

**ARTICLE 7**  
**VIOLATIONS, ENFORCEMENT AND PENALTIES**

**Division 1. Purpose.**

**Section 7-101. Purpose and Applicability.** The purpose of this Article is to establish procedures for enforcement and penalties for violations of these LDRs. The provisions of this Article are supplemental to any other procedures and remedies available to the City of Coral Gables. Nothing contained in this Article prohibits the City of Coral Gables from enforcing its codes or ordinances by other Code Enforcement provisions of the City of Coral Gables Code of Ordinances or other applicable law.

**Division 2. Violations and Penalties.**

**Section 7-201. Violations.**

- A. Failure to comply with any of the provisions of these LDRs shall constitute a violation. Each day such violation continues shall be considered a separate offense.
- B. Failure to adhere to approved development plans or to comply with any condition set out in a development approval shall constitute a violation. Each day such violation continues shall be considered a separate offense.
- C. It shall be a misdemeanor in the second (2<sup>nd</sup>) degree punishable pursuant to Florida Statute 775.082 and 775.083, if any unauthorized person shall tamper with or remove the signs posted pursuant to Article 3, Division 3.
- D. Failure to complete work authorized by a building permit within one year of commencement of the work and in compliance with the permit, shall constitute a violation. Each day such violation continues shall be considered a separate offense.
- E. Failure to diligently proceed with work authorized by a building permit once said work has commenced shall constitute a violation. Each day such violation continues shall be considered a separate

*In general: added authority to code enforcement officer to stop work on jobs that were not proceeding according to regulations or approvals, and to revoke permits, provided there is a prompt post-revocation hearing.*

*Section 7-101 is new.*

*Section 7-201A. and B. are generic statements of violations. They cover violations such as those set out in the existing section 11-12(g) (TDRs), 22-1(c) (general violations provision), 22-12 (zoning permits), 31-5-10 (demolition of historic structures without certificate of appropriateness).*

*Section 24-7 of the existing code states that departure from plans that served as the basis for a variance or failure to follow conditions of a variance approval are code violations. See also Section 6-3(e) of the existing code for conditional uses, Section 9-8 for planned area developments, 22-2 for building permits, 22-12 for certificates of use,*

*Section 7-201 D., E., and F. capture the spirit of former section 22-10.*

offense.

- F. For the purposes of Section 7-201C. and D., a full complement of workmen and equipment that is present at the site to diligently incorporate materials and equipment into the structure throughout the day on each full working day, weather permitting, shall be considered evidence of commencement of construction and that work is proceeding.

**Section 7-202. Persons Liable for Violations.** In addition to the owner of the property that is the subject of the code enforcement proceeding, the tenant of the building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

**Division 3. Code Enforcement Adjudication.**

**Section 7-301. Code Enforcement Adjudication.**

- A. The Code Enforcement Officer may request a hearing regarding the enforcement of these LDRs before any of the following adjudicative bodies:
  - 1. A court of competent jurisdiction;
  - 2. The City of Coral Gables Code Enforcement Board, pursuant to Ch. 2, Art. 3, Division 2 of the Code of Ordinances of the City of Coral Gables; and
  - 3. The Code Enforcement Hearing Officer, pursuant to Ch. 2, Art. 3, Division 2A of the Code of Ordinances of the City of Coral Gables.
- B. If the code violation involves development or violations of the use restrictions of the zoning district in which property is located, then the Code Enforcement Officer shall consult with the Development Review Official regarding the adjudicative body before which the City will request a hearing.

