

Article 5.12 Enforcement

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5.1201 Invalid Permits and Approvals

Any permit issued or administrative approval granted in conflict with any provision of a zoning ordinance, the Zoning Code, a use permit, a variance, or a Design Review approval is void, unless relief is granted pursuant to Article 5.3: Administrative Relief from Development Standards.

5.1202 Enforcement Responsibilities

- A. ***Building and Code Compliance Department.*** Prior to issuance of building permits, the Building and Code Compliance Department shall ascertain that plans presented with the building permit application comply with those approved subject to the requirements of the Zoning Code.
- B. ***Code Compliance Manager.*** The Code Compliance Manager shall enforce the provisions of the Zoning Code and is authorized to stop any work undertaken not in compliance with any provision of a zoning ordinance, the Zoning Code, use permit approval, variance, or Design Review approval.
- C. ***Town Attorney.*** The Town Attorney may commence an action in Superior Court to abate a violation of the Zoning Code.

5.1203 Violation; Notice and Opportunity to Correct

- A. ***Notice.*** Before issuing a citation for a violation of a zoning ordinance, the Zoning Code, a use permit, variance, or Design Review approval, the Code Compliance Officer shall provide a written notice of the violation to the property owner, person in control, or authorized agent of the property. The notice shall set forth:

1. The violation.
 2. What is required to bring the property into compliance.
 3. The time period allowed to bring the property into compliance.
- B. **Time Period.** The time period provided to correct violations of a zoning ordinance, the Zoning Code, a use permit, variance, or Design Review approval other than landscape and signs shall be a minimum of 10 days. The time period provided to correct violations of landscape and sign regulations are set forth in:
1. Section 4.306: Landscape Maintenance and Enforcement sets forth the time period provided to correct violations of Article 4.3: Landscape Regulations.
 2. Section 4.4019: Notice of Violation sets forth the time period provided to correct violations of Article 4.4: Sign Regulations. A citation is considered an appropriate notice in the case of violations of Article 4.4: Sign Regulations, for signs installed without required permits.
- C. **Failure to Receive Notice.** Failure of the property owner, person in control, or authorized agent of the property to receive a notice shall not preclude issuance of a citation.

5.1204 Violations and Citations

If a violation of a zoning ordinance, the Zoning Code, a use permit, variance, or Design Review approval continues past the time set forth in the notice of violation, a citation shall be issued by any person so authorized by the Zoning Code to the property owner, person in control, or authorized agent of the property.

- A. A civil action for violations shall be commenced by filing of the citation in the Town of Gilbert Municipal Court.
- B. Citations may be issued by the Code Compliance Manager, a Code Compliance Officer, or a Town of Gilbert Police Officer.
- C. Each day a violation continues, or the failure to perform any act or duty required by the Zoning Code or by the Town of Gilbert Municipal Court continues, shall constitute a separate civil offense.
- D. Every civil action or proceeding under this section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to civil traffic procedures and the Arizona Rules of Procedure in Civil Traffic Violation Cases.

5.1205 Penalties

- A. A citation issued pursuant to Section 5.1204: Violations and Citations shall direct the person to whom the citation is issued to pay a fine in the amount set forth in the Town of Gilbert's Municipal Court adopted schedule of fines within 10 days of the issuance of the citation or to appear before the Town of Gilbert Municipal Court. Payment of the fine shall constitute a finding of responsibility for the violation for purposes of Section 5.1206: Habitual Offenders.
- B. Upon a finding by the Town of Gilbert Municipal Court that a person is responsible for a civil violation, the person, corporation, or other legal entity that violates a zoning ordinance, the Zoning Code, a use permit, a variance or a Design Review approval, the Town of Gilbert Municipal Court shall impose a civil fine of not more than \$500.00 for each violation.
- C. Any judgment for civil fines or penalties may be collected as any other civil judgment, as provided for in the Arizona Revised Statutes.

5.1206 Habitual Offenders

- A. Any person found responsible by the Town of Gilbert Municipal Court for committing 3 or more civil violations of a zoning ordinance, the Zoning Code, a use permit, variance or Design Review approval within a 24 month period, whether by admission, by payment of the fine, by default or by judgment after hearing shall be determined to be a habitual offender. For purposes of calculating the 24 month period under this paragraph, the dates of the commission of the offenses are the determining factor.
- B. A habitual offender who subsequently violates a zoning ordinance, the Zoning Code, a use permit, variance, or Design Review approval shall be guilty of a Class 1 Misdemeanor offense.
- C. Upon the conviction of a habitual offender for a violation of a zoning ordinance, the Zoning Code, a use permit, variance, or Design Review approval, the Court may:
 - 1. Impose a sentence of incarceration not to exceed 6 months in jail; or
 - 2. Impose a fine not to exceed \$2,500.00, exclusive of penalty assessments prescribed by law; or
 - 3. Impose a term of probation; or
 - 4. Impose any combination of incarceration, fine, and probation.

- D. Notwithstanding the above elective penalty, upon conviction of a habitual offender of a violation of a zoning ordinance, the Zoning Code, a use permit, variance, or Design Review approval, the Court shall impose a fine of not less than \$500.00 for each count upon which a conviction is obtained.
- E. A judge shall not grant probation to a habitual offender or suspend any part of a sentence or fine imposed upon a habitual offender for any sentence required by this subsection, except on the condition that the habitual offender pays the mandatory minimum fines as provided in this Section.
- F. Every action or proceeding under this section shall be commenced and prosecuted in accordance with the laws of the State of Arizona relating to misdemeanors and the Arizona Rules of Criminal Procedure.

5.1207 Abatement

The Town of Gilbert Municipal Court may order abatement of a violation of this article pursuant to A.R.S. § 9-462.05.

5.1208 Cumulative Procedures and Remedies

The procedures and remedies provided for herein shall be cumulative and in addition to any other procedures and remedies to which the Town may be entitled by law or equity.

5.1209 Failure to Provide Evidence of Identity

A person who fails or refuses to provide evidence of his or her identity to the Town of Gilbert Building Official, a Building Inspector, the Code Compliance Manager, a Code Compliance Officer, or a Police Officer or any other authorized agent of the Town upon request, when such agent has reasonable cause to believe the person has committed a violation of the Zoning Code, is guilty of a Class 1 Misdemeanor. Evidence of identity shall consist of a person's full name, residence address, and date of birth.