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Chapter 8 Compliance and Enforcement

Section 8.1 Compliance

(1) General

- a. It shall be unlawful for any person to begin, continue, or complete any development on any land within the territorial jurisdiction of the City to which the provisions of this Code apply, except in accordance with and upon compliance with the provisions of this Code.
- b. The City and its agents shall enforce and ensure compliance with the provisions of this Code and shall take necessary and appropriate actions to prevent or cease any violations of the provisions of this Code.
- c. Interpretation and Conflict
 - i. Minimum requirements: The standards and provisions of this Code shall be interpreted as the minimum requirements necessary for any person to comply with the Code.
 - ii. Whenever this Chapter imposes a higher standard than that required by any other ordinance or requirement, easements, deed restrictions, covenants or agreements, the provisions of this subchapter shall govern to the extent permitted by law. In the case of a conflict between two standards, the more restrictive shall apply.
 - iii. In cases where state or federal laws supercede the City's requirements, then the applicable state or federal requirements shall apply.
 - iv. If the City Council determines that the condition of a party's development or action of another party violates a higher standard than that required by this Code, the provisions of the applicable state or federal statute shall govern.

(2) Violations

The following shall be deemed violations under this Code and constitute sufficient grounds for the City to take enforcement actions and pursue the penalties as specified below.

- a. Development Without Permit: To engage in any development, use, construction, remodeling, or other activity of any nature upon any area or to make improvements thereon subject to the jurisdiction of this Code without all required permits, certificates, or other forms of authorization as set forth in this Code.
- b. Development Inconsistent with Permit: To engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, plat, permit,

certificate, or other form of authorization granted by the City for such activity.

- c. Violation by Act or Omission: To violate, by act or omission, any term, variance, modification, condition, stipulation or qualification imposed by the City Council or its authorized agents upon any required permit, plat, certificate, or other form of authorization for the use, development, or other activity upon land or improvements thereon.
- d. Use in Violation: To erect, construct, reconstruct, alter, repair, convert, maintain, or use any building, structure, property, or to use any land in violation or contravention of these regulations or any other regulation established under any other applicable legal authority.
- e. Fire Access Violations
 - i. A person commits an offense if the person intentionally alters, defaces, injures, knocks down, or removes or attempts to do so, any sign designating a fire lane which has been erected under the terms of this Code section.
 - ii. A summons or notice to appear in answer to a charge of parking, standing or stopping in violation of this section shall be issued on the official form prescribed by the City of Blanco.
 - 1. The summons or notice shall require the appearance of the violator before the Municipal Court of the City and all fines paid by the violator shall be paid to the Municipal Court Clerk.
 - 2. The summons must specify the location of the fire lane or accessible space in which the violation occurred.
 - 3. The summons or notice may be issued by any police officer or code enforcement officer employed by the City of Blanco, an employee designated by the Fire Marshall, or an employee of the City authorized to issue tickets for parking violations.
 - iii. A person authorized to issue citations for violations as provided in this section may cause to be removed any vehicle found to be in violation.
 - iv. When a vehicle is towed, the owner shall be liable for the wrecker and the storage fees in addition to the fine for the violation of this Code section.

(3) Roles and Responsibilities Concerning Compliance

- a. Generally
 - i. It shall be the duty of the City Council and the City Secretary, acting on behalf of the City Council, to enforce the requirements of this Code.