*Section 7-202 summarizes the first part of the existing section 27-1*

*Section 7-301A. summarizes the enforcement alternatives available to the Code Enforcement Officer*

*Section 7-301B. is an adaptation of the existing section 22-1(c), which allows Zoning Director to institute proceedings to enforce the LDRs.*

**Section 7-302. Penalties for Violations.**

A. Judicial proceedings. In addition to orders to cure the violation and/or pay for such cure, violations as set forth in Section 7-201 shall be punishable upon adjudication by a court of competent jurisdiction with:

1. A fine of up to \$500 per offense, imprisonment in the county jail for a term not exceeding sixty (60) days, or both;
2. Revocation of an active development approval if either:
  - a. The application or accompanying plans are in any respect false or misleading; or
  - b. Development or use of the premises differs materially from that which was permitted or a condition of approval;
3. Restitution of the differences between the total amount of taxes which would have been due in March in each of the previous years in which the covenant or agreement was in effect had the property not received the exemption and the total amount of taxes actually paid in those years, plus interest on the difference calculated as provided in F.S. 212.12(3), if the violation is of a restrictive covenant that provides for historic preservation;
4. Costs, including but not limited to court costs and not less than \$50 or more than \$100 per reinspection by the building department or code enforcement officer which was necessary to determine code compliance after the violation was discovered.

B. Code enforcement proceedings. Upon finding a violation as set forth in Section 7-201, the Code Enforcement Board or Code Enforcement Hearing Officer may order one or more of the following:

1. That the violation be cured within a specified period of time;

*Section 7-302A.1. is adapted from existing section 27-1, and is consistent with Section 162.22, Fla. Stat.*

*Section 7-302A.3. is adapted from 31-6-5 of the existing code.*

*Reinspection fees are derived from the existing section 22-14. May be consolidated with other fees.*

*Section 7-302B.1.-5. are new. 1-4 are from the Florida Statutes.*

2. That the violator pay for the violation to be cured under the supervision of the City of Coral Gables;
  3. A fine of up to \$250 per offense for a first violation or \$500 per offense for a repeat violation;
  4. A fine of up to \$5,000 per offense if it is determined that the damage due to a code violation is irreversible;
  5. That an active development approval be revoked if either:
    - a. The application or accompanying plans are in any respect false or misleading; or
    - b. Development or use of the premises differs materially from that which was permitted or a condition of approval.
  6. That incomplete buildings, structures, or additions be demolished and removed if:
    - a. The building permits that authorized their construction have expired; and
    - b. Good cause, such as strikes, natural disasters, material shortages, or unusual inclement weather, has not been shown.
  7. Costs, including but not limited to administrative costs and not less than \$50 or more than \$100 per reinspection by the building department or code enforcement officer which was necessary to determine code compliance after the violation was discovered.
- C. Additional Mandatory Penalties for Violations of Historic Preservation Provisions. Any person who carries out or causes to be carried out any work in violation of Article 3, Division 11, shall be required to restore the subject improvement, landscape feature, or site, either to its appearance prior to the violation or in accordance with a Certificate of Appropriateness approved by the Historic

*Section 7-302B.6. is adapted from the existing section 22-10.*

*Reinspection fees are derived from the existing section 22-14.*

*Section 7-302C. is adapted from the existing section 31-5-10*

Preservation Board, subject to the conditions imposed by the Board. All civil remedies shall be in addition to and not in lieu of any criminal prosecution and/or any other applicable penalty.

#### **Division 4. Effect of Code Violations on Building Permits.**

##### **Section 7-401. Administrative Stop-Work Orders.**

- A. If the Code Enforcement Officer determines that development is being undertaken in a manner that is inconsistent with a development approval, or is being undertaken without a required approval, the Code Enforcement Officer may issue a stop-work order which shall be effective against all further work on the site except that which is required to cure the violation.
- B. If the Code Enforcement Officer determines that development is being undertaken in a manner that is inconsistent with a certificate of appropriateness, or is being undertaken without a required certificate of appropriateness, the Code Enforcement Officer shall issue a stop-work order which shall be effective against all further work on the site except that which is required to cure the violation.
- C. All stop-work orders shall be issued in conjunction with a summons, notice to appear, or notice of violation, depending on the adjudicative body that is selected to hear the case.
- D. If a stop-work order is issued in conjunction with a notice of violation, the Code Enforcement Officer shall immediately request a hearing of the Code Enforcement Board or Code Enforcement Hearing Officer.
- E. A stop-work order shall remain effective until any of the following events occur:
  - 1. Verification by the Code Enforcement Officer that full compliance with these LDRs has been accomplished;
  - 2. A hearing before a court, Code Enforcement Board, or Code Enforcement Hearing Officer, which the Code Enforcement Officer shall request immediately after issuing the stop-work

