

## SECTION 11 - VIOLATIONS AND ENFORCEMENT

**11.1 Responsibility for Enforcement.** The Zoning Administrator shall primarily enforce this UDO. If any building or structure is erected, constructed, reconstructed, altered, converted, moved or maintained, or any building, structure, or land is used in violation of this Ordinance or regulations made under its authority, the City may institute any proper action or proceedings to prevent the unlawful erection, construction, reconstruction, alteration, conversion, moving, maintenance or use; to restrain, correct or abate the violation; to prevent the occupancy or use of the building, structure, or land; or to prevent any illegal act, conduct, business or use in and to the premises.

**11.2 Types of Violations.** Any of the following shall be a violation of this UDO and of law and shall be subject to the remedies and penalties provided in this Ordinance, the City Code or the general police powers granted by Missouri law:

A. Subdivision, Development or Use Without Permit. To engage in any subdividing, development, use, construction, remodeling or other activity of any nature upon the land and improvements thereon subject to the jurisdiction of this UDO without all of the required permits, approvals, certificates and other forms of authorization required by this UDO in order to conduct or engage in such activity;

B. Subdivision, Development or Use Inconsistent with Permit. To engage in any development, use, construction, remodeling or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate or other form of authorization required in order to engage in such activity;

C. Subdivision, Development or Use Inconsistent with Conditions. To violate, by act or omission, any term, conditions or qualification placed by the Commission, Board of Aldermen or Board of Adjustment, as applicable, upon a required permit, certificate or other form of authorization granted by the Commission, Board of Aldermen or Board of Adjustment to allow the use, development, sign, or other activity upon land or improvements thereon;

D. Subdivision, Development or Use Inconsistent with Unified Development Ordinance. By erecting, constructing, reconstructing, remodeling, altering, maintaining, moving or using any building, structure or sign or by using any land in violation or contravention of any zoning, subdivision, sign or general regulation of this UDO, or any amendment thereof;

E. Making Lots or Setbacks Nonconforming. By reducing or diminishing any lot area so that the setbacks or open spaces shall be smaller than prescribed by this UDO and the Final Plat;

F. Increasing Intensity of Use. By increasing the intensity of use of any land or structure, except in accordance with the procedural and substantive requirements of this UDO;

G. Continuing Violations. By continuing any of the violations of this section, each day that a violation continues shall be considered a separate offense.

H. Removing, Defacing or Obscuring Notice. By removing, defacing, obscuring or otherwise interfering with any notice required by this UDO.

**11.3 Remedies and Enforcement Powers.** The City shall have the following remedies and enforcement powers:

A. Withhold Permits. The City may deny or withhold all permits, certificates or other forms of authorization on any land or structure or improvements thereon upon that there is an uncorrected violation of a provision of this UDO or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the City. Instead of withholding or denying an authorization, the City may grant such authorization subject to the condition that the violation be corrected. This enforcement provision shall apply regardless of whether the current owner or applicant is responsible for the violation in question.

B. Revoke Permits. Any permit may be revoked when the Zoning Administrator determines:

1. That there is departure from the plans, specifications or conditions as required under terms of the permit;
2. That the same was procured by false representation or was issued by mistake; or
3. That any of the provisions of this UDO are being violated.

Such revocation may also include certificates to occupy or conduct business. Written notice of such revocation shall be served upon the owner, the owner's agent or contractor or upon any person employed on the building or structure that such permit was issued, or shall be posted in a prominent location; and, thereafter, no such construction shall proceed. As soon as is practically reasonable, Zoning Administrator shall hold a hearing with the permit holder or other adversely affected person.

C. Stop Work. With or without revoking permits, the City may stop work on any building or structure on any land that there is an uncorrected violation of a provision of this Unified Development Ordinance or of a permit of other form of authorization issued hereunder, in accordance with its power to stop work under its building codes.

D. Revoke Plan or Other Approval. Where a violation of this UDO involves a failure to comply with approved plans or conditions that the approval of such plans was made subject, the Board of Aldermen may, upon notice to the applicant and other known parties in interest (including any holder of building permits affected) and after a public hearing, revoke the plan or other approval or condition its continuance on strict compliance, the provision of security of

such other conditions as the Board of Aldermen may reasonably impose.

