

## Chapter 21.01

### VIOLATIONS, PENALTIES AND ENFORCEMENT

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#### **Section 21.01.010 Intent to secure compliance.**

The City Council of the City of Galt intends to secure compliance with the provisions of this Code, including its adopted codes and ordinances. Each method set forth herein does not prevent concurrent or consecutive methods being used to achieve compliance against continuing violations. Each and every day any such violation exists, or any portion thereof, constitutes a separate and distinct offense. Notwithstanding any other provision of the Code, each violation of the provisions of this Code may be enforced alternatively or cumulatively. For purposes of this Title, "days" shall mean calendar days. (2006-07, Added, 06/06/2006)

#### **Section 21.01.020 Public nuisance.**

In addition to the penalties provided in this Chapter, or elsewhere in this Code, or in any code adopted by reference by this Code, any condition caused or permitted to exist in violation of any of the provisions of this Code, or its adopted codes, shall be deemed a public nuisance and may be abated by the City, and each and every day or portion thereof that such condition continues shall constitute a separate and distinct offense. (2006-07, Added, 06/06/2006)

#### **Section 21.01.030 Violations a misdemeanor or infraction.**

No person shall violate any provisions or fail to comply with any of the requirements of this code, including its adopted codes. Every such person shall be guilty of a separate and distinct offense for each and every day, or any portion thereof, of which any violation of any provision of this code is committed, continued or permitted by such person, and shall be punishable accordingly. Every act prohibited, declared unlawful or declared substandard or unsafe and every failure to perform an act made mandatory shall constitute either a misdemeanor or an infraction, at the discretion of the enforcement officer as defined in section 21.02.020. (Ord. 2009-11, Amended, 07/07/2009; 2006-07, Added, 06/06/2006)

#### **Section 21.01.040 Infraction.**

Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code, including its adopted codes, may be prosecuted for an infraction. Enforcement officers as defined by section 21.02.020 may issue written citations for infractions. Any person convicted of an infraction under the provisions of this Code shall be punished according to the fine schedule listed below:

- A. One hundred dollars (\$100.00) for a first violation;
- B. Two hundred dollars (\$200.00) for a second violation of the same provision (other than a building and safety code provision) within one year, and five hundred dollars (\$500.00) for a violation of a building and safety code provision;
- C. Five hundred dollars (\$500.00) for each additional violation of the same provision (other than a building and safety code provision) within one year, and one thousand dollars (\$1,000.00) for a violation of a building and safety code provision. (2006-07, Added, 06/06/2006)

#### **Section 21.01.050 Misdemeanor.**

A. Any person violating any of the provisions or failing to comply with any of the mandatory requirements of this Code, including its adopted codes, may be prosecuted for a misdemeanor. Enforcement officers as defined

by section 21.02.020 may issue written citations for misdemeanors.

B. Any person convicted of a misdemeanor under the provisions of this Code shall be punished by a fine not exceeding one thousand dollars (\$1000.00), imprisonment for a term not exceeding six (6) months or both.

C. In the event a person is imprisoned for violation of any of the provisions of this Code, such person may be required to labor on public property or works within the City. (2006-07, Added, 06/06/2006)

#### **Section 21.01.060 Civil action.**

The City Attorney, by and at the request of the City Council or City staff, may institute an action in any court of competent jurisdiction to restrain, enjoin or abate the condition(s) found to be in violation of the provisions of this Code, including its adopted codes, as provided by law. The City Attorney, by and at the request of the City Council or City staff, may institute an action in any court of competent jurisdiction to collect a civil debt owing to the City. (2006-07, Added, 06/06/2006)

#### **Section 21.01.070 Administrative citation.**

Upon a finding by an enforcement officer as defined by section 21.02.020 that a code violation exists, he or she may issue an administrative citation under the provisions of Chapter 21.02 of Title 21. (2006-07, Added, 06/06/2006)

#### **Section 21.01.080 Attorneys' fees and costs.**

A. In any action, administrative proceeding or special proceeding commenced by the City to abate a public nuisance, to enjoin violation of any provision of this code, including its adopted codes, or to collect a civil debt owing to the City, if the City elects, at the initiation of that individual action or proceeding, to seek recovery of its own attorneys' fees, the prevailing party shall be entitled to recover all costs incurred therein, including reasonable attorneys' fees and costs of suit. In no action, administrative proceeding or special proceeding shall an award of attorneys' fees to a prevailing party exceed the amount of reasonable attorneys' fees incurred by the City in the action or proceeding.

B. The City shall be considered a prevailing party entitled to attorneys' fees under subsection A. when it can demonstrate that:

1. Its lawsuit was the catalyst motivating the defendant to provide the primary relief sought;

2. The lawsuit was meritorious and achieved its result by "threat of victory;" and

3. The City reasonably attempted to settle the litigation before filing the lawsuit. (2006-07, Added, 06/06/2006)

#### **Section 21.01.090 Summary abatement.**

Notwithstanding any other provision of this Chapter to the contrary, whenever it is determined that a public nuisance as defined by section 21.01.020 is so imminently dangerous to life or other property that such condition must be immediately corrected or isolated, the enforcement officer as defined by section 21.02.020 may institute the following procedures:

A. Notice. The enforcement officer shall attempt to make contact through a personal interview, or by telephone, with the landowner or the person, if any, occupying or otherwise in real or apparent charge and control thereof. The enforcement officer shall document all attempts to make contact. In the event contact is made, the enforcement officer shall notify such person or persons of the danger involved and require that such condition be immediately removed, repaired or isolated so as to preclude harm to any person or property.

