

## Chapter 20.40

### ENFORCEMENT AND PENALTIES

#### Sections:

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<b>20.40.020</b>	<b>Criminal Penalties.</b>
<b>20.40.030</b>	<b>Nuisance.</b>
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#### **Section 20.40.010 Violations.**

No person shall alter or demolish a Cultural Resource in violation of this Title, either actively or passively, including through neglect. (Ord. 7108 §1, 2010; Ord. 6263 § 1 (part), 1996)

#### **Section 20.40.020 Criminal Penalties.**

Any person who violates a requirement of this Title or fails to obey an order issued by the City, including the Historic Preservation Officer or Qualified Designee and the Board, and/or or comply with a condition of approval of any certificate or permit issued under this Title, shall be guilty of a misdemeanor. (Ord. 7206 §21, 2013; Ord. 7108 §1, 2010)

#### **Section 20.40.030 Nuisance.**

Any alteration or demolition of a Cultural Resource in violation of this Title is declared to be a nuisance. (Ord. 7108 §1, 2010)

#### **Section 20.40.040 Stop Work Orders.**

The Community Development Director or designee has the authority to issue a Stop Work Order for any violation or threatened violation of this Title. A Stop Work Order shall be written in the format deemed appropriate by the issuer. The Stop Work Order shall remain in effect until written notice of rescission by the Community Development Director or designee, or until City Council action to remove or modify the order, in addition to any other enforcement under any other provision of the Municipal Code or law. (Ord. 7206 §22, 2013; Ord. 7108 §1, 2010)

#### **Section 20.40.050 Remedies.**

The City may impose one or more of the following remedies to address any violation of this Title. Selection is in the sole discretion of the City.

A. Retroactive Compliance. Apply for and obtain a Certificate of Appropriateness as defined in Chapter 20.25, including compliance with all conditions.

B. Restoration. A violation may be abated by restoring or reconstructing the Cultural Resource to its original condition prior to the violation. The violator must obtain a Certificate of Appropriateness prior to restoration. Restoration shall use as much of the original material as possible. The City can compel the violator to perform or provide for the restoration, or the City may perform or provide the restoration and recover all of its costs from the violator. The City may place a lien on the property as provided for in Municipal Code chapter 6.15.

C. Civil Penalty. If, in the sole judgment of the City, Restoration is not feasible, the City Council may impose a civil penalty equal to the cost of restoring the Cultural Resource to its pre-violation condition, and all administrative and enforcement fees. The City shall fix the costs through appraisals or by soliciting bids. All collected funds shall be set aside and used only for CLG duties and required responsibilities. (Ord. 7108 §1, 2010)

**Section 20.40.060 Moratoriums.**

In addition to Section 20.40.050 above, the City Council may impose up to a 5-year moratorium on any City approvals and permits in response to a violation. The purpose of the moratorium is to provide the City an opportunity to study and determine appropriate mitigation measures for the alteration or removal of the Cultural Resource, and to ensure measures are incorporated into any future development plans and approvals for the subject property. Mitigation measures as determined by the City shall be imposed as a condition of any subsequent permit for development of the subject property. All time periods are calculated from the date the City actually learns of the violation. Permits for City-approved restoration of the resource or property are exempt from the moratorium.

If a project is proposed for a site under a moratorium, the City Council may reconsider and expunge or modify the moratorium. Expungement will require, at a minimum, retroactive compliance with the Certificate of Appropriateness Process, and CEQA (including mitigation), and an expungement levy of up to treble damages of the penalty defined in Section 20.40.050 (C). (Ord. 7108 §1, 2010)

**Section 20.40.070 Legal Actions.**

The City Attorney may maintain an action for injunctive relief to restrain a violation, or seek restoration and/or penalties. The City Attorney may also pursue any other action or remedy authorized under the Municipal Code, state statutes and/or in equity for any violation of this Title. Civil remedies shall be in addition to any criminal prosecution and penalty, or any other remedy provided by law. (Ord. 7108 §1, 2010)