

## CHAPTER 9A

**ADMINISTRATIVE REMEDIES**

## SECTION:

- 1-9A-1: General  
 1-9A-2: Application of Administrative Remedies  
 1-9A-3: Administrative Remedies by a Person, Business, or other Entity

1-9A-1: **GENERAL:** Administrative remedies are intended as actions that may be applied to help ensure compliance with City ordinances, resolutions, regulations or any other City, state or federal requirements at a lower or administrative level to avoid costly or perhaps unneeded legal action.

- A. Unless otherwise specifically provided for in any ordinance, resolution or other regulations of the City or any code adopted by reference, the City Council, Mayor or an Officer of the City may seek administrative remedies, in accordance with this Chapter, to ensure compliance with any ordinance, resolution, or regulations of the City, or any other City, state or federal requirement, by any person, business or other legal entity.
- B. Similarly, any person, business, or other legal entity may seek administrative remedies from the City, also in accordance with this Chapter.
- C. For the purposes of this Chapter, an officer of the City is defined to be any of the following: Mayor, City Manager, City Administrator, City Recorder, City Treasurer, City Engineer, Public Works Director, Building Official, Building Compliance & Permit Clerk.

1-9A-2: **APPLICATION OF ADMINISTRATIVE REMEDIES BY THE CITY:** Unless otherwise specifically provided in any ordinance or resolution of the City, the City may, upon notice to a person, business or other legal entity, apply any of the following administrative remedies to such person, business, or other legal entity if he/she/it is found to be in default on any matter relating to or business dealing with the City, or has otherwise failed to fulfill an obligation or commitment to the City, as listed in paragraph B. below.

- A. Administrative Remedies: the following may be applied by the City:

1. Refuse to accept or inspect, deny, withhold, or otherwise stop the processing of any permit, license, certificate, approval, order, application, or any similar authorization or contract normally issued by the municipality to such person, business or other legal entity.
2. Direct a stop work order for any construction in progress by such person, business or other legal entity involved.
3. Decline to award any contract or otherwise do business of any nature with such person, business or other legal entity.

B. Default: A person, business, or other legal entity may be considered in default with the City for any of the following:

1. Delinquency in the payment of a utility bill or any other money owed to the City.
2. Non-performance of required construction of repairs on original infrastructure improvements or on guaranteed infrastructure improvements that have been dedicated or are to be dedicated to the City in accordance with agreed upon development plans.
3. Constructing, occupying or otherwise using or allowing to be used, a facility, home, dwelling or other structure or development in a manner contrary to agreed upon development plans, approved final plats, or the City's land use and/or other applicable resolutions, regulations or ordinances. This shall include failure to comply with any applicable state and federal laws or regulations.
4. Failure to properly license and keep current any business license, home occupation license, home business license, or other license required in accordance with the City Code.
5. Failure to comply with and fulfill all obligations related to an existing project, business, development or enterprise within the City, at the time any new application or request for any type of license, permit or approval is sought from the City.
6. Failure to maintain any City, state or federal license, professional or otherwise, required of a person, business or other legal entity to conduct any business or activity, whether existing or proposed.

7. The foregoing statement of defaults is not intended to be exclusive, but rather is intended to include and not be limited to the defaults listed above; it being the intention of the City to require all persons, business or other legal entities to be in compliance with all applicable City, state and federal ordinances, laws, resolutions and other regulations at the time he/she/it may apply for or request, initial or subsequent, permits, licenses, certificates, approvals, orders or similar authorizations from the City. Any officer of the City, as defined above, is granted authority to determine whether or not any administrative remedy should apply, which one to apply and to apply it, subject to the following provisions of this Chapter.

C. Procedure. Following a determination by the governing body or a City officer that a person, business, or other legal entity is in default with the City, the City Manager, City Administrator or City Recorder shall notify the party in default by giving notice to such person, business or other legal entity which shall include the following:

1. That the City has determined the party to be in default and the reason(s) for such a finding,
2. The administrative remedies which have been or may be applied,
3. What action(s) the party must do to no longer be considered in default and thereby have resolved any applied administrative remedies, and
4. The party's rights to administrative remedies under this Chapter.

Following such notice, the City shall indicate on any applicable permit, license, application, or contract a notice of the default position of the party involved and the required resolution of any such default position before any further action will be taken by the City on behalf of such person, business or other legal entity.

D. Applying administrative remedies by the City shall not be construed to mean that the City will not or can not pursue other legal remedies including civil or criminal action, all remedies being alternative in nature.

E. The City may require reimbursement by the party(s) involved for any costs and fees incurred by the City in applying administrative remedies under this Chapter when those costs and fees are above and beyond the normal or customary costs and fees of processing and pursuing the actions involved. Costs and fees that could be charged and collected may include but are not limited to: legal fees, administration costs, the costs of additional building inspections, collection costs, and the costs and fees incurred for any other work done, services performed and materials purchased by City employees or those hired by the City to repair, complete or

correct infrastructure work, or to remedy any other default(s).

1-9A-3: **ADMINISTRATIVE REMEDIES BY A PERSON, BUSINESS, OR OTHER ENTITY.**

- A. Those Who Can Request Administrative Remedies. Unless otherwise specifically provided in any ordinance, resolution or regulation of the City or any code adopted by reference; a hearing before the governing body may be requested by any person, business or other legal entity who receives a notice as provided in section 2:C. above, or who is otherwise denied or refused a permit or license or other privilege as herein provided, normally offered by the City, by any officer of this City; or whose permit, approval or license is revoked, restricted, qualified, or limited from that for which it was first issued.
- B. Form of Request. The request for hearing must be made in writing to the Mayor, City Recorder, Manager or Administrator and must be made within thirty (30) calendar days following the date notice of default or notice denying, refusing, qualifying, restricting or revoking the license, permit or other approval is mailed by the City to the person, business or other legal entity, at his/her/its address as it appears on the application, license or other relevant document.
- C. Procedure.
1. Following receipt of a request for hearing, the governing body shall inform the person requesting hearing of the time and place the hearing is to be held.
  2. At the hearing, the aggrieved party shall have the right to hear and examine any witnesses the City may produce to support its decision and to present his/her/its own evidence in support of his/her/its contention.
  3. The governing body shall, within ten days following the conclusion of the hearing, in writing, inform the person who requested the hearing of the decision of the governing body.
- D. Not Additional Remedy. This part shall not be construed so as to afford any aggrieved party more than one hearing before the governing body nor shall the hearing provided in this part apply to any criminal complaint or proceeding.

1-9A-4:       **CONFLICT:** To the extent of any conflict between this Chapter and any other City ordinance(s) and/or regulation(s), the provisions of this ordinance shall be controlling.

1-9A-5:       **SEVERABILITY:** The sections, paragraphs, sentences, clauses, and phrases of this Chapter are severable. If any such section, paragraph, sentence, clause, or phrase shall be declared invalid or unconstitutional by the valid judgment or decree of a Court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any of the remaining sections, paragraphs, sentences, clauses or phrases of this Chapter.