



PLANNING COMMISSION RESOLUTION NO. 21455

HEARING DATE: November 30, 2023

Record No.: 2023-0108130TH
Subject: Planning Commission Guidance on Specified Enforcement Penalties
Staff Contact: Corey Teague, Zoning Administrator – (628) 652-7328
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ADOPTING FACTORS AND CRITERIA FOR CONSIDERATION, TO BE UPDATED FROM TIME TO TIME, TO PROVIDE GUIDANCE TO THE ZONING ADMINISTRATOR WHEN DETERMINING THE APPROPRIATE PENALTY AMOUNT FOR SPECIFIED VIOLATIONS.

WHEREAS, Planning Code enforcement is governed by the provisions of Section 176;

WHEREAS, Planning Code Section 176 authorizes the Zoning Administrator to enforce the Planning Code through various actions;

WHEREAS, the Zoning Administrator may assess daily penalties to the Responsible Party for unabated violations to help ensure compliance with the Planning Code;

WHEREAS, Planning Code Section 176 was amended by Ordinance No. 40-23 to, among other things, add Section 176(c)(1)(C)(i) to authorize the Zoning Administrator to assess a one-time penalty of up to \$250,000 per violation for the addition of more than three Residential Units without the required authorizations or permits, or for the removal of one or more Residential Units without the required authorizations or permits, including unauthorized removal of a Residential Unit as defined in Planning Code Section 317; and

WHEREAS, Planning Code Section 176(c)(1)(C)(i) also states that the Planning Commission, within 12 months of the effective date of Ordinance No. 40-23, shall adopt factors and criteria for consideration, to be updated from time to time, to provide guidance to the Zoning Administrator when determining the appropriate penalty amount for violations subject to this subsection (c)(1)(C)(i);

NOW THEREFORE BE IT RESOLVED that the Planning Commission hereby adopts the following factors and criteria for consideration, to be updated from time to time, to provide guidance to the Zoning Administrator when determining the appropriate penalty amount for violations subject to Planning Code Sec. 176(c)(1)(C)(i):

1. All relevant factors already listed in Planning Code Sec. 176(c)(1)(D)(iv) should be fully considered when determining a final penalty amount;
2. A larger number of unauthorized Residential Units created warrants a larger penalty;
3. A larger number of Residential Units removed warrants a larger penalty;
4. A larger scope of overall Planning Code violations at the subject lot, beyond those identified in 176(c)(1)(C)(i), may warrant a larger penalty;
5. A willful or intentional violation by a Responsible Party warrants a larger penalty;
6. A repeat offense by a Responsible Party warrants a larger penalty;
7. A substantial financial gain to one or more of the Responsible Parties as a result of the violation may warrant a larger penalty;
8. Greater impacts to tenants of the subject property warrants a larger penalty;
9. The suitability of allowing payment of penalties over time (i.e., annual installments) should be considered;
10. The penalty amounts assessed for past violations subject to the penalty of Planning Code Section 176(c)(1)(C)(i); and
11. The absence of any of the factors and criteria listed in the Planning Code or this resolution shall not mean that the Zoning Administrator should not assess any penalty, and such penalty amount may be based on other factors and criteria that are specific to an individual violation.

I hereby certify that the Planning Commission ADOPTED the foregoing Resolution on November 30, 2023.

Jonas P. Ionin
Commission Secretary

AYES: Commissioners Braun, Diamond, Imperial, Koppel, Ruiz, and Tanner

NAYS: None

ABSENT: Commissioner Moore

ADOPTED: November 30, 2023