



Solano County

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Agenda Submittal

Agenda #:	3	Status:	PC-Regular
Type:	PC-Document	Department:	Planning Commission
File #:	PC 23-005	Contact:	Allan Calder, 707-784-6765
Agenda date:	02/16/2023	Final Action:	

Title: Conduct a noticed public hearing to consider amendments to Solano County Code, Chapter 28- Zoning Regulations relating to enforcement procedures and penalties for violations of the Zoning Regulations; and Adopt a resolution to forward a recommendation of approval to the Board of Supervisors to adopt the proposed Zoning Regulation amendments. The proposed zoning regulation amendments are exempt from the requirements of CEQA under the "common sense" exemption since the revisions are a set of technical adjustments and corrections which do not alter prior regulations for intensity or location of development or any other physical alterations to the environment

Governing body: Planning Commission

District:

Attachments: [A - Draft Amendments to Section 28.113](#), [B - Public Notice](#), [C - Summary Table of Proposed Changes](#)

Date:	Ver.	Action By:	Action:	Result:
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Published Notice Required? Yes No
 Public Hearing Required? Yes No

DEPARTMENTAL RECOMMENDATION:

The Department of Resource Management recommends that the Planning Commission:

1. Conduct a noticed public hearing to consider amendments to the Zoning Code; and
2. Adopt a Resolution to forward a recommendation of approval to the Board of Supervisors to adopt the proposed Zoning Code amendments.

SUMMARY:

The proposed amendments include revisions and updates to Section 28.113 of the Solano County Code relating to enforcement procedures and penalties for violations of Solano County's zoning regulations. The amendments clarify what constitutes a Chapter 28 zoning violation, establish the process for the Zoning Administrator to issue Notices of Violations (NOV) and provide related appeal processes. The amendments also establish actions and penalties for noncompliance. Attachment A contains the existing language of Section 28.113 and the proposed amendments in redline and final format. A summary of the proposed changes is provided below and in the table in Attachment C.

DISCUSSION:

Background:

It is the goal of the Planning Division to update the County's Zoning Regulations (Chapter 28 of Solano County Code) to improve compliance with land use and zoning requirements by clarifying and enhancing enforcement procedures and penalties for violations of Solano County's land use and zoning regulations. This update supports and complements concurrent code updates to Chapter 10 (Abatement of Public Nuisances) recommended by the Department of Resource Management to improve overall code compliance with County codes being implemented in the unincorporated area.

On April 6th, 2021, the Board of Supervisors adopted Chapter 10 - Abatement of Public Nuisances into Solano County Code, providing a uniform informal and formal administrative process to abate public nuisances that included appeals to an independent hearing officer. This provided for an enforceable Abatement Order authorizing the County to abate public nuisances and to recover costs as the main compliance tool. Further amendments to Chapter 10 to add administrative penalties and other processes to encourage compliance and address abatement of violations were introduced by the Board on January 24, 2023. These amendments are scheduled to be approved by the Board on February 7, 2023 with a proposed effective date 30 days thereafter.

If adopted, the key amendments to Chapter 10 would be:

- Process to notice and issue penalties for code violations of:
 - Building Permit Violations,
 - Event Permit Violations,
 - Short-Term Rental Violations, and
 - All other Code Violations
- Authorization for penalties to be included in a Consent Order,
- Process to record a Notice of Pendency on the property,
- Rights to a hearing regarding a notice of penalty, including a provision to request a hardship,
- Ability to record a certificate of administrative penalty lien against a property for unpaid penalties, and
- Process for a special assessment hearing by the Board to lien a property for unpaid abatement costs.

Chapter 10 deems that a violation of any County Code is a public nuisance and that zoning code violations shall initially undergo the administrative process detailed in Chapter 28. The proposed amendments to Chapter 28 will provide additional detail as to the administrative process and coherence between Chapter 10 and Chapter 28 for abatement of zoning regulation violations. The key amendments to Chapter 28 - Zoning Regulations are as follows:

Identification of what is a Chapter 28 zoning violation:

The proposed amendments provide clarity as to a hearing bodies authority to issue permits and regarding what is a violation, including:

- The county can refuse to issue permits when it is deemed that a use or structure is in violation of this chapter.
- Any violation of a permit's terms, if issued by the Zoning Administrator, Planning Commission, or Board of Supervisors, shall constitute a violation of this chapter.
- Any use of a building or land in violation of this chapter which have not been authorized is prohibited and shall be considered a public nuisance.