*Section 7-401 authorizes stop-work orders when development is not proceeding according to approved plans, or is otherwise a threat to public safety. It also implements the existing Section 31-5-8 (authorizing stop-work orders for work that is not consistent with a certificate of appropriateness).*

order; or

3. Such other reasonable time established by the Code Enforcement Officer has elapsed.

**Section 7-402. Stay of Development Approvals.** Upon the entry of an order of violation by the Code Enforcement Board, Code Enforcement Special Master, or court, no further development approvals shall be processed or granted regarding the property which is the subject of the violation, except for permits necessary to correct the violation, until the violation is corrected and fines and costs which have been imposed are paid.

**Division 5. Curing Violations Through Subsequent Approvals.**

**Section 7-501. Variances.**

- A. A violation may be cured through subsequent approval of an application for a variance.
- B. Applications for such variances shall be processed in the same manner as any other variance, except that the application fee shall be separately set by resolution of the City Commission.
- C. The Code Enforcement Board or Code Enforcement Hearing Officer may require that fines continue to be assessed during the period in which the variance is processed, or may suspend fines until the application is decided and then impose them if it is denied or withdrawn.
- D. Nothing in this section requires the City to grant a variance to cure a code violation.

**Division 6. Reporting Violations; Investigations; Notice of Violation.**

**Section 7-601. Reporting Violation; Investigations.**

- A. Any person may report a violation of these LDRs or a condition of development approval by filing a complaint with the Code

*Section 7-402 is an incentive to bring a site into compliance. It also implements much of section 31-5-10 of the existing code.*

*Section 24-8 of the existing code sets higher fees for post-violation variance applications. The balance of the proposed Section 7-501 sets out a suggested way to treat such variances in the context of code enforcement.*

*Necessary?*

*The process in Section 7-601 is adapted from existing section 27-2*

Enforcement Officer.

- B. The Historic Preservation Board or its staff shall report violations of these LDRs if they determine that any improvement within a designated historic landmark, or historic landmark district is endangered by failure to comply with City Code, or that other improvements in visual proximity to an historic landmark or historic landmark district fail to comply with City Code to such an extent as to detract from the desirable character of the historic landmark or historic landmark district.
- C. Upon receipt of a complaint, a Code Enforcement Officer shall promptly investigate to determine whether a violation of these LDRs exists.
- D. Within ten (10) days of the date a complaint is filed, a Code Enforcement Officer shall report to the complainant regarding the disposition or status of the complaint.

*7-601 B reflects existing Section 31-?*

**Section 7-602. Minor Violations; Notice and Reinspection.**

*The process in Section 7-602 is adapted from existing section 27-2*

- A. Where it has been determined that a violation exists, and that the violation can reasonably be corrected within twenty-four (24) hours, said offense shall be known as a "minor violation."
- B. The Code Enforcement Officer shall issue a written notice to the owner and any other alleged participant in the code violation, specifying the minor violation and directing the owner and any other alleged participant in the code violation to correct such minor violation within a period of forty-eight (48) hours at which time a reinspection shall be made.
- C. If the minor violation still remains upon reinspection, the Code Enforcement Officer shall issue a second notice of violation to the owner and any other alleged participant in the code violation by certified mail, return receipt requested, specifying that if said minor violation is not corrected within seventy-two (72) hours of the owner's receipt of notice, the case shall be set for a hearing before the Code Enforcement Board of the City of Coral Gables or the Code Enforcement Hearing Officer.

