

CHAPTER 103 - ENFORCEMENT

ARTICLE 1 – IN GENERAL

103-1.1 Purpose

- A. The purpose of this chapter is to establish the administrative and enforcement authority and the subsequent penalties for *persons* and/or properties found to be in violation of the Surprise Municipal Code Part 2 – Land Development *Ordinance* (LDO).

103-1.2 Enforcement Authority

- A. The Community Development Director or designee shall be responsible for the administration and enforcement of the LDO and his/her designee shall be responsible for the enforcement of the LDO to further the promotion of the public health, safety, and general welfare.
- B. The designee responsible for enforcement shall have authority to enter any *building, structure, or premises* or any part thereof, at any and all reasonable times in accordance with legal requirements governing administrative inspections of private property, for the purpose of performing official duties.
- C. It shall be the duty of the Police Department, Fire Department, Public Works Department, or any other City department to assist in the enforcement of the LDO when requested by the City Manager or designee.
- D. It shall be unlawful for any person to willfully interfere with, hinder, or obstruct enforcement personnel in the discharge of their duties.
- E. This Chapter shall be construed and enforced in conjunction with the various codes referenced in Chapter 105 of the LDO. In the event there is a conflict between the provisions of the various chapters of the LDO or the codes adopted by reference in the LDO, then the provisions of this chapter shall prevail.

103-1.3 Administrative Remedies

- A. Administrative remedies may include the withholding of plan approval, permits, certificates, or any other form of authorization or approval under the authority of the Community Development Director or designee as outlined by the Land Development *Ordinance*, which is Part 2 of the Surprise Municipal, after determination of any of the following:
 - (1) Any violation of the LDO; or

- (2) Any violation of a condition, stipulation, or qualification of a permit, certificate, approval or other authorization previously granted by the City.
 - (2) Revocation of any plan approval, permit, certificate or any other form of authorization or approval under the authority of the City manager or designee as outlined by the LDO after determination of any of the following:
 - a. There is departure from the plans, specifications, or conditions as required under terms of the permit; or
 - b. The permit was procured by false representation; or
 - c. The permit was issued in error; or
 - d. Any of the provisions of the LDO are being violated.
 - (3) Written notice of such revocation shall be served upon the *owner*, the *authorized agent* or contractor, or upon any person employed on the premise for which such permit was issued, or shall be posted in a prominent location; and, thereafter, no such construction shall proceed except to correct such violation or to comply with the order. Such order shall state the nature of the violation, the specific provision violated, and the date and time by which the violation must be corrected.
 - (4) The City may stop grading, construction, or work on any *building* or *structure* on any land on which there is an uncorrected violation of a provision of the LDO, or of a permit or other form of authorization issued hereunder.
 - (5) The City may seek a court ordered injunction or other equitable relief to stop any violation of the LDO or of a permit, certificate or other form of authorization granted hereunder.
 - (6) In accordance with this chapter, the codes referenced in Chapter 105, and A.R.S. § 9-499, the City may abate a violation of the Surprise Municipal Code Part 2 – the LDO.
 - (7) The City, at the direction of the City Manager or designee may prohibit, restrict, or revoke occupancy of any *building* by any person or entity in which there has been a failure to comply with any permit, plans, specifications, or conditions required under the terms of the permit or any plan or other approval of the City.
- B. In addition to any administrative penalties, any person who violates any provision of the LDO or any provision of any code referenced and adopted by the LDO; or who erects, constructs, *alters* or repairs a *building* or *structure* in violation of the approved construction documents, directive of the City manager

or designee, or of a permit or certificate issued under the provisions of any code adopted by the LDO, may be found guilty of a civil or criminal violation.

103-1.4 **Violations and Penalties**

- A. Violation. Any *building* or *structure* erected or maintained or any *use* of property in violation of this *Ordinance* shall be declared unlawful and a public nuisance, and the City Attorney shall immediately commence action, or proceedings for the abatement, removal and enjoinder thereof in the manner provided by law; and shall take such other actions to grant such relief as will abate or remove such *building* or *structure* or *use* of any property in violation of the LDO. It shall be the right and duty of every citizen to cooperate with the City officials in the enforcement of the regulations of the LDO.
- B. Penalties. Any person who violates any regulations of this LDO or violates or fails to comply with any order or regulation made may be found guilty of a misdemeanor and upon conviction shall be sentenced to a fine or imprisonment for a term not exceeding that established by the Municipal Court or by both. Every violator shall be deemed guilty of or responsible for a separate offense for each day the violation is permitted to exist.

103-1.5 **Nonconforming uses and structures**

- A. Any *use* of land, *building*, or *structure* legally existing at the time of the effective date of this section or *amendments* thereto, may be continued even though such *use* may not conform with the regulations or *amendments* thereto for the *zoning district* in which it is located.
- B. In the event that a *nonconforming use* of land, *building*, or *structure* is discontinued for a period of 90 consecutive days, any future *use* thereof shall be in compliance with the this ordinance
- C. When any *nonconforming use* of any *structure* or land in any *zoning district* has been changed to a conforming *use*, it shall not thereafter be changed to any *nonconforming use*.
- D. In the event that a *nonconforming structure* is destroyed, the *structure* may be restored to its original *nonconforming* condition, provided:
 - (1) The cost of restoring the *structure* to its condition immediately prior to the event does not exceed 50 percent of the cost of reconstructing the entire *structure*; and,
 - (2) The cost of reconstruction is determined by three (3) state certified appraisers as required by the City Manager or designee; and,

- (3) A *building permit* application is submitted within 90 days from the date of the damage.
 - (4) Expiration of a *building permit* application or approved *building permit* related to reconstruction of the *nonconforming use* will be considered a discontinuance of the *nonconforming use*.
- E. A *nonconforming structure* shall not be enlarged, extended, reconstructed, or structurally *altered* unless such *structure* and such enlargement, extension, reconstruction, or structural *alterations* conform to the LDO; however, nothing herein shall prohibit any reasonable repairs or *alterations* to such *structure*. When a *structure* has been declared unsafe by the City's Building Safety Division and/or Code Enforcement Division, it may be placed in a safe condition unless such condition was created as described in the aforementioned Subsection C.
- F. Normal maintenance of a *building* or other *structure* containing or related to a legal *nonconforming use* is permitted, including necessary structural repairs provided such structural repairs do not enlarge or intensify the *nonconforming use*.
- G. A legal *nonconforming use* shall not be changed except in conformance with the *use* requirements of the *zoning district* in which it is located.
- H. If, at the time of the enactment of this *Ordinance*, any *owner* of a *plot* of land consisting of one (1) or more *adjacent lots* in a legally established subdivision of record does not own sufficient contiguous land to enable conformity to the minimum *lot* size requirements, or does not have sufficient *lot* width to conform to the minimum *lot* width requirements, such *plot* of land may nevertheless be *used* as a *building* site. The dimensional requirements of the district in which the piece of land is located may be reduced by the smallest amount that will permit a *structure* of acceptable size to be built upon the *lot*, such reduction to be determined by the board of adjustment:
- (1) In the RR or R1 zones, the reductions shall permit only a *single-family* residence.
 - (2) No *lot*, even though it may consist of one (1) or more *adjacent lots* in the same *ownership* at the time of passage of this *Ordinance*, shall be reduced in size so that *lot* width or *lot* area per *dwelling unit* or any other requirement is not maintained. This section shall not apply when a portion of a *lot* is acquired for a public purpose.

103-1.6 **Transfer of Property**

The sale and/or transfer of property that has been found to be in violation of the LDO shall not nullify the violation or stay the enforcement timeframes by which the violation is processed and compliance is required.