
DIVISION 5. COMPLIANCE AND ENFORCEMENT

SECTIONS:

- 5.5.1 PURPOSE**
5.5.2 ENFORCEMENT AUTHORITY
5.5.3 VIOLATIONS
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- 5.5.1 PURPOSE.** This Division is established to provide a clear division of authority in the enforcement of the *Land Use Code (LUC)* and to establish procedures to enforce compliance with the *LUC*. (Ord. No. 9392, §1, 5/22/00)
- 5.5.2 ENFORCEMENT AUTHORITY.** Enforcement of *Land Use Code (LUC)* provisions is the responsibility of the Zoning Administrator as provided by state law. The Zoning Administrator is assisted by the Development Services Department (DSD) in the enforcement as provided by this Division. Enforcement is ensured as follows.
- 5.5.2.1 Compliance Review, Proposed Development. No land may be used or occupied; no site improvement, modification, or construction started; no existing use or structure expanded, reconstructed, changed, or otherwise altered; and no land may be divided into multiple parcels until compliance with the provisions of the *Land Use Code (LUC)* has been certified through a zoning review process by the Development Services Department (DSD). No City agency may issue a permit for excavation, grubbing, grading, paving, demolition, or construction of any sort before certification of compliance with provisions of the *LUC* has been determined by DSD. In the event a zoning regulation requires interpretation, such interpretation shall be issued by the Zoning Administrator in accordance with Sec. 1.2.1 and Sec. 23A-31 (5). (Ord. No. 9967, §5, 7/1/04)
- 5.5.2.2 Compliance Review, During Construction. Monitoring of construction for compliance with plans approved through the zoning review process as required in Sec. 5.5.2.1 shall be the responsibility of the Development Services Department (DSD). DSD shall monitor the implementation of the proposed development to ensure compliance with the plans approved for zoning compliance. DSD has the authority to suspend construction when construction does not conform with the plans approved for zoning compliance.
- 5.5.2.3 Compliance Review, Existing Development. Any land used or occupied; any site improvement, modification, or construction started; any existing use or structure expanded, reconstructed, changed, or otherwise altered; and any land divided into multiple parcels without certification of compliance with the provisions of the *Land Use Code (LUC)* through a zoning review process shall be considered a violation of the *LUC*. Enforcement of violations shall be in accordance with Sec. 5.5.3.
- 5.5.2.4 Compliance Certification, Existing Premises. The Zoning Administrator, upon written request, shall issue a written determination on whether an existing use or building was legally established in compliance with zoning regulations at the time the use was established or the structure was constructed, in accordance with Sec 23A-31(5). (Ord. No. 9967, §5, 7/1/04)
- 5.5.2.5 Revocation of Zoning Compliance Approval. Continued operation of a land use activity for which a zoning compliance certificate or approval has been revoked constitutes a violation of the *Land Use Code (LUC)* and shall be pursued in accordance with Sec. 5.5.3.

(Ord. No. 9392, §1, 5/22/00)

- 5.5.3 VIOLATIONS.** The Zoning Administrator shall be responsible for assuring that violations of the provisions of the *Land Use Code (LUC)* are mitigated with assistance from the Development Services Department (DSD), the City Attorney's Office, and other City departments as provided by the City Manager and the Mayor and Council. (Ord. No. 9392, §1, 5/22/00)

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- 5.5.3.1 Violation Declared Civil Infraction. It shall be a civil infraction for any person, firm, or corporation to violate, disobey, omit, neglect, refuse to comply with, or to resist the enforcement of any of the provisions of the *LUC*.
- 5.5.3.2 Actions by the Zoning Administrator. The Zoning Administrator may take any of the following actions to ensure enforcement of the *LUC*.
- A. Conduct an investigation of any site with the express permission of the owner or tenant. If the owner or tenant refuses permission to conduct the investigation, the Zoning Administrator shall issue a citation pursuant to Chapter 8 of the Tucson Code, based on the testimony of the complainant.
 - B. Serve written notice upon the owner, agent, or tenant of the property, who is the subject of the violation, requiring cessation or correction of the violation.
 - C. Issue a citation pursuant to Chapter 8 of the Tucson Code.
 - D. Report violations to the City Attorney as appropriate.
 - E. Report violations to the Development Services Department (DSD) Director as appropriate. (Ord. No. 9392, §1, 5/22/00)
 - F. Take such further action as deemed appropriate to assure compliance.
- 5.5.3.3 Action by the City Attorney. If any property or improvement thereon is used in violation of the provisions of the *LUC*, the City Attorney, in addition to other remedies, may institute any appropriate action or proceeding to:
- A. Restrain, correct, or abate such violation.
 - B. Prevent the occupancy of such building, structure, or land.
 - C. Prevent any additional violation arising from further conduct, business, or use, in or about such premises.
- 5.5.3.4 Action by the Development Services Department (DSD) Director. The Development Services Department (DSD) Director has the authority to disconnect or order utility companies to disconnect utility services to the premises involved in a violation until compliance is met, subject to the following. (Ord. No. 9392, §1, 5/22/00)
- A. No such action by the Development Services Department (DSD) Director shall be taken until ten (10) days after receipt by the tenant or by the owner of the premises of written notice of intent to take action. (Ord. No. 9392, §1, 5/22/00)
 - B. If a written request for review of the matter is received within ten (10) days of receipt of the notice of intent, the action by the Development Services Department (DSD) Director shall be stayed until a hearing thereon by the Board of Adjustment (B/A) or hearing as required by Chapter 8 of the Tucson Code. (Ord. No. 9392, §1, 5/22/00)
 - C. This provision does not preclude the use of any other enforcement method provided in the Tucson Code.
- 5.5.3.5 Violation of a B/A Decision. Failure to comply with the requirements or conditions of approval from the B/A constitutes a violation of the *LUC*. (Ord. No. 9179, §1, 12/14/98)
- 5.5.3.6 Violation of Rezoning Conditions. Failure to comply with the requirements or conditions of approval on a rezoning ordinance adopted by the Mayor and Council constitutes a violation of the *LUC*.

- 5.5.3.7 Violation of Conditions of Approval. Failure to comply with the requirements or conditions of approval on any of the various zoning compliance procedures as provided by the *LUC*, such as, but not limited to, Special Exception, Temporary Use, Design Development Option, or Home Occupation procedures, constitutes a violation of the *LUC*. (Ord. No. 9967, §5, 7/1/04)
- 5.5.3.8 Violation of a Development Plan. Failure to comply with conditions placed on an approved development plan constitutes a violation of the *LUC*.
- 5.5.3.9 Violation of a Site Plan. Failure to comply with conditions placed on an approved site plan, in regard to requirements of this Chapter, constitutes a violation of the *LUC*.
- 5.5.3.10 Violation of Plat Conditions. Failure to comply with the *LUC* conditions and requirements of a tentative or final plat, as approved, constitutes a violation of the *LUC*. (Ord. No. 9374, §1, 4/10/00)

(Ord. No. 9392, §1, 5/22/00)