Zoning Administrator to issue Notice of Violations / establish appeal process:

The Zoning Administrator has sole discretion to issue a Notice of Violation (NOV) for Chapter 28 violations.

Notices shall specify the nature of the allegation, identify which corrective actions are required and when corrective action shall be completed. The Zoning Administrator has discretion to attempt to resolve matters informally or issue a written warning of violation prior to issuing a NOV.

Allegations regarding the violation, the required corrective action(s), and the deadline for corrective actions can be appealed in accordance with Section 28.112.

Actions for noncompliance:

The corrective actions specified in the NOV, either as originally issued and not timely appealed or as upheld or modified on appeal, shall constitute a confirmed Order to abate and the violation shall be subject to abatement by the County pursuant to Chapter 10

If the violation is not corrected as specified in the NOV, or if corrections are not completed within the time specified in the notice, the County may also impose administrative penalties as provided in Chapter 10 and in the amounts specified in Chapter 10.

Any violation of the provisions of this Chapter may also be remedied by civil action for injunctive relief or other appropriate proceedings.

In addition, the District Attorney has authority for any violation of Chapter 28 as an infraction punishable by a fine not exceeding the limits imposed by state law, including Section 25132 of the Government Code. Every day any violation of this chapter shall continue shall constitute a separate offense.

All remedies listed in this Chapter, including permit revocation, are cumulative and not exclusive. An order of permit revocation, issued either by the Planning Commission pursuant to Solano County Code, section 28.106 (J) and not timely appealed or as upheld or modified by the Board of Supervisors on appeal, shall constitute a NOV that is final and not subject to appeal.

GENERAL PLAN CONSISTENCY:

The proposed ordinance is consistent with the 2008 Solano County General Plan in that the various land uses authorized by Chapter 28 are compatible with the objectives, policies, general land uses, and programs specified in the General Plan and the updated enforcement procedures will better enable the County to ensure that the land uses being conducted within the unincorporated area are as authorized by Chapter 28.

ENVIRONMENTAL REVIEW:

The proposed zoning regulation revisions are exempt from the requirements of CEQA under the “common sense” exemption since this zoning regulation update is a set of technical adjustments and corrections which do not alter prior regulations for intensity or location of development or any other physical alterations to the environment.

OTHER AGENCY INVOLVEMENT:

County Counsel assisted in development of the Zoning Regulation update.

PUBLIC HEARING NOTICE:

Consistent with §28.112 and §28.04 of the Solano County Code, a public hearing notice was published in the Daily Republic at least 15 days prior to the public hearing (Attachment B).

RECOMMENDATION:

Based on the discussion above, staff recommends that the Planning Commission recommend that the Board of Supervisors adopt the proposed ordinance (ZT-23-02) amending Chapter 28 (Zoning Regulations) of the Solano County Code relating to enforcement procedures and penalties for violations of Solano County's land use and zoning regulations.

Attachments:

- A - Draft Amendments to Section 28.113
- B - Public Notice
- C - Summary Table of Proposed Changes

SOLANO COUNTY PLANNING COMMISSION
RESOLUTION NO. ____

RESOLUTION RECOMMENDING
APPROVAL OF ZONE TEXT AMENDMENT NO. ZT-23-02
TO THE SOLANO COUNTY BORD OF SUPERVISORS

WHEREAS, the Solano County Planning Commission, after proper notice, conducted a public hearing on February 16, 2023, to consider proposed zoning text amendments that would revise and update Section 28.113 of the Solano County Code relating to enforcement procedures and penalties for violations of Solano County’s land use and zoning regulations; and

WHEREAS, because the proposed amendments are a set of technical adjustments and corrections which do not alter prior regulations for intensity or location of development or any other physical alterations to the environment, it can be seen with certainty that there is no possibility the proposed amendments would have a significant effect on the environment; a Notice of Exemption may be filed for the project; and

WHEREAS, based on the staff report and recommendations, and after considering all public testimony and due deliberation, the Planning Commission determines that the proposed zone text amendment is appropriate and desirable, and is consistent with the Solano County General Plan.