- ii. The City Secretary may call upon officials of the City, including the City Engineer, City Building Inspector, or other appropriate City employees, to furnish him with such information or assistance as he may deem necessary for compliance with and enforcement of this Code.
- b. Complaints Regarding Violations
 - i. Whenever a violation of this Code occurs, or is alleged to have occurred, any person who witnessed the violation may file a written complaint with the City Secretary or City Secretary.
 - ii. Such complaint shall state fully the causes and basis thereof and the date on which the violation began or was first observed. The complaint shall also include a description of the property on which the violation occurred and the names and addresses of the parties involved.
 - iii. The City shall record the complaint, investigate within a reasonable time, and take action thereon, as provided by these requirements. The City Secretary may also act upon violations that otherwise become known during the normal performance of his/her duties. A public record of the disposition shall be made and maintained in the appropriate City records.
- c. Continuing or Repeat Violations
 - i. The continuation of any of the above violations is a distinct offense, and each day such violation continues shall be considered a separate offense.
 - ii. If an owner, occupant, or other person repeats the same violation, within a five-year period from the date of the initial violation, it shall be considered to be a repeat of the initial violation and shall be subject to additional penalties and remedies. Payment of a fine shall be considered admission of a violation for the purposes of a repeat violation.
- d. Land Use and Planning Matters
 - i. The City shall not issue a building permit or certificate of occupancy required by any City ordinance for any land located within the jurisdictional limits to which this Code applies, until and unless the owner of the property, or its agent, is in compliance with the requirements of this Code.
 - ii. The City shall not provide or connect City water, sewer, or other utility owned or licensed by the City to any property to which the provisions of this Code apply, unless and until the owner of the property, or its agent, is in compliance with the provisions of this Code.
- e. Health and Sanitation Matters
 - i. Whenever a user has violated or continues to violate any provision of this Code pertaining to water and wastewater

- infrastructure, an industrial wastewater discharge permit or order issued hereunder, or any other applicable waste pretreatment standard or health and sanitation requirement, water service to the user may be discontinued.
- ii. Service will only be reconnected, at the user's expense, after the user has ceased the violation and satisfactorily demonstrated and established his ability to comply with this Code.
 - iii. A violation of any provision of this Code that is dangerous to human life or health; that renders the ground, the water, the air or any food or drink unwholesome and a hazard to human life and health; that may injure or affect the public health or comfort in any manner; or a violation of a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and illegal, and shall be abated by any procedure authorized by law. The City shall be entitled to recover its damages, attorney fees, and expenses of litigation for enforcement or cessation of such violation.
- f. Responsible parties
- i. The owner or tenant of any building, structure, premises, or any part thereof, and any architect, engineer, builder, contractor, agent or other person who knowingly commits, participates in, permits, assists with or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this Chapter; in addition, each party may also be subject to civil penalties as provided in this Chapter or applicable law.
 - ii. Any person who opposes, obstructs, or resists any City official or any person authorized by the City Council in the discharge of his or her duties as provided by this Code shall be in violation of this Code and may be prosecuted for a Class "C" misdemeanor.

Section 8.2 Enforcement

(1) Development without a Permit

- a. When a development requiring a permit under Chapter 3 of this Code is begun without a permit, the City Secretary shall use the following procedures.
- b. The City shall give written notice of violation to the responsible party or to the occupant of the premises if the responsible party is not known.
 - i. The notice shall include a description of the violation, the date such violation was noted, instructions to contact the City Secretary to apply for the appropriate permit, and the

- fine schedule if the notice is not heeded, refused or unclaimed.
- ii. The notice is deemed delivered when deposited in the United States Postal mail, with postage paid to the last known address of the party responsible for such sign.
 - c. If the City is unable to deliver written notice to the responsible party, a telephone call shall be made by the City Secretary or his designee, date and time recorded, informing the owner of the premises on which the violation has occurred that on a set day, a fine shall commence to be assessed to the owner of the property for each day of the violation until the violation is resolved.
 - d. If, within fourteen (14) days, the responsible party fails to contact the City Secretary in writing, bring the development into conformance with this Code, or apply for the appropriate permit, the City Secretary shall fine the owner on a daily basis as set forth within this Code.
 - e. The party responsible for the development shall, upon conviction, be guilty of a misdemeanor and shall
 - i. forfeit any permit or approval associated with the development; and
 - ii. pay the fines set by the court, not to exceed the fines specified by this Code for each violation.

(2) Suspension or Revocation of a Permit

- a. When a development requiring a permit under Chapter 3 of this Code is not in compliance with an approved permit or this Code, the City may suspend or revoke the permits in effect for that development.
- b. Before the City initiates the process for suspension or revocation of a permit or other form of approval pursuant to this Code, the City Secretary or Building Official or another designee of the City Council shall give written notice of intent to suspend or revoke via certified mail, return receipt requested.
- c. The notice may specify a reasonable time for compliance with this Code. Suspension or revocation shall not occur before the time for compliance has expired.
- d. The City Secretary, Building Official, or another designee of the City Council shall not be required to provide notice of intent to suspend or revoke for violations of this Code that cause imminent destruction of property or injury to persons.

