

ARTICLE 13

ADMINISTRATION, APPEAL, AND VIOLATIONS

13.1 ADMINISTRATION

13.1.1 These Development Regulations shall be administered, interpreted, and enforced by the Director of the Department of Planning and Development of the City of Duluth, Georgia. All other ordinances or regulations referenced herein, such as the fire prevention and life safety codes, building and other technical codes, health, water, and sewer regulations, shall be administered by the directors of the departments responsible for such regulations, as established by the City Council.

13.1.2 In any case in which activities are undertaken in violation of these Regulations, not in compliance with the provisions of a permit issued under the authorization of these Regulations, or without authorization of a permit which would otherwise be required, the Director is hereby authorized to suspend or invalidate such permits, order that all unauthorized or improper work be stopped, direct correction of deficiencies, issue summonses to any court of competent jurisdiction, or take any other legal or administrative action appropriate to the severity of the violation and degree of threat to the public health, safety, and welfare.

13.2 REGULATIONS TO BE PUBLISHED

It shall be the duty and responsibility of the Director to maintain an accurate and up-to-date compilation of these Development Regulations and all amendments and pertinent attachments thereto, and to publish said compilation and make it available to the public at a cost as established by the City Council.

13.3 MODIFICATIONS

Modification of the design standards set forth in these Development Regulations may be authorized by the Director in specific cases when, in his opinion, undue hardship may result from strict compliance; provided any such determination shall be based fundamentally on the fact that unusual topographical or other exceptional conditions require such modification, or that the granting of the modification will not adversely affect the general public welfare or nullify the intent of these Regulations. Any such modification granted by the Director shall be made in writing to the developer and also made a part of the Department's records. Application for any modifications shall be filed in writing on a form provided by the Department with necessary supporting documents with the Director and shall explain in detail the reasons and facts supporting the application.

13.4 APPEAL AND WAIVER OF THE REGULATIONS

13.4.1 Appeals

Appeals of the interpretation by the Director of the requirements of these Regulations shall first be submitted in writing to the Director within thirty (30) days of the decision being made. The Director shall review the request in a timely manner and receive comments from other affected departments. The appeal thereupon shall be forwarded to the City Council for final action in their normal course of business. (amended 11/25/02)

13.4.2 Waivers

Waiver requests of the requirements of these Regulations shall be submitted on an application form as prescribed by the Director, along with such fees as shall be established by the City Council from time-to-time. The Director shall coordinate the review of each waiver request by all other affected City departments and shall summarize such comments or recommendations as may be received to the City of Duluth for final action in their normal course of business.

13.5 VIOLATION AND PENALTIES

Any action or inaction that violates the provisions of this ordinance or the requirements of any approved plan or permit shall be subject to the enforcement actions or penalties outlined herein. Any such action of inaction that is continuous with respect to time is deemed to be a public nuisance and also may be abated by injunctive or other equitable relief. The imposition of any of the enforcement actions or penalties described herein shall not prevent such equitable relief.

13.5.1 Enforcement Procedures.

The following are the enforcement procedures authorized by this ordinance:

a. Notices of Violation.

Enforcement shall begin with the issuance of a written Notice to Comply to the owner or responsible person by the Director or his/her designee. The notice may be delivered personally or sent via first class or certified mail. The Notice to Comply shall contain at least the following information:

1. The name and address of the owner or responsible person;
2. The location or address of the site upon which the violation is occurring;
3. A description of the nature of the violation;
4. A description of the remedial actions or measures necessary to bring an action or inaction into compliance with a permit, approved plan or this ordinance;

5. The deadline or completion date of any such remedial actions or measures;
6. A statement of the penalty or penalties that may be assessed against the owner or responsible person to whom the Notice to Comply is directed.

In the event the owner or responsible person fails to correct the violations after the deadline contained in the Notice to Comply, the Director or his/her designee is authorized to take or impose any one or more of the additional actions contained herein.

- b. **Stop Work Orders.**
The Director or his/her designee is authorized to issue Stop Work Orders to an owner or responsible person. Stop Work Orders are effective immediately and shall remain in effect until the necessary corrective actions or remedial measures as set forth in the Notice to Comply have occurred. Stop Work Orders may be withdrawn or modified by the Director or his/her designee in order to enable an owner or responsible person to take the necessary remedial actions or measures to correct the violations.
- c. **Refusal to Issue Certificates of Occupancy or Completion.**
The Director or his/her designee is authorized to refuse to issue Certificates of Occupancy or Completion for the building or other improvements constructed or being constructed on a site until the owner or responsible person has taken the remedial actions or measures as set forth in the Notice to Comply or has otherwise corrected the violations described therein.
- d. **Suspension, Revocation or Modification of Permit.**
The Director or his/her designee is authorized to suspend, revoke or modify a permit that was issued authorizing land disturbing activities or development. The Director or his/her designee is authorized to reinstate a suspended, revoked or modified permit after the owner or responsible person has taken the remedial actions or measures stated in the Notice to Comply or has otherwise corrected the violations described therein. The Director or his/her designee is authorized to reinstate such permit, which may include conditions as the Director or his/her designee may deem necessary, to enable the owner or responsible person to take the necessary remedial actions or measures to correct the violations.
- e. **Refusal to Approval Final Subdivision Plats**
The Director is authorized to refuse to approve Final Plats until the owner or responsible person has taken the remedial actions or measures set forth in the Notice to Comply or has otherwise corrected the violations described herein.
- f. **Issuance of Citations or Summons to Court**
The Director or his/her designee is authorized to issue a citation or summons to the owner or responsible person requiring such person to appear in a court of competent

jurisdiction to answer charges for violations of this ordinance.

13.5.2 Legal Penalties and/or Remedies

a. Fine and/or Sentence.

Any person convicted by a court of competent jurisdiction of violating any provision of this ordinance shall be guilty of violating a duly adopted ordinance of the City and shall be punished either by a fine not less than \$500 per day and no greater than \$2,500 per day, or by sentence of imprisonment not to exceed 60 days in jail, or both a fine and jail or work alternate. Each day that a violation continues after due notice has been served shall be deemed a separate offense.

b. Other Legal Remedies.

In any case in which a violation of this ordinance has occurred, the City, in addition to other remedies provided by law, may petition for a restraining order, injunction, abatement, or take any other appropriate legal action or proceeding through a court of competent jurisdiction to prevent, restrain, or abate such unlawful use or activity.