

conviction in a court of law by a fine of not more than five hundred dollars for a non-continuing offense and a fine of not more than one thousand dollars for a continuing offense. (Ord. 447 § 1 (part), 2004: Ord. 438 § 3 Exh. C (part), 2003)  
(Ord. No. 529, § 2, 11-10-09)

17.52.170 Recovery of costs by city.

In any action or suit authorized by this chapter, the city, if it prevails, shall recover a reasonable attorney's fee to be set by the court, in addition to its costs and disbursements. (Ord. 447 § 1 (part), 2004: Ord. 438 § 3 Exh. C (part), 2003)  
(Ord. No. 529, § 2, 11-10-09)

Chapter 17.56

ENFORCEMENT

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17.56.010 Title, purpose and applicability.

The provisions of this chapter shall be known as the enforcement requirements. The purpose of these requirements is to ensure compliance with the zoning requirements set out in this title. These provisions shall apply to the enforcement of the zoning requirements, but shall not be deemed exclusive. (Ord. 447 §1(part), 2004: Ord. 438 §3 Exh. C (part), 2003)

17.56.020 Enforcement official.

It shall be the duty of the city council or duly authorized representative to enforce the provisions of this

title pertaining to land use and to the erection, construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupance, equipment, use, height, area, and maintenance of buildings or structures in the city. The enactment of the ordinance codified in this title shall not invalidate

any prior, existing, or future prosecutions for violation of the zoning requirements committed under previous applicable city ordinances then in effect. (Ord. 447 §1(part), 2004: Ord. 438 §3 Exh. C (part), 2003)

17.56.030 Official action. All officials, departments, and employees of Cave Junction vested with authority to issue permits, certificates, or licenses, shall adhere to and require conformance with the zoning requirements. (Ord. 447 §1(part), 2004: Ord. 438 §3 Exh. C (part), 2003)

17.56.040 Inspection and right of entry. Whenever they shall have cause to suspect a violation of any provision of the zoning requirements, or when necessary to investigation of an application for or revocation of any zoning approval under any of the procedures prescribed in this title, officials responsible for enforcement or administration of this title, or their duly authorized representatives, may enter on any site or into any structure for the purpose of investigation, provided they shall do so in a reasonable manner. No secured building shall be entered without the consent of the owner or occupant unless under authority of a lawful warrant. (Ord. 447 §1(part), 2004: Ord. 438 §3 Exh. C (part), 2003)

17.56.050 Legal proceedings by city attorney. In addition to the enforcement provisions of this chapter, upon request of the city council the city attorney may institute any additional proceedings, including, but not limited to, seeking injunctive relief to enforce the provisions of this title. (Ord. 447 §1(part), 2004: Ord. 438 §3 Exh. C (part), 2003)

17.56.060 Abatement generally. Any use which is established, operated, erected, moved, altered, enlarged, or maintained contrary to the zoning requirements shall be and is declared to be unlawful and a public nuisance, and may be abated as such. Abatement proceedings are to be conducted pursuant to the procedures and provisions which are set out in this chapter. (Ord. 447 §1(part), 2004: Ord. 438 §3 Exh. C (part), 2003)

17.56.070 Abatement procedure. A. Upon a signed written allegation to the city recorder that a nuisance as defined in this title exists, the city shall cause:

1. An inspection to be performed by a person or persons designated by the mayor;

2. If the inspectors conclude, as a result of their inspection, that a nuisance does in fact exist, they shall so inform the mayor;

3. The mayor will then direct the city recorder mail to the owner of the property where the nuisance exists, a letter directing the owner and person in charge of the property to abate said nuisance.

B. At the time of issuance, the city recorder shall cause such notice to be forwarded by registered or certified mail, postage prepaid, to the owner and the person in charge of the property at the last known address of said owner or other person. The notice to abate shall contain:

1. A description of the real property, by street address or otherwise, on which such nuisance exists;

2. A description of the nuisance;

3. A direction to abate the nuisance within ten days from the date of the notice;

4. A statement that unless such nuisance is removed, the city may abate the nuisance and the cost of abatement shall be a lien against the property;

5. A statement that the owner or other person in charge of the property may protest the abatement by giving notice to the city recorder within ten days of the date on the posted and mailed notice.

C. Upon the completion of the mailing, the city recorder shall execute and file a certificate stating the date and place of such mailing.

