

Attachment B

Zoning Enforcement Fines and Penalties

Chapter 35-108 of the Land Use and Development Code addresses procedures to “ensure compliance with the requirements of this Development Code...and for the protection of the public health, safety and welfare of the County.” This chapter lays out the various legal remedies available to the County to enforce the LUDC. There are 2 options under Chapter 35: (1) civil remedies, and (2) criminal remedies. These remedies are “cumulative to each other” and are in addition to “remedies and penalties available under all other laws of this State.” (Section 35.108.060).

In addition, Chapter 24A of the County Code provides procedures to impose administrative fines as an alternative to pursuing civil or criminal remedies initially to obtain correction of the violation. All three remedies are summarized below.

Civil Action:

Chapter 35 provides the County with several options to abate violations by way of a civil action, and requires work with County Counsel to file a suit in superior court. The County may file suit to (1) declare the violation a public nuisance (35.108.050.A.1); (2) obtain an injunction (35.108.050.A.2); (3) obtain an order allowing the department to abate the violation and charge the costs to the violator (35.108.050.A.3). The latter typically applies after attempts to abate through administrative fines fails.

Section 35.108.050.B lays out the available penalties and fines against the violator, not to exceed \$25,000 for each day the violation continues to exist, plus any costs incurred by the County, or damages suffered, as a direct and proximate result of the violation.

Criminal Action:

We can choose to go after the violator in a criminal action. This would require work with the District Attorney’s office to file a criminal complaint. These are generally filed as infractions, but the DA may file it as a misdemeanor under certain circumstances (Section 35.108.050.C.2).

Administrative Fines:

Fines may be imposed if, after the issuance of a Notice of Violation allowing not less than 30 days to abate the violation, the violation remains unabated. The County may require immediate abatement if the violation creates an immediate danger to the health and safety of persons or property. Violations of the LUDC are treated as infractions; as such, the amount of fines that may be imposed are determinate by Section 24A-4 and California Government Code Section 25132. Maximum amounts are \$100 for first violation, \$200 for second violation within a year, and \$500 for each additional violation within a year.