RESOLVED, that the Solano County Planning Commission does hereby recommend approval of the proposed zone text amendment, attached hereto as Exhibit A, to the Solano County Board of Supervisors.

I hereby certify that the foregoing resolution was adopted at the regular meeting of the Solano County Planning Commission on February 16, 2023, by the following vote:

AYES: Commissioners _____

NOES: Commissioners _____
ABSTAIN: Commissioners _____
ABSENT: Commissioners _____

By: _____

_____, Chairperson
Solano County Planning Commission

Attest:

By: _____
Terry Schmidtbauer, Secretary

EXHIBIT A

Section 28.113 – Existing

28.113 Enforcement of Chapter

- A. All departments, officials and public employees of the county which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter, and shall issue no such permits or licenses for uses, buildings, or purposes where the same would be in conflict with the provisions of this chapter; and any such permits or licenses, if issued in conflict with the provisions of this chapter, shall be null and void.
- B. It shall be the duty of the zoning administrator, resource management director, or the planning commission to issue a notice of violation to any person who has erected, constructed, reconstructed, moved, converted, altered, or added to any building or structure in violation of these provisions, or who is using or allowing the use of that person's property in violation of these provisions. The notice of violation shall specify what corrective action is required and when the corrective action shall be completed.
- C. Any person who sets up, erects, constructs, alters, enlarges, converts, moves, or maintains any building contrary to the provisions of this chapter, or any person who continues an unauthorized use which has not been brought within the provisions of this chapter as required by the notice of violation, is guilty of a violation of this chapter.
- D. Notwithstanding Section 1-17 of this code, any violation of this chapter shall be an infraction punishable by a fine not exceeding \$250.00 for each separate offense; provided, that in any accusatory pleading charging a violation of this chapter, if the defendant has been previously convicted one or more times of a violation of this chapter, such previous convictions shall be charged in the accusatory pleading, and, if such previous convictions are found to be true, or are admitted by the defendant, any violation shall be a misdemeanor punishable by imprisonment in the county jail for a term not exceeding six (6) months, or by a fine not exceeding \$1,000.00, or by both. Every day any violation of this chapter shall continue shall constitute a separate offense.
- E. Any violation of the terms or conditions of any permit or entitlement issued by the zoning administrator, planning commission, or board of supervisors pursuant to this Chapter shall constitute a violation of this Chapter and shall be deemed to be a public nuisance.
- F. Any violation of the provisions of this Chapter may be remedied by civil action for injunctive relief or other appropriate proceedings.
- G. All remedies listed in this Chapter, including permit revocation, shall be cumulative and not exclusive.

Proposed Revisions to Section 28.113

28.113 Enforcement of Chapter

- AC. All departments, officials and public employees of the county which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter, and shall issue no such permits or licenses for uses, buildings, or purposes where the same would be in conflict with the provisions of this chapter; and any such permits or licenses, if issued in conflict with the provisions of this chapter, shall be null and void.
- D. The County may refuse to issue any discretionary or ministerial permit, license, variance or other entitlement, which is sought pursuant to this chapter, including zoning clearance for a building permit, where the property upon which the use or structure is proposed is in violation of this chapter.
- B. Any violation of the terms or conditions of any permit or entitlement issued by the Zoning Administrator, Planning Commission, or Board of Supervisors pursuant to this chapter shall constitute a violation of this chapter.
- A. Any use of buildings or land in violation of this chapter, including any use of buildings or land which has not been authorized in the manner required by this chapter, is prohibited and is declared to be a public nuisance.
- BE. It shall be the duty of the zoning administrator, resource management director, or the planning commission to~~The Zoning Administrator shall~~ issue a notice of violation to any person who has erected, constructed, reconstructed, moved, converted, altered, or added to any building or structure in violation of ~~these provisions~~this chapter, or who is using or allowing the use of that person's property in violation of ~~these provisions~~this chapter, when such enforcement would protect the public health, safety, or general welfare. The notice of violation shall specify the nature of the alleged violation, what corrective action is required, and when the corrective action shall be completed. The Zoning Administrator may, but is not required to, attempt to resolve the matter informally or provide a written warning of violation prior to issuing a notice of violation.
- F. The notice of violation, including the allegations concerning nature of the violation, the required corrective action, and the deadline for corrective action, may be appealed in accordance with Section 28.112. If the notice of violation is not timely appealed, the allegations in the notice are deemed admitted, and the specified corrective action, including the time for completion, is deemed accepted as reasonable and appropriate. The allegations in the notice of violation, either as originally issued and not timely appealed or as upheld or modified on appeal, shall constitute the County's final determination that the buildings or use of property are in violation of this chapter.
- C. ~~Any person who sets up, erects, constructs, alters, enlarges, converts, moves, or maintains any building contrary to the provisions of this chapter, or any person who continues an~~

