

## CHAPTER 2

### ADMINISTRATION AND ENFORCEMENT

#### SECTION:

- 11-2-1: Established
- 11-2-2: Compliance Required
- 11-2-3: Permit Issuance
- 11-2-4: Fee Schedule
- 11-2-5: Inspections, Generally
- 11-2-6: Penalty
- 11-2-7: Administrative Provisions

11-2-1: **ESTABLISHED:** The City shall enforce the provisions of this Title. Failure of such to pursue appropriate legal remedies shall not legalize any violation of such provisions. Reasonable legal fees incurred by the City in enforcement hereof may be assessed as an additional penalty for violation of this Title. (Subd. Ord., 1-24-1990)

11-2-2: **COMPLIANCE REQUIRED:** No person shall subdivide any tract or parcel of land located wholly or in part in the City, except as in compliance with the provisions of this Title. No person shall purchase, sell or exchange any parcel of land which is any part of a subdivision or a proposed subdivision submitted to the Planning Commission, nor offer for recording in the office of the County Recorder, any deed conveying such a parcel of land or any fee interest therein, unless such subdivision has been created pursuant to and in accordance with the provisions of this Title. (Subd. Ord., 1-24-1991)

11-2-3: **PERMIT ISSUANCE:** From the time of the effective date of this Subdivision Title, the Building Inspector shall not grant a permit, nor shall any City office, department or agency grant any license or permit for the use of any land or the construction or alteration of any building or structure on a lot which is contained in a subdivision that was not approved prior to the effective date hereof which would be in violation of any provisions of this Title until a subdivision plat has been approved as herein required and subsequently recorded. Any license or permit issued in conflict with such provisions shall be void. (Subd. Ord., 1-24-1990)

11-2-4: **FEE SCHEDULE:** Any and all persons requesting approval on preliminary plats, final plats and construction drawings and specifications for the construction of improvements shall have first paid all fees required as set forth by the most recent prevailing fee schedule adopted by the City. The fee schedule shall include, but shall not be limited to, office checking, legal and field engineering fees to be payable to the City at the time of each of the above named submittals or in one lump sum as approved by the City. In addition to the above, a retainer fee for the construction inspection based on the above, a retainer fee for the construction

inspection based on the above mentioned fee schedule shall be payable to the City prior to any construction of subdivision improvements. All costs of inspection, including any necessary testing, shall be borne by the developer, not the City. The fee schedule shall be held in the City office. (Subd. Ord., 1-24-1991)

11-2-5:       **INSPECTIONS, GENERALLY:** Appropriate agencies, departments and officials of the City shall inspect, or cause to be inspected, all buildings, roads, fire hydrants and water supply and sewage disposal systems in the course of construction, installation or repair. Excavations for fire hydrants and water and sewer mains and laterals shall not be covered nor backfilled until such installations shall have been approved by the appropriate department, agency or officials. If any such installation is covered before being inspected and approved, it shall be uncovered after notice to uncover has been issued to the responsible person by the inspector. A minimum of one working days' notice shall be given for any inspection. (Subd. Ord., 1-24-1990)

11-2-6:       **PENALTY:** Whoever shall violate any of the provisions of this Title shall be guilty of a Class C misdemeanor and, upon conviction of any such violation, shall be subject to penalty as provided in Section 1-4-1 of this Code. Each violation of this Title shall be considered a separate offense, and each day such violation is permitted to exist shall constitute a separate offense. (Subd. Ord., 1-24-1990)

11-2-7:       **ADMINISTRATIVE PROVISIONS:**

- A.     Appeals: Appeals from decisions applying this chapter shall be considered land use appeals and be heard by the Appeal Authority provided for in Title 12 in a manner consistent with local ordinance and state law.
  
- B.     Written Agreements: Written agreements may be deemed necessary by all parties involved in the review and approval of subdivision application to protect the interests of the parties and clarify the mutual understandings associated with that review and/or approval., Written agreements may be entered into by all parties concerned to cover concerns and issues not specifically addressed by this Subdivision Title or other codes, standards, or ordinances of the City. Written agreements shall be finalized and executed by all other parties before the Mayor places signature on the final plat and the written agreements.
  
- C.     Guidelines and Checklists: The City is hereby authorized and empowered to promulgate by way of resolution certain materials, such as guidelines and/or checklists relative to this Title. These materials shall be provided to any interested person upon request and upon payment of a fee if required by the City. These materials shall be for instructional purposes only and represent an attempt to aid those seeking to comply with this Title. In the event any conflict arises between such materials and this Title or other regulations, resolutions or policies of the City, then said ordinances, resolutions, regulations, or policies shall be deemed controlling and all questions shall be resolved in their favor.

- D. The City Council may grant an exception to the requirements of this Title after receiving the recommendations of the Planning Commission and the Development Review Committee; provided that approving such exception will not substantially impair the intent of this Title.
1. When considering, granting, or denying an exception to title, the City Council is acting as a land use authority.
  2. The consideration of and action upon an application for an exception to this title is an administrative act and is not an ordinance or a code amendment. An administrative record shall be kept of the decision. The decision will be supported by appropriate findings of fact and conclusions of law whether the application is approved or denied
  3. When approving a request for an exception to this title, the City Council shall specifically identify conditions that exist that support a determination that complete compliance with the requirement(s) of this Code is unnecessary to serve the public interest and the goals and objectives of the Code and the General Plan.
  4. Approval of an exception shall not materially increase the burden on the municipality to maintain its infrastructure.
  5. In approving an exception, conditions may be imposed which will, as determined by the City Council, better serve the public interest than the strict application of the provisions of this Title.
  6. The applicant, a board or officer of the municipality, or any person adversely affected by a decision to approve or deny an exception may, using the procedure in Title 2 Chapter 5 of this Code, appeal the decision to the Appeal Authority by alleging that there is error in any order, requirement, decision, or determination made by the City Council, acting as a land use authority, in the administration or interpretation of this Code. The appeal shall be a record review and the decision of the City Council will be upheld if it is legal and supported by substantial evidence in the record.
- E. Floodways and Floodplains. Subdivision plats shall be designed and prepared to clearly provide that the Construction of buildings is not allowed in a designated floodway with a return frequency more often than a 100-year flood. Where building construction is to be allowed in any portion of a designated floodway where the return frequency is between a 100-year and a maximum probability flood, the plat shall be designed and prepared to clearly provide that all usable floor space for an occupancy use is constructed above the designated maximum probable flood level.