E. Injunctive Relief. The City may seek an injunction or other equitable relief in court to stop any violation of this UDO or of a permit, certificate or other form of authorization granted hereunder.

F. Abatement. The City may seek a court order in the nature of mandamus, abatement, injunction or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition that they existed prior to the violation.

G. Other Remedies. The City shall have such other remedies as are and as may be from time to time provided by Missouri law and the City code for the violation of zoning, subdivision, sign or related UDO provisions. The remedies and enforcement powers established in this Section shall be cumulative.

#### **11.4 Enforcement Procedures.**

A. Non-Emergency Matters. In the case of violations of this Unified Development Ordinance that do not constitute an emergency or require immediate attention, the Zoning Administrator shall give notice of the nature of the violation to the property owners or to any other person who is party to the agreement or to any applicant for any relevant permit in the manner hereinafter stated, after the persons receiving notice shall have ten days to correct the violation before further enforcement action shall be taken. Notice shall be given in person, by United States Mail or by posting notice on the premises. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

B. Emergency Matters. In the case of violations of this UDO that constitute an emergency situation as a result of safety or public concerns or violations that will create increased problems or costs if not remedied immediately, the City may use the enforcement powers available under this Section without prior notice, but the Zoning Administrator shall attempt to give notice simultaneously with beginning enforcement action to the property owner, to any other person who is party to the agreement and to applicants for any relevant permit.

**11.5 Violations of Prior Regulations.** All violations under the previous regulations that exist within the City as of the effective date of this Unified Development Ordinance, shall continue to be violations and shall not be considered to be legal, nonconforming situations under this UDO. The City shall have the authority to secure remedies for violations of those regulations to the same extent that it may secure similar remedies for violations of this UDO.

#### **11.6 Penalty for violations and civil remedies.**

A. Civil citations. If the Zoning Administrator determines that a violation of

this Ordinance or regulations made under its authority has occurred, the Zoning Administrator may issue the violator a civil citation, which shall be proceeded upon in accordance with the provisions herein. The civil citation shall be issued to the violator by the Zoning Administrator upon a uniform municipal infraction form provided by the clerk of the municipal court, which shall include a notice or summons to answer the charges against him within the time specified on the form for hearing before the municipal court. Upon issuance of a civil citation, the Zoning Administrator shall provide a copy of the notice or summons to the clerk of the municipal court.

B. Plea and fines. Any person issued a civil citation for a violation of this Ordinance or regulations made under its authority, for which payment of a fine may be made to the municipal court, shall have the option of paying the fine in the sum and within the time specified in the civil citation upon entering a plea of guilty and upon waiving an appearance in court. It shall be the duty of the municipal court to accept payment of a fine. The payment of a fine to the municipal court shall be deemed an acknowledgment of conviction of the alleged offense and the court, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment. Any person issued a civil citation may, in the alternative, enter a plea of not guilty, and upon the entry of a plea of not guilty, shall be entitled to a trial as authorized by law.

C. Fines for violations. Violations of any provision of this Ordinance are hereby declared to be public offenses and, pursuant to the authority of RSMo. 89.120, misdemeanors. The owner or general agent of a building or premises where a violation of any provision of the regulations has been committed or exists, or the lessee or tenant of an entire building or entire premises where a violation has been committed or exists, or the owner, general agent, lessee or tenant of any part of the building or premises in which a violation has been committed or exists, or the general agent, architect, builder, contractor or any other person who commits, takes part in or assists in any violation or who maintains any building or premises in which any violation exists shall be guilty of a misdemeanor punishable pursuant to Section 1.8(F) of the City Code of the City of Lone Jack, Missouri. Each day that such violation continues shall be deemed a separate offense.

D. Civil lawsuits. The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this Ordinance and to abate nuisances maintained in violation thereof. In the event that any building or structure is or is proposed to be erected, constructed, altered, converted, moved or maintained in violation of this Ordinance, or any building, structure or land is proposed to be used in violation of this Ordinance, the City Attorney, or other appropriate authority of the City may, in addition to any other remedies, institute injunction, mandamus or any other appropriate actions or proceeding to prevent the unlawful erection, construction, reconstruction, alteration, conversion, moving, maintenance or use, or to correct or abate the violation, or to prevent the occupancy of the building, structure or land, or to prevent any illegal act, conduct, business or use in or about the premises.

