



# Development Code Enforcement Mechanisms

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CITY COUNCIL – October 15, 2024

City Staff Representative:  
Department:

Holly Prather, AICP, Community Development Director  
Community Development

# Background

June 4, 2024, City Council Meeting (Item 9C. Development Review Discussion)

- Motion made to have staff bring options to July 2<sup>nd</sup> meeting to create *“a reporting mechanism and enforcement tool to force compliance with all original development agreements before staff is allowed to review final plat for build-out.”*
- Motion amended and approved (8-0) to remove “final plat” from the motion and to move to the July 9<sup>th</sup> Study Session.

# Background

- Later, the item was moved to the August 13<sup>th</sup> Study Session to ensure all Council members could attend and participate in the discussion.
- At that meeting, staff presented suggested revisions to the *Land Use and Development Code (LUDC)* and the City Council gave staff general direction to move forward with the amendments as proposed.

# Proposed Code Amendments

- Amend the existing *LUDC, Section 1.04 Enforcement*, in its entirety.
- Currently, the *LUDC* lists out separate sections (A, B, and C) for violations, enforcement, and penalties all within Section 1.04.
- The proposed code amendments would instead result in Section 1.04 being entirely focused on violations and would add a new section, 1.06 for the enforcement provisions, and a new section 1.07 for penalties.

# Proposed Code Amendments

- Generally, for the existing section 1.04, city staff is proposing to remove all of the existing generic language and replace it with more specific language as to what may constitute a violation.
- Proposed Violations - The draft language includes failure to comply with not only the *LUDC*, but also:
  - Any other regulation as adopted by another City Department;
  - Expanding beyond violations of just the *LUDC* and including any violations of any agreement or an approved plat;
  - With any conditions that may be attached to a permit or any other development approvals;
  - Illegally subdividing property;
  - Obstructing or removing any notice that is posted or otherwise given; and
  - Interfering with city staff in performing their duties.

# Proposed Code Amendments

- {New Section} 1.06 Enforcement has been added to the LUDC.
- Discusses enforcement responsibility and ability to perform inspections for potential violations.
- Proposed Enforcement Powers - The draft language includes the ability to use any or all of the following provisions:
  - Withholding of a Building Permit or Certificate of Occupancy;
  - Withholding of Other Permits and Approvals;
  - Withholding of Water Taps or Water Service;
  - Revocation of Permits or Approvals;

# Proposed Code Amendments

- Suspension of Licenses;
- Stop Work Order;
- Abatement;
- Injunctive Relief;
- Utilization of Article 1-24 Powers;
- City abatement and Recovery Costs; and
- Others as Permitted by Law.

# Proposed Code Amendments

- Proposed Enforcement Procedures – Two Types:
  - Non-Emergency Matters; and
  - Emergency Matters.



# Proposed Code Amendments

- Proposed Enforcement Procedures – Non-Emergency Matters
  - Notice of Violation – Written notice sent to occupant, property owner, or any applicant for any relevant permit. May be sent via mail, leaving a copy on premises with an agent of the premises, or affixing the notice in a conspicuous place.
  - Correction of Violations – Generally, ten calendar days from the date of the notice. Director may provide additional time if the nature of the violation or other unique circumstances make it infeasible to correct. Alternatively, may allow a shorter time period if the violation can be reasonably corrected in less time, it involves a temporary use or structure that will be used in less than ten days, or if the property is a chronic violator. May also extend if in written receipt with evidence that the correction has been started but is impracticable to complete within the time period given.
  - Summons to Court – Violations not corrected within the required timeframe may be subject to appearance in municipal court and subject to additional penalties.

# Proposed Code Amendments

- Proposed Enforcement Procedures – Emergency Matters
  - Generally, must be an immediate threat to public health and safety, or an emergency with the potential to create substantially increased problems, costs, or liabilities for the City.
  - City may utilize enforcement powers without prior notice and instead, give notice simultaneously with the beginning of the enforcement action.

# Proposed Code Amendments

- {New Section} 1.07 Penalties has been added to the LUDC.
- Each day of continued violation shall constitute a separate violation.
- Any violation shall be punishable in accordance with the penalty as set forth in Section 1-24 of the Municipal Code.

# Proposed Code Amendments

- For the existing section 2.02(D)(2), generally, the proposed changes to the Review Procedure for Subdivision Plan applications are to:
  - Have the Planning Commission make a recommendation to the City Council; and
  - Have the City Council approve the subdivision plan and accept all public lands or proposed facilities.

# Proposed Code Amendments

- Add a new sub-section, Section 2.01(G)(7) to:
  - Require the applicant, or a representative of the applicant, to attend any public hearings. If the applicant or representative is not in attendance, the public hearing will be rescheduled.

# Planning Commission Recommendation

Unanimously recommended approval (3-0) at a public hearing held on September 26, 2024.

# Notice

- Notice regarding the proposed code amendments was placed on the City's website at least 15 days prior to this meeting (posted on 9/27/2024).
- Although not required, notice was also referred out to the City's social media accounts: Facebook and NextDoor.

# Code Amendment Review Criteria

**Review Criteria** - A code amendment shall be reviewed according to the following criteria:

- The amendment furthers the purposes of the regulations;
- The amendment is in accordance with the Comprehensive Plan and has been considered for both its long-range affects as well as immediate impacts;
- The amendment promotes the public safety, health and general welfare of the community in the City of Brighton; and
- The amendment improves the effectiveness and efficiency of administering the LUDC.



# Options for Council's Consideration

The City Council has various options when considering the proposed code amendments:

1. Approve the code amendments as drafted;
2. Not approve the code amendments;
3. Approve the code amendments with changes; or
4. Continue the item to be heard at a later, specified date.