~~unauthorized use which has not been brought within the provisions of this chapter, as required by the notice of violation, is guilty of a violation of this chapter.~~

- ~~G.~~ If the violation is not corrected as specified in the notice of violation, or if corrections are not completed within the time specified in the notice, the County may impose administrative penalties as provided in Chapter 10.
- ~~H.~~ For purposes of Chapter 10, the corrective actions specified in the notice of violation, either as originally issued and not timely appealed or as upheld or modified on appeal, shall constitute a confirmed order to abate and the violation shall be subject to abatement by the County pursuant to the procedure established in Chapter 10.
- ~~D.I.~~ Notwithstanding Section 1-17 of this code, any violation of this chapter shall be an infraction punishable by a fine not exceeding \$250.00 for each separate offense; provided, that in any accusatory pleading charging a violation of this chapter, if the defendant has been previously convicted one or more times of a violation of this chapter, such previous convictions shall be charged in the accusatory pleading, and, if such previous convictions are found to be true, or are admitted by the defendant, any violation shall be a misdemeanor punishable by imprisonment in the county jail for a term not exceeding six (6) months, or by a fine not exceeding \$1,000.00, or by both, the limits imposed by state law, including the amounts specified in Section 25132 of the Government Code. Every day any violation of this chapter shall continue shall constitute a separate offense. Each day a violation continues is a separate and distinct offense.
- ~~E.~~ Any violation of the terms or conditions of any permit or entitlement issued by the zoning administrator, planning commission, or board of supervisors pursuant to this Chapter shall constitute a violation of this Chapter and shall be deemed to be a public nuisance.
- ~~F.J.~~ Any violation of the provisions of this Chapter chapter may be remedied by civil action for injunctive relief or other appropriate proceedings.
- ~~G.K.~~ All remedies listed in this Chapter chapter, including permit revocation, shall be cumulative and not exclusive. An order of permit revocation issued by the Planning Commission pursuant to subdivision (J) of Section 28.106 and not timely appealed, or as upheld or modified by the Board of Supervisors on appeal, shall constitute a notice of violation that is final and not subject to appeal.

Section 28.113 – as Proposed

28.113 Enforcement of Chapter

- A. Any use of buildings or land in violation of this chapter, including any use of buildings or land which has not been authorized in the manner required by this chapter, is prohibited and is declared to be a public nuisance.
- B. Any violation of the terms or conditions of any permit or entitlement issued by the Zoning Administrator, Planning Commission, or Board of Supervisors pursuant to this chapter shall constitute a violation of this chapter.
- C. All departments, officials and public employees of the county which are vested with the duty or authority to issue permits or licenses shall conform to the provisions of this chapter, and shall issue no such permits or licenses for uses, buildings, or purposes where the same would be in conflict with the provisions of this chapter; and any such permits or licenses, if issued in conflict with the provisions of this chapter, shall be null and void.
- D. The County may refuse to issue any discretionary or ministerial permit, license, variance or other entitlement, which is sought pursuant to this chapter, including zoning clearance for a building permit, where the property upon which the use or structure is proposed is in violation of this chapter.
- E. The Zoning Administrator shall issue a notice of violation to any person who has erected, constructed, reconstructed, moved, converted, altered, or added to any building or structure in violation of this chapter, or who is using or allowing the use of that person's property in violation of this chapter, when such enforcement would protect the public health, safety, or general welfare. The notice of violation shall specify the nature of the alleged violation, what corrective action is required, and when the corrective action shall be completed. The Zoning Administrator may, but is not required to, attempt to resolve the matter informally or provide a written warning of violation prior to issuing a notice of violation.
- F. The notice of violation, including the allegations concerning nature of the violation, the required corrective action, and the deadline for corrective action, may be appealed in accordance with Section 28.112. If the notice of violation is not timely appealed, the allegations in the notice are deemed admitted, and the specified corrective action, including the time for completion, is deemed accepted as reasonable and appropriate. The allegations in the notice of violation, either as originally issued and not timely appealed or as upheld or modified on appeal, shall constitute the County's final determination that the buildings or use of property are in violation of this chapter.
- G. If the violation is not corrected as specified in the notice of violation, or if corrections are not completed within the time specified in the notice, the County may impose administrative penalties as provided in Chapter 10.

