

SECTION 8: Penalties and Enforcement

8.1 Civil Penalty

- A. A subdivider or an agent of a Subdivider may not cause, suffer, allow, or permit a Lot to be sold or offered for sale in a Subdivision if the Subdivision has not been platted as required by these regulations and Texas Local Government Code chapter 212.
- B. Notwithstanding any other remedy at law or equity, a Subdivider or an agent of a Subdivider may not cause, suffer, allow or permit any part of a subdivision in Harlingen or its ETJ over which the Subdivider or an agent of the Subdivider has control, or a right of ingress and egress, to become a health nuisance as defined by Texas Health & Safety code.
- C. A Subdivider who fails to provide for the construction or installation of water or sewer service facilities in the time and manner described on the Plat or on the document attached to the Plat or who otherwise violates these regulations or Texas Local Government code Chapter 212, is subject to a civil penalty of not less than \$500 nor more than \$1000 for each violation and for each day of a continuing violation, but not to exceed \$5,000 each day and shall also pay court costs, investigative costs, and attorneys' fees for the governmental entity bringing suit.

8.2 Criminal Penalty

- A. A subdivider commits an offense if the subdivider knowingly fails to file a Plat required by these regulations and Texas Local Government code Chapter 212. An offense under this subsection is a Class A misdemeanor.
- B. A subdivider who owns a subdivision commits an offense if the subdivider knowingly fails to timely provide for the construction or installation of water or sewer service as required by these regulations and Texas Local Government Code or fails to make a reasonable effort to have electric utility service and gas utility service installed by a utility as required under Texas Local Government Code. An offense under this subsection is a Class A misdemeanor.
- C. If it is shown at a trial of an offense under Subsection section 1 above that the defendant caused five or more residences in the subdivision to be inhabited, the offense is a state jail felony.
- D. Venue for prosecution for a violation under this section is in Cameron County.

8.3 Administrative Enforcement

In addition to any other remedies available at law, the City may elect at its option to enforce one or more of the following options:

- A. Denial of Plat Approval. No plat shall be recorded unless it contains such data, nor shall any court clerk record a plat which has not received the prior approval of the Planning & Zoning Commission.
- B. Institute appropriate action in a court of competent jurisdiction to enforce the provisions of this ordinance.
- C. Denial of public utilities.
- D. Denial of building permits.

Any person residing in any subdivision shall have the requisite standing and authority to enforce the standards established pursuant to this Ordinance and may file suit in any court of competent jurisdiction for his damages or for declaration or injunctive relief or such other relief as may be deemed appropriate.

8.4 Enforcement

- A. On behalf of the City, the City Attorney shall, when directed by the City Commission, institute appropriate action in a court of competent jurisdiction by injunction or otherwise to enforce the provisions of this Ordinance or the standards referred to herein with respect to any violation thereof which occurs within the City, within the extraterritorial jurisdiction of the City as such jurisdiction is determined under V.T.C.A. Texas Local Government Code, or within any area subject to all or a part of the provisions of this Ordinance.
- B. The City Attorney or Attorney General may take any action necessary in a court of competent jurisdiction on behalf of the State and City or on behalf of residents to:
 - 1. Enjoin the violation or threatened violation of a requirement of this Ordinance;
 - 2. Enjoin the violation or threatened violation of Texas Local Government code Chapter 212;
 - 3. Recover civil or criminal penalties, attorneys' fees, litigation costs, and investigative costs; and
 - 4. Require platting or replatting under these regulations and Texas Local Government Code.
- C. The Attorney General, at the request of the District or City Attorney with jurisdiction, may conduct a criminal prosecution under Texas Local Government Code.

- D. During the pendency of any enforcement action brought, any resident of the affected Subdivision, or the Attorney General, District Attorney or City Attorney on behalf of a resident, may file a motion against the provider of utilities to halt termination of pre-existing utility services. The services may not be terminated if the court makes an affirmative finding after hearing the motion that the termination poses a threat to public health, safety or welfare of the residents of the affected subdivision.
- E. Upon violation of any requirements hereof, the City Commission or its authorized representative may seek injunctive relief preventing the sale of any or all lots within such subdivision. Any person violating any provision of this ordinance, except Sections 8.1.C and 8.2 above, within the city limits shall be guilty of a misdemeanor and, upon conviction, may be fined up to \$500 per day, per offense. Prosecution or conviction under this provision shall not be a bar to any other remedy or relief for violation of this ordinance as provided by law.

8.5 Injunction

In addition to other remedies, the Attorney General, the City or District Attorney of the County in which the violation occurred, or other local officials are authorized to apply to the District Court for, and the Court in its discretion may grant, the state or political subdivision, without bond or other undertaking, any injunction that the facts may warrant including temporary restraining orders, temporary injunctions, and after notice and hearing, permanent injunctions enjoining a violation of these regulations, or Texas Local Government Code Chapter 212.