
CHAPTER 1212 APPEALS & ENFORCEMENT

SECTION 1212.01 APPEALS

- (a) *Final Actions and Decisions by the City Manager*
Any party-in-interest aggrieved by any final action, decision, or order by the City Manager or his designee pursuant to this Code may appeal to the Board of Zoning and Building Appeals, except that appeals from the action of the City Manager on an application for site plan approval for minor developments shall be to the Planning Commission and appeals from the final action of the City Manager on architecture/design/historic preservation compliance issues involving a minor residential improvement shall be to the AHBR.
- (1) All appeals to the BZBA shall be governed by Section 1202.03, including the time period for filing the appeal.
 - (2) All appeals to the Planning Commission shall be filed with the secretary of the PC within ten (10) days from the date of the City Manager's action. The PC shall take final action on the appeal within forty-five (45) days from the date that the appeal was filed.
 - (3) All appeals to the Architectural and Historic Board of Review from a final action of the City Manager with respect to architecture/design/historic preservation compliance issues involving a minor residential improvement shall be filed with the secretary of the AHBR within (10) days from the date of the City Manager's final action. The AHBR shall take final action on the appeal within forty-five (45) days from the date that the appeal was filed.
- (b) *Final Actions and Decisions by the Architectural and Historic Board of Review*
Any party-in-interest aggrieved by any final action, decision, or order by the Architectural and Historic Board of Review pursuant to this Code may appeal to the Board of Zoning and Building Appeals. All appeals shall be governed by Section 1202.03, including the time period for filing the appeal.
- (c) *Final Actions and Decisions by the Planning Commission*
Any party-in-interest aggrieved by any final action, decision, or order by the Planning Commission may appeal to the City Council, except that appeals from PC action on an application for conditional use shall be to the Board of Zoning and Building Appeals:
- (1) Appeals to the City Council shall be filed with the city clerk within ten (10) days from the date of the PC's action. The City Council shall take final action on the appeal within forty-five (45) days from the date that the appeal was filed.
 - (2) All appeals to the BZBA shall be governed by Section 1202.03, including the time period for filing the appeal.

SECTION 1212.02 VIOLATIONS AND PENALTY

- (a) *General*
The office of the City Manager shall be the city agency authorized and empowered to enforce the provisions of this Code as set forth in this Chapter.

(b) *Violations*

It shall be a violation of this Land Development Code to undertake any of the following activities:

- (1) Subdivision without final approval of a final subdivision plat or minor subdivision (no plat required);
- (2) Grade, cut, clear, or undertake any other land disturbance activity without a zoning certificate;
- (3) Residential development, including new single family development on single lots, accessory structures, additions, alterations, or fences without a Zoning Certificate or a residential allotment pursuant to Chapter 1211 of this Code;
- (4) Industrial or commercial development including accessory structures, additions, alterations, or fences without a Zoning Certificate;
- (5) Development, construction, alteration, expansion, demolition, or moving of a structure or building in a Historic District or involving a historic landmark without a Certificate of Appropriateness;
- (6) Erect, move, replace, or alter a sign without a zoning certificate;
- (7) Occupy, use, or change the use of any structure or land except in compliance with this Code;
- (8) Create, expand, replace, or change a nonconforming use except in compliance with this Code;
- (9) Failure to comply with any terms, conditions, or limitations contained on the site plan, subdivision plat, landscaping plan, building elevations, or other approved document pertaining to a development or subdivision that has received final approval from the City; and
- (10) Failure to comply with any condition of record imposed by the appropriate decision-maker upon its review of the final site plan, planned development plan, site-specific development plan, or other plan for development under the provisions of this Code.
- (11) Failure to comply with any provision of the Land Development Code not explicitly stated in the previous activities (1) through (10).