(3) Other Specific Remedies

- a. Utility Refusal
The City may refuse to authorize or make utility connections on the grounds set forth in Tex. Loc. Govt. Code Ann. Section 212.012 (Vernon 1988 & Supp. 1994), as amended.

- b. Stop work orders
 - i. The City Secretary, City Inspector other City official duly authorized by the City Council may order all work, including site clearing or other site preparation, stopped on any site where a significant violation of this Code or a subdivision plat or approved site plan is found.
 - ii. Any person, including a workman on the site, who fails to comply with a stop work order, shall be guilty of a misdemeanor, punishable as provided in this Chapter of the Code.
 - iii. Upon receiving an application to resume work and a declaration from the landowner or developer that any claimed violations of this Code have ceased and that the landowner or developer is currently in compliance, the City Secretary shall determine, within ten (10) working days of receipt of said application, whether the work is in compliance. If the City Secretary determines that the work or site is in compliance, he may authorize the work to proceed in writing.
- c. Suspension and Revocation of a Variance or Special Use Permit
 - i. When the City Council determines there is a failure to comply with any term, condition, or requirement that was a condition of the approval of a variance or special use permit, the City Council may direct the City Secretary, City Attorney, or another agent or official to suspend the variance or special use permit pending compliance with the terms, conditions, or requirements under which the variance or special use permit was approved.
 - ii. Notice of suspension or revocation of a variance or special use permit shall be sent by certified mail, return receipt requested, to the permit holder of the variance or special use permit.
 - iii. The City Council shall, if requested in writing by the permit holder, hold a public hearing no later than forty five (45) days after notification is sent to the permit holder of the variance or special use permit of its intent to suspend. If the City Council determines there is a failure to comply with any term, condition, or requirement made a condition of the variance or special use permit, the City Council may revoke the variance or special use permit or take such action as it considers necessary to ensure compliance.
 - iv. A decision to revoke a variance or special use permit shall be effective immediately. Notice of the decision by the City Council shall be sent by certified mail, return receipt requested to the permit holder of the variance or the special use permit.

Section 8.3 Penalties**(1) Generally**

- a. Except where otherwise provided therein, the maximum fine for violating any provision of this Code, or any ordinance, rule or police regulation that governs fire safety, zoning or public health and sanitation, including dumping of refuse, shall not exceed two thousand dollars (\$2,000.00);
- b. For all other violations, the maximum fine shall not exceed five hundred dollars (\$500.00); provided, however, that no penalty shall be greater or less than the penalty provided for the same or a similar offense under the laws of the state.
- c. Each day any violation of this Code or of any ordinance of the City continues shall constitute a separate offense.
- d. The penalties in this section shall be cumulative and are not exclusive of any other rights or remedies the City may have or pursue.

(2) Assessment of Expenses

- a. In addition to any other remedy provided in this Code or any other ordinance of this City and cumulative thereof, the City shall have the power by resolution of the City Council to cause any of the work or improvements required to be completed by the owner or applicant under the provisions of this Code to be undertaken by the City on the account of the owner of the property on which work or improvements are done;
- b. The City shall cause the expense thereof to be assessed upon the real estate or lot upon which such expense is incurred and/or shall place a lien on said property.

(3) Land Use and Zoning

- a. If the City Council finds, after notice and hearing, that a significant violation of an approved site plan has occurred, the Council may revoke its approval of such site plan.
- b. It shall be unlawful for any person to perform any work on the site pursuant to the site plan unless and until a new application for site plan approval has been filed and processed in accordance with the provisions of this Code and the City Council grants approval of a new final site plan that remedies the violations of the original site plan.
- c. Any person who violates any provision of this Code or any order issued under the authority of this Code, or who causes or permits any such violation, or who fails to perform any act required under this Code, or who performs any prohibited act or takes any action contrary to the final plats or site plans approved by the City Council,

or who fails to take any action required by such approved plat or site plan, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than two thousand dollars (\$2,000.00).