D. An error in the name or address of the owner or person in charge of the property or the use of a name other than that of the owner or person in charge shall not make the notice void and in such a case the posted notice shall be sufficient. (Ord. 447 §1(part), 2004: Ord. 438 §3 Exh. C (part), 2003)

17.56.080 Abatement by the owner. A. Within ten days after the mailing of the notice as provided in Section 17.56.070, the owner or person in charge of the

property shall remove the nuisance, or show that no nuisance exists.

B. If the owner or person in charge protests that no nuisance exists, they shall file with the city recorder a written statement in which they will specify the basis of so protesting.

C. The statement shall be referred to the council as a part of the council's regular agenda at the next succeeding meeting. At the time set for consideration of the abatement, the owner or other person may appear and be heard by the council, as may the person complaining of a nuisance, and other interested parties. The council shall thereupon determine whether or not a nuisance exists, and such determination shall be entered in the official minutes of the council. Council determination shall be required only in those cases where written objection to the notice has been filed as provided.

D. If the inspection designated in Section 17.56.070 determines that an emergency exists, the inspector shall so notify the mayor, and the mayor may at his or her election call an emergency meeting and cause to be served upon the person in charge and the owner of the property a notice that they must attend this meeting or forfeit their right under this section. The special meetings shall be conducted pursuant to the abatement proceedings in this title in all other matters.

E. If the council shall determine that a nuisance does in fact exist, the owner or other person shall within five days after such council meeting and determination abate the nuisance.

1. Council may at its election grant the owner a longer time to abate the nuisance for good and sufficient reason;

2. If the council determines that an emergency exists, the council may order the nuisance abated upon a twenty-four-hour notice. (Ord. 447 §1(part), 2004: Ord. 438 §3 Exh. C (part), 2003)

17.56.090 Abatement by the city. A. If within the time allowed the nuisance has not been abated by the owner or person in charge of the property, the city may cause the nuisance to be abated.

B. The city recorder shall keep an accurate record of the expenses incurred by the city in abating the

nuisance and shall include therein a charge of fifteen percent for the expenses of administration overhead. (Ord. 447 §1(part), 2004: Ord. 438 §3 Exh. C (part), 2003)

17.56.100 Assessment of costs. A. The city recorder, by registered or certified mail, postage prepaid, shall forward to the owner or the person in charge of the property a notice stating:

1. The total cost of abatement, including the administrative overhead;
2. The cost as indicated will be assessed to and become a lien against the property unless paid within thirty days from the date of the notice;
3. The owner or person in charge of the property objects to the cost of abatement as indicated, they may file a written notice of objection with the city recorder, not more than ten days from the date of the notice.

B. Upon the expiration of ten days after the date of the notice, the council in the regular course of business shall hear and determine the objection to the cost to be assessed.

C. If the costs of the abatement are not paid within thirty days from the date of the notice, the assessment of the cost stated or determined by the council shall be made by resolution and shall thereupon be entered in the docket of city liens, and upon such entry being made shall constitute a lien upon the property from which the nuisance was removed.

D. The lien shall be enforced in the same manner as liens for street improvements are enforced, and shall bear interest at the rate of six percent per annum. Such interest shall commence to run from the date of the entry of the lien in the lien docket.

E. An error in the name of the owner or person in charge of the property shall not void the assessment nor will a failure to receive notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property. (Ord. 447 §1(part), 2004: Ord. 438 §3 Exh. C (part), 2003)

17.56.110 Summary of abatement. The procedure provided by this chapter is not exclusive but is in addition

to the procedure provided by other ordinances and the city may proceed summarily to abate a health or other nuisance which unmistakably exists and from which there is imminent danger to human life or property. (Ord. 447 §1(part), 2004: Ord. 438 §3 Exh. C (part), 2003)

17.56.120 Violation--Penalty. A. Violations. Violation of any of the requirements of this title constitutes a city infraction. Continued violations of this title after ten days from the mailing of notice of the violation by certified mail to the last known address of the alleged violator, and continued violations after an order has been entered for the same violation, constitutes a separate city infraction for each day the violation continues. The city council or duly authorized representative shall have the authority to sign infraction complaints for violations of this title.

B. Fines and Penalties. A person violating a provision of this title shall, upon conviction, be punished by a fine of not more than one thousand dollars. A person violating a provision of this title shall be considered guilty of a separate offense for each day during which the violation continues following written notification by the city. (Ord. 447 §1(part), 2004: Ord. 438 §3 Exh. C (part), 2003)