(c) *Penalty*

Whoever violates any provision of this Code is guilty of a minor misdemeanor, the penalty for which shall be a maximum fine of \$100 and no imprisonment. Each day of violation of a provision of this Code is a separate offense. Each subsequent violation of the same provision of this Code shall be a misdemeanor of the fourth degree which shall have a penalty of up to a \$250 fine and/or up to 30 days imprisonment.

The court may require a person who is convicted of a violation of this Code to make restitution for all or part of the property damage it has caused by the offense and the court may require the person who is convicted to correct any violation of this Code.

SECTION 1212.03 MUNICIPAL CIVIL INFRACTIONS

- (a) *Purpose*
The purpose this section is to establish definitions, penalties, sanctions, and other regulations related to violations of Part Twelve (this Land Development Code) and Part Fourteen (Building and Housing Code) of the Codified Ordinances, which violations shall be known as “municipal civil infractions,” in order to assist the City in the enforcement of the aforesaid codes and to serve as an alternative mechanism available to the City in lieu of criminal enforcement.
- (b) *Discretion to Use Civil Infractions*
Unless a violation of Part Twelve (this Land Development Code) or Part Fourteen (Building and Housing Code) of the Codified Ordinances is specifically designated within the specific section of the particular code to be a misdemeanor, it is within the complete discretion of an authorized enforcement official of the City to deem the violation to be a municipal civil infraction or to deem the violation to be a criminal infraction.
- (c) *Penalties for Municipal Civil Infractions, Sanctions, and Remedies*
- (1) Civil Fines. The following civil fines shall apply in the event of a determination of responsibility for a municipal civil infraction, unless a different fine is specified in connection with a specific Code provision:
 - (A) The civil fine for a first offense violation shall be in an amount of \$75.00, plus applicable costs, for each offense.
 - (B) The civil fine for a first offense violation of any condition of record of a final decision of a Board or Commission of the City shall be in an amount of \$250.00, plus applicable costs, for each offense.
 - (C) The civil fine for the violation of this Land Development Code (Part Twelve), including violations of Section 1207.02, “Tree and Vegetation Protection” or Section 1207.03, “Wetland/Stream Corridor Protection,” or violations of Part Fourteen (Building and Housing Code) of the Codified Ordinances that involve irreparable damage to the environment shall be in an amount up to \$1,000, plus applicable costs, for each offense.
 - (2) Repeat Offense. The civil fine for any offense which is a repeat offense shall be doubled in amount, plus applicable costs, for each offense.
 - (3) Continuing offense. Each act of violation, and on each day upon which any such violation shall occur, shall constitute a separate offense.
 - (4) Remedies not exclusive. In addition to any remedies provided for in this Code, any equitable or other remedies available may be sought.
 - (5) Not a lesser offense. A municipal civil infraction shall not be a lesser included offense of a criminal offense or of an ordinance violation which is not a municipal civil infraction.
 - (6) When any work has begun prior to obtaining a Zoning Certificate, the application fees shall be doubled as a penalty.

- (d) *Commencement of Municipal Infraction Action*
- (1) A municipal civil infraction action shall be commenced upon the issuance by an authorized enforcement official of a municipal civil infraction violation notice directing the person alleged to be responsible to appear at the City of Hudson Police Department of the Community Development Department office.
 - (2) The form of notices used to issue municipal civil infraction violation notices shall be in accordance with forms prescribed by the City Solicitor.
 - (3) The basis for issuance of a municipal civil infraction violation notice shall be as set forth below:
 - (A) An authorized enforcement official who witnesses a person violate an ordinance, the violation of which is a municipal civil infraction, shall prepare and subscribe, as soon as possible and as completely as possible, an original and three (3) copies of a notice.
 - (B) An authorized enforcement official may issue a notice to a person if, based upon investigation, the official has reasonable cause to believe that a person is responsible for a municipal civil infraction.
 - (C) An authorized enforcement official may issue a notice to a person if, based upon investigation of a complaint by someone who allegedly witnessed the person violate an ordinance, a violation of which is a municipal civil infraction, the official has reasonable cause to believe that the person is responsible for a municipal civil infraction and if the City Solicitor, Prosecutor, or other attorney for the City approves in writing the issuance of the notice on this basis.
 - (4) A municipal civil infraction violation notice shall be served in the following manner:
 - (A) Except as otherwise provided below, the authorized enforcement official shall personally serve a copy of the notice upon the alleged violator.
 - (B) In a municipal civil infraction action involving the use or occupancy of land or a building or other structure, a copy of the notice need not be personally served upon the alleged violator but may be served upon an owner or occupant of the land, building or structure by posting the copy on the land or attaching the copy to the building or structure. In addition, a copy of the notice shall be sent by first class mail to the owner of the land, building or structure at the owner's last known address.
 - (C) A notice served as provided in paragraph (2), above, for a violation involving the use or occupancy of land or a building or other structure, shall be processed in the same manner as a notice served personally upon an alleged violator.
- (e) *Authorized Enforcement Official*