- d. Each and every day that the violation is committed or permitted to continue shall constitute a separate offense and shall be punishable as such.

(4) Signs

- a. The City Secretary or designee shall have the authority to issue a sign violation notice and shall be empowered to enter upon the premises of any person within the City or its extraterritorial jurisdiction for the purpose of enforcing the provisions herein.
- b. Impoundment of Signs
 - i. The City Secretary shall have the authority to remove all signs, without notice to the owners thereof, placed within any street or highway right-of-way, or attached to trees, telephone and utility poles, other natural features or signs otherwise prohibited or not authorized by this Code, and to impound them for a period of fourteen (14) days.
 - ii. The City Secretary shall have the authority to impound a sign that is in violation of this Code if the sign owner has not contacted the Administrator to resolve the violation within fourteen (14) days of a written notice of violation.
 - iii. The owner of an impounded sign may recover the same upon payment of an impoundment fee for each sign, and all costs associated with the removal of the sign, prior to the expiration of the fourteen (14) day impoundment period;
 - iv. In the event the sign is not claimed and retrieved from the City's possession within fourteen (14) days, the City Secretary shall have authority to dispose of such sign. The owner shall be responsible for all costs associated with removal and disposal of the sign.

Section 8.4 Civil remedies

(1) Civil action

- a. In addition to the penalties otherwise provided, any condition caused or permitted to exist in violation of any provision of this Code or any ordinance, which provision is intended for the protection of the public health, safety or welfare, may be determined to constitute a public nuisance and may be abated by the City as provided by law.
- b. Prior to taking civil action, the City shall notify the defendant of the provisions of the Code that are being violated. Upon initiation of the civil action, the City shall demonstrate that the defendant was actually notified of the provisions of the Code; and that after

receiving notice, the defendant committed acts in violation of the Code or failed to take action necessary for compliance with the Code.

(2) Injunction and other remedies

- a. Any structure that is erected or used, or any development that is implemented, contrary to any of the provisions of this Code or to any of the requirements contained in a final plat approved by the City Council, is hereby declared to be unlawful and shall constitute a violation of this Code.
- b. The City Council may initiate the legal process to obtain an injunction, mandamus, abatement or any other action available in law or equity to prevent, enjoin, abate, correct or remove such unlawful structure, use, or development, or otherwise ensure compliance with this Code.

(3) Civil penalties

Any person who violates any provision of this Code is subject to a civil penalty of up to one thousand dollars (\$1,000.00) and not less than one hundred dollars (\$100.00), or more as permitted by law, for each act of violation and for each day of violation.

(4) Penalties are cumulative

The penalties in this section shall be cumulative and not exclusive of any other rights or remedies the City may have.

Section 8.5 Fiscal Surety and Assurance of Construction and Maintenance

(1) Payment of Taxes

The landowner or developer shall provide the City Secretary with a certified receipt showing that all taxes have been paid in conjunction with the submittal of an application for final plat approval or site development permit issuance.

(2) Letter of Credit or Performance Bond

- a. Before any development or project may proceed, the City Secretary must be satisfied that the landowner or developer will be in a financial position to install or cause to be installed at his own cost, risk, and expense, all of the improvements required by this Code.
- b. The landowner or developer may satisfy this requirement by
 - i. constructing the required improvements prior to recording of a subdivision plat and after such plat has been approved as described in Section 6.2; or
 - ii. posting fiscal surety, as provided below, to assure completion of all construction required under this Code following issuance of the site development permit.

