 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 ordinance 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 ordinance.

(Ord. No. 269.8, § 1, 2-15-72; Ord. No. 269.33, § 49, 9-21-82; Ord. No. 269.34, § 1, 2-15-83; Ord. No. 269.62, § 27, 10-25-05; Ord. No. 269.65, § 173, 10-28-08)

### **Sec. 2403. Violations; penalties.**

- A. Any person, firm, corporation or organization violating any provision of this ordinance 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 one year 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 ordinance 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 ordinance 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 ordinance or any regulation made under authority conferred hereby, shall be and is hereby declared to be unlawful and a public nuisance.
- D. In the event of a violation of this ordinance 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.

- E. All remedies provided for herein shall be cumulative and not exclusive.
- F. 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 ordinance and shall be punishable as such under the provisions of Subsection A of this Section.

(Ord. No. 269.65, § 174, 10-28-08)

## **Sec. 2404. Recovery of Fines and Enforcement Costs.**

This section establishes procedures for the recovery of administrative fines imposed and costs incurred by the county in the enforcement process, for the abatement or correction of any violation of the Code of Ordinances for which an Administrative Citation has been issued. 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 claim with 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, attorney's fees, investigation, site inspection and monitoring, reports, correspondence, mailing costs, and meetings with affected parties.
- 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 Department Head.
- 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 thirty (30) days after receipt of the summary of costs and that if reimbursement of costs is not received within the thirty (30) days, delinquent fees shall be assessed at the rate of twenty-five (25%) 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 thirty (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 thirty (30) days from the date of the issuance of the summary of costs to the property owner. Payment may be made to the Planning Agency by cash, check or money order. Delinquent fees shall be subject to twenty-five (25%) 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.

(Ord. No. 269.8, § 2, 2-15-72; Ord. No. 269.19, § 1, 2-20-79; Ord. No. 269.53, § 10, 6-20-01; Ord. No. 269.59, §§ 19 and 20, 11-9-04; Ord. No. 269.65, § 175, 10-28-08)