- D. If the minor violation still remains upon the second reinspection, the Code Enforcement Officer shall promptly request a hearing before the Code Enforcement Board of the City of Coral Gables or the Code Enforcement Hearing Officer, and shall notify the owner and any other alleged participant in the code violation of said hearing by certified mail, return receipt requested.

**Section 7-603. Violations; Notice and Reinspection.**

- A. Where it has been determined that a violation exists that is not subject to Section 7-602, the Code Enforcement Officer shall issue a written notice to the owner and any other alleged participant in the code violation, specifying the violation and directing the owner and any other alleged participant in the code violation to correct such violation within a period of seven (7) days, at which time a reinspection shall be made.
- B. If the violation still remains upon reinspection, the Code Enforcement Officer shall issue a second violation notice to the owner and any other alleged participant in the code violation by certified mail, return receipt requested, specifying that if said violation is not corrected within a period of fourteen (14) days from the date of the first notice, the case shall be set for a hearing before the Code Enforcement Board of the City of Coral Gables or the Code Enforcement Hearing Officer.
- C. If the violation still remains upon the second reinspection, the Code Enforcement Officer shall promptly request a hearing before the Code Enforcement Board of the City of Coral Gables or the Code Enforcement Hearing Officer, and shall notify the owner and any other alleged participant in the code violation of said hearing by Certified Mail, Return Receipt Requested.

**Section 7-604. Repeat Violations.**

- A. A violation of a provision of these LDRs by a person who has been previously found by the Code Enforcement Board of the City of Coral Gables, the Code Enforcement Hearing Officer, or a court of competent jurisdiction, to have violated, or who has admitted

*The process in Section 7-603 is adapted from existing section 27-2*

*The process in Section 7-604 is new, but is authorized by the Florida Statutes.*

violating, the same provision within five (5) years prior to the violation, is a "repeat violation," even if the violations occur at different locations.

- B. If a repeat violation is found, the Code Enforcement Officer shall notify the owner and any other alleged participant in the code violation and request a hearing before the Code Enforcement Board of the City of Coral Gables or the Code Enforcement Hearing Officer. The Code Enforcement Officer is not required to give the owner or any other alleged participant in the code violation time to correct the violation.
- C. The case may be presented to the Code Enforcement Board of the City of Coral Gables or the Code Enforcement Hearing Officer even if the repeat violation has been corrected prior to the hearing, and the notice shall so state.
- D. If the repeat violation has been corrected, the Code Enforcement Board of the City of Coral Gables or Code Enforcement Hearing Officer may still schedule a hearing to determine costs and impose the payment of reasonable enforcement fees upon the repeat violator.
- E. The repeat violator may choose to waive his or her rights to this hearing and pay said costs as determined by the Code Enforcement Board of the City of Coral Gables or Code Enforcement Hearing Officer.

**Section 7-605. Continuous Violations.**

- A. Whenever a property owner is cited at least three (3) times for the same violation at the same location within a period of twelve (12) consecutive months, said offense shall be known as a "continuous violation."
- B. When a Code Enforcement Officer finds a continuous violation, the case shall be promptly set for a hearing before the Code Enforcement Board of the City of Coral Gables or the Code Enforcement Hearing Officer and the owner and any other alleged participant in the code violation shall be immediately notified by

*The process in Section 7-605 is adapted from former section 27-2*

*Seven (7) days notice is not required by statute.*

Certified Mail, Return Receipt Requested, of the hearing. All hearings shall be set such that there is at least seven (7) days between the date notice is mailed and the date of the hearing.

- C. The proper authorities of the City of Coral Gables, in addition to the remedies herein provided for, may institute any appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use, or to impose a penalty for such violation or to restrain, correct or abate such violation in order to prevent the occupancy or use of said building, structure or land contrary to the provision hereof, or to prevent any illegal act, conduct, business or use in or about such premises.