- (1) The City Manager is hereby authorized to appoint any person or persons as “authorized enforcement officials” for purposes of carrying out the enforcement duties and responsibilities specified in this Chapter and Part Fourteen (Building and Housing Code) of the Codified Ordinances.
 - (2) An authorized enforcement official is authorized to enforce all provisions of this Code and Part Fourteen (Building and Housing Code) of the Codified Ordinances, whether or not any particular provision specifies or designates a different enforcing official. Where a particular officer is designated in any Code provision, that officer’s authority shall continue in full force and effect, and shall not be diminished or impaired by the terms of this Chapter, and the authority of the authorized enforcement official shall be in addition and supplementary to the authority granted to such other specific officer.
 - (3) The authorized enforcement official's duties shall include the following:
 - (A) Investigation of code violations;
 - (B) Issuance and service of municipal civil infraction violation notices;
 - (C) Appearance in court or other judicial or quasi-judicial proceedings in the administration of this Chapter.
- (f) *Police Department to Serve as Violations Bureau*
- (1) The City of Hudson Police Department shall serve as the civil infraction Violations Bureau for the purpose of accepting admissions of responsibility for municipal civil infractions in response to municipal civil infraction violation notices.
 - (2) Payments made to the City of Hudson Police Department shall be retained and accounted for as fines and costs, respectively, and shall be deposited in the General Fund.
- (g) *Authority of City of Hudson Police Department*
- (1) The Police Department is authorized to accept payment of fines and costs in response to municipal civil infraction violation notices.
 - (2) The Police Department shall not accept payment of a fine or costs from any person who denies having committed a municipal civil infraction charged in a municipal civil infraction violation notice.
 - (3) The Police Department shall not have authority or jurisdiction to determine, or attempt to determine, the truth or falsity of any fact or matter relating to an alleged violation.
- (h) *Election of Person Charged with Violation*
- (1) Any person receiving a municipal civil infraction violation notice shall be permitted to dispose of the charge alleged in the notice by making payment of the fine and/or costs to the City of Hudson Police Department or the Community Development Department office. The unwillingness of any person to dispose of a violation at the Police Department shall not prejudice

the person or in any way diminish the person's rights, privileges and protection accorded by law.

- (2) A person electing to have the alleged violation processed at the Police Department shall appear at the Police Department and Community Development Department to pay the specified fine and/or costs within the time specified for appearance in the municipal civil infraction violation notice. Such appearance may be made by mail, in person or by representation, provided if appearance is made by mail, the person charged in the notice shall have the responsibility for timely delivery of the fine and/or costs within the time specified in the municipal civil infraction violation notice.

- (i) *Procedure for Persons Electing Not to Respond to Municipal Civil Infraction Violations Notice*

In the event a person elects not to admit responsibility and pay the specified civil fine and/or costs prescribed for the respective violation, the City Prosecutor shall determine whether to proceed to a court of competent jurisdiction with a civil remedy for the alleged violation or to issue a criminal misdemeanor complaint.