



PLANNING COMMISSION REPORT

CASE: ZTA24-02 SECTION 35.7.002(B) ENFORCEMENT AND PENALTIES
 TEXT AMENDMENT-CITYWIDE
CASE #: ZTA24-02
MEETING DATE: 09/26/2024
FROM: Tabitha Perry, Development Services Deputy Director, Planning,
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SUBJECT

ZTA24-02 - A request by the City of Glendale Planning Commission to amend the text of the UDC (Unified Development Code), Zoning Text Amendment (ZTA24-02) pertaining to the regulations of Enforcement and Penalties, Section 35.7. 002(B). The proposed draft change will allow for the processing of a civil or criminal charge (Citywide).

Presented by: Tabitha Perry, Deputy Director

REQUEST

Amend section 35.7.002(B) related to enforcement and penalties of the UDC.

APPLICANT/OWNER

Planning Commission Initiated/City of Glendale, AZ

REQUIRED ACTION

The Planning Commission must conduct a public hearing and make a recommendation to the City Council regarding the adoption of the proposed UDC text amendment.

SUMMARY

Approval of this text amendment request will align enforcement regulations of the UDC and City Code with the same enforcement and penalties.

BACKGROUND INFORMATION

The purpose of this request is to align enforcement of city codes enforced by Code Compliance with the same enforcement action – either civil or criminal, with the UDC. The current UDC language requires criminal prosecution, which includes a higher level of proof (beyond a reasonable doubt) and includes higher penalties (\$100-\$2500). Civil violations are determined in court by a preponderance of the evidence (which is the weight of the evidence – which is more likely) and is limited by the city code to fines of \$20-\$300. Amending the UDC will allow civil penalties for violations of the UDC. An example is Code Compliance issuing a criminal citation to a mobile food vendor for setting up in an illegal space. A criminal citation appears to be heavy-handed for the offense.

Summary of code amendment:

Adding the language below provides enforcement staff the ability to issue a civil citation or pursue criminal charges. Civil citations are typically issued upon first offenses and for less egregious violations. Criminal prosecution is pursued after civil charges when the violation persists and for violations that threaten the health and safety of Glendale residents.

*35.7.002 B. Any person, firm or corporation violating any provision of this UDC, or any amendment shall be guilty of a **CIVIL VIOLATION AND/OR A Class I misdemeanor**, punishable by a fine or imprisonment, or by both fine and imprisonment. Any such person, firm or corporation shall be deemed guilty of a separate offense each and every day during which any violation is committed, continued or permitted. The owner, lessee, tenant or other person in possession of any property used in violation of this UDC shall be responsible for any violation whether or not the owner or any related party has committed the prohibited act or acts or has neglected to prevent the performance of the prohibited act or acts by another person.*

CITIZEN PARTICIPATION TO DATE:

Applicant's Citizen Participation Process:

On August 28, 2024, city staff mailed notification letters to interested parties to which no responses were received. The applicant's Citizen Participation Final Report is attached.

STAFF FINDINGS AND ANALYSIS

The Planning Commission shall make a recommendation to the City Council based on the following:

- a. The amendment is consistent with the policies and objectives of the Glendale General Plan;

Staff Analysis:

The proposed text amendment does not conflict with the policies and objectives of the General Plan. The text amendment proposal supports the General Plan Conservation, Rehabilitation, and Redevelopment Element.

The supporting General Plan goals are:

- **CRR-1 Deteriorating neighborhoods are revitalized and blight is removed; and**
- **CRR-4 Glendale's older neighborhoods are maintained and protected to preserve home values.**

- b. The proposed amendment furthers the public health, safety and general welfare of the citizens of Glendale; and

Staff Analysis:

The amendment addresses a section of the UDC that lacks sufficient best-practice regulations to ensure that enforcement regulations and city codes are aligned in their enforcement actions.

- c. If the amendment is to the official Zoning Map, the proposed change will include any conditions necessary to mitigate any adverse impacts on businesses, persons, or properties adjacent to the requested amendment.

Staff Analysis:

The amendment does not impact the official Zoning Map; thus, there are no necessary conditions requested.

RECOMMENDATION

The Planning Commission must conduct a public hearing and determine if the proposed amendment to the UDC is consistent with the General Plan. Adoption of the proposed code amendment is recommended.

PROPOSED MOTION

Motion to recommend approval of ZTA24-02 as presented.

Attachments

Draft Zoning Text Amendment (ZTA24-02)

CP Final Report w/out Labels

PowerPoint Presentation