- H. For purposes of Chapter 10, the corrective actions specified in the notice of violation , either as originally issued and not timely appealed or as upheld or modified on appeal, shall constitute a confirmed order to abate and the violation shall be subject to abatement by the County pursuant to the procedures established in Chapter 10.
- I. Notwithstanding Section 1-17 of this code, any violation of this chapter shall be an infraction punishable by a fine not exceeding the limits imposed by state law, including the amounts specified in Section 25132 of the Government Code. Each day a violation continues is a separate and distinct offense.
- J. Any violation of the provisions of this chapter may be remedied by civil action for injunctive relief or other appropriate proceedings.
- K. All remedies listed in this chapter, including permit revocation, shall be cumulative and not exclusive. An order of permit revocation issued by the Planning Commission pursuant to subdivision (J) of Section 28.106 and not timely appealed, or as upheld or modified by the Board of Supervisors on appeal, shall constitute a notice of violation that is final and not subject to appeal.

DEPARTMENT OF RESOURCE MANAGEMENT



Planning Services Division

NOTICE OF PUBLIC HEARING (Planning Commission)

NOTICE IS GIVEN that the Solano County Planning Commission will hold a PUBLIC HEARING to consider zoning text amendment ZT-23-02, which would amend Section 28.113 of the Solano County Code relating to enforcement procedures and penalties for violations of Solano County's land use and zoning regulations. The project has been determined not to have a significant effect on the environment and is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to the General Rule Section 15061(b)(3). (Project Planner: Allan Calder, 707-784-6765)

The hearing will be held on **Thursday, February 16, at 7:00 p.m.** in the Board of Supervisors Chambers, County Administration Center, 1st Floor, 675 Texas Street, Fairfield, California.

The County of Solano does not discriminate against persons with disabilities. If you wish to participate in this meeting and you will require assistance in order to do so, please contact the Department of Resource Management at 707-784-6765 at least 24 hours in advance of the event to make reasonable arrangements to ensure accessibility to this meeting.

PUBLIC COMMENTS:

In-Person: You may attend the public hearing at the time and location listed above and provide comments during the public speaking period. **Phone:** You may provide comments verbally from your phone by dialing **1-415-655-0001** and entering **Access Code 2467 197 1378**. Once entered in the meeting, you will be able to hear the meeting and will be called upon to speak during the public speaking period. **Email/Mail:** Written comments can be emailed to PlanningCommission@SolanoCounty.com or mailed to Resource Management, Planning Commission, 675 Texas Street, Suite 5500, Fairfield, CA 94533 and must be received by 10:00 a.m. the day of the meeting. Copies of written comments received will be provided to the Planning Commission and will become a part of the official record but will not be read aloud at the meeting.

Staff reports and associated materials will be available to the public approximately one week prior to the meeting at www.solanocounty.com under Departments; Resource Management; Boards, Commissions & Special Districts; Solano County Planning Commission.

If you challenge the proposed consideration in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

Daily Republic – DISPLAY AD/one time in NEWS SECTION – Wednesday, February 1, 2023

Summary of Significant Amendments to Chapter 28 – Section 28.113 – Enforcement procedures and penalties for