- c. If the landowner or developer elects to post fiscal surety for subdivision or site development related construction, the plat shall not be approved or the permit shall not be issued unless the landowner or developer has done the following:
 - i. The landowner's or developer's engineer shall provide the City an estimate of the total cost of all uncompleted or unaccepted improvements as may be required by this Code; and the estimate shall be acceptable to the City Secretary or his designee; and,
 - ii. The City Secretary shall require sufficient fiscal surety to insure the orderly development within any subdivision or site development in the form of either
 - 1. a performance bond or
 - 2. an irrevocable letter of credit, equal to 110% of the estimated total cost of the improvements not yet completed and/or accepted as complete.
 - iii. Letters of credit or bond shall be issued by a financial institution authorized to do business in the State of Texas. Furthermore, the financial institution shall be reviewed and approved in advance and the letters of credit or bonds shall conform to forms or criteria approved in advance by the City Council.
- d. The fiscal surety shall be for the purpose of securing the estimated cost of completing such improvements, should the City find it necessary to complete the improvements in lieu of the landowner or developer.
 - i. The landowner or developer shall complete all such improvements specified or referenced in the subdivision plat or site development permit and the construction plans for the same, within one (1) year from the date of final plat approval or site development permit issuance unless granted an extension by the City.
 - ii. Failure to do so shall authorize the City to complete the improvements using the fiscal surety provided by the landowner or developer.
- e. It is expressly understood that, as a condition to the approval of said subdivision or site development, no sale of any lot may be completed until all utilities are installed and all other improvements required by this Code are made within the block in which said lot is contained.

(3) City Acceptance of Improvements

- a. During the course of installation and construction of the required improvements, the City Secretary or his designee shall make periodic inspections of the work to insure that all improvements comply with the requirements of this Code.

- b. Upon completion of installation and construction of all required improvements, the landowner or developer may seek acceptance of all public improvements by the City by submitting the required number of copies of as-built plans and a one (1) year maintenance bond as specified in the terms and conditions below.
- c. The landowner or developer shall provide a certified statement signed by a registered professional engineer that all improvements have been installed and constructed in accordance with the submitted as-built plans.
- d. One Year Maintenance Bond
 - i. The landowner or developer shall ensure that all of the facilities constructed in accordance with the requirements of this Code will perform and remain in good working order and in accordance with the design performance criteria of each such facility, for one (1) year commencing on the date of approval of final completion by the City Secretary or his designee.
 - ii. The landowner or developer shall require any construction contractors with whom he contracts for furnishing materials and for installation of the improvements required under this Code, to provide written guarantees to the City, and shall himself be required to furnish to the City, a written guarantee, that all workmanship and materials shall be free of defects for a period of one (1) year from the date of acceptance by the City Secretary.
 - iii. The guarantee shall be either in the form of:
 - 1. a one (1) year warranty bond executed by a corporate surety licensed to do business in the State of Texas, conditioned that the improvements are free from defects in materials and workmanship, or
 - 2. an irrevocable letter of credit from a financial institution authorized to do business in Texas, and approved by the City Secretary, committing funds in the amount of at least twenty (20) percent of the total construction cost for the correction and repair of any defects in materials or workmanship.
- e. After final inspection, the City Secretary shall notify the landowner or developer and the City Attorney in writing as to its acceptance or rejection.
 - i. No release of any posted fiscal surety shall occur until the City has formally accepted the constructed improvements that are the subject of such surety.
 - ii. The City Secretary shall reject such construction only if it fails to comply with the standards and specifications contained or referred to herein.

- iii. If the City Secretary rejects such construction, the City Attorney shall, upon direction of the City Council, proceed to enforce the guarantees provided in this Chapter.
- f. When good cause exists, the City Secretary may extend the period of time for completion. Such extension of time shall be reported to the City Council and recorded in the minutes. No such extension shall be granted unless fiscal surety, as set forth above, has been provided by the landowner or developer covering the extended period of time.

(4) Maintenance and Supervision

- a. Where a subdivision contains physical facilities necessary or desirable for the welfare of the area, or that are of common use or benefit which are not or cannot be satisfactorily maintained by an existing public agency, provision shall be made, which is acceptable to the City Council, for the proper and continuous operation, maintenance, and supervision of such facilities.
- b. Such facilities may include:
 - i. sewers,
 - ii. sewage treatment facilities,
 - iii. water supply systems,
 - iv. water quality protection facilities,
 - v. streets and other transportation related improvements,
 - vi. parks and grounds held in common,
 - vii. park and recreation improvements,
 - viii. drainage easements and/or drainage improvements, and
 - ix. landscape improvements.
- c. A copy of the agreements providing for the proper and continuous operation, maintenance and supervision of such facilities shall be presented to the City Secretary and approved as to form by the City Attorney prior to the time of final plat approval or site development permit issuance and shall be filed of record with the plat or permit.