B. Abatement. In the event the enforcement officer is unable to make contact as required by this section, or if the appropriate persons, after notification by the enforcement officer, do not take action as specified by such official within seventy-two (72) hours, or a lesser period if deemed necessary, then the enforcement officer may, with the approval of the City Manager and in consultation with the City Attorney if feasible, take all steps necessary to remove or isolate such dangerous condition, or conditions, with the use of City forces or a contractor retained pursuant to the provisions of this Code. Provided, however, that summary abatement shall be limited solely to those matters which are imminently dangerous to life or other property, and additional abatement, if necessary, shall

utilize the other enforcement provisions of this Chapter.

C. Costs. The enforcement officer shall keep an itemized account of the costs incurred by the City in removing or isolating such condition or conditions. Such costs may be recovered to the same extent and in the same manner that abatement costs are recovered pursuant to sections 21.01.100 and 21.01.110. (2006-07, Added, 06/06/2006)

**Section 21.01.100 Lien procedure.**

A. The enforcement officer as defined by section 21.02.020 or other authorized City official shall keep an itemized report of the costs incurred by the City in the abatement of any public nuisance in addition to any accrued fees and penalties due. The property owner may be invoiced for the total. If payment is not received, the itemized report shall be submitted in writing to the City Clerk no sooner than fifteen (15) days of the invoice date. Any such report may include the abatement costs, fees and penalties for any number of properties and abatements, whether or not such properties are contiguous.

B. Upon receipt of the itemized report, the City Clerk, or his or her designee, shall serve notice of the lien in the same manner as summons in a civil action in accordance with Code of Civil Procedure section 415.10 et seq. If the owner of record, after diligent search cannot be found, the notice may be served by posting a copy thereof in a conspicuous place upon the property for a period of ten (10) days and publication thereof in the Galt Herald or other newspaper of general circulation in Sacramento County. The period of notice commences upon the first day of publication and terminates at the end of the tenth day, including therein the first day. Publication shall be made on each day on which the newspaper is published during the ten (10) day period.

C. After notice has been served, the lien shall be recorded in the Sacramento County recorder's office and, from the date of recording, shall have the force, effect and priority of a judgment lien.

D. The lien shall identify:

1. The amount of the lien;
2. The City as the agency on whose

behalf the lien is imposed;

3. The date of the abatement order or citation;

4. The street address, legal description and assessor's parcel number of the parcel on which the lien is imposed; and

5. The name and address of the recorded owner of the parcel.

E. In the event that the lien is discharged, released or satisfied, through either payment or foreclosure, notice of the discharge containing the information specified in subsection D. shall be recorded by the City Clerk.

F. A lien may be foreclosed by an action brought by the City for a money judgment.

G. The City may recover from the property owner any costs incurred in the processing and recording of the lien and providing notice to the property owner as part of its foreclosure action to enforce the lien. (2006-07, Added, 06/06/2006)

**Section 21.01.110 Special assessment procedure.**

A. The enforcement officer as defined by section 21.02.020 or other authorized City official shall keep an itemized report of the costs incurred by the City in the abatement of any public nuisance in addition to any accrued fees and penalties due. The property owner may be invoiced for the total. If payment is not received, the itemized report shall be submitted in writing to the City Clerk no sooner than fifteen (15) days of the invoice date. Any such report may include the abatement costs, fees and penalties for any number of properties and abatements, whether or not such properties are contiguous.

B. Upon receipt of the itemized report, the City Clerk shall serve notice by certified mail, to the property owner, if the property owner's identity can be determined from the county assessor's or county recorder's records. The notice shall be given at the time of imposing the assessment and shall specify that the property may be sold after three (3) years by the tax collector for unpaid delinquent assessments. The tax collector's power of sale shall not be affected by the failure of the property owner to receive notice. The assessment may be collected at the same time and in the same manner as

ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for ordinary municipal taxes. All laws applicable to the levy, collection and enforcement of municipal taxes shall be applicable to the special assessment. However, if any real property to which the cost of abatement relates has been transferred or conveyed to a bona fide purchaser for value, or if a lien of a bona fide encumbrancer for value has been created and attaches thereon, prior to the date on which the first installment of the taxes would become delinquent, then the cost of abatement shall not result in a lien against the real property but instead shall be transferred to the unsecured roll for collection.

C. Subject to the requirements applicable to the sale of property pursuant to section 3691 of the Revenue and Taxation Code, the City may conduct a sale of vacant residential developed property for which the payment of that assessment is delinquent.

D. Notices or instruments relating to the special assessment shall be entitled to recordation. (Ord. 2009-11, Amended, 07/07/2009; 2006-07, Added, 06/06/2006)

**Section 21.01.120 Order for treble costs of abatement.**

Upon entry of a second or subsequent civil or criminal judgment within a two-year period finding that an owner of property is responsible for a condition that may be abated in accordance with the provisions of this Chapter, except for conditions abated pursuant to section 17980 of the Health & Safety Code, relating to abandoned buildings, the court may order the owner to pay treble the costs of the abatement, as authorized by Government Code section 38773.7. Costs of abatement shall include, without limitation by reason of enumeration, all administrative costs of the City. (2006-07, Added, 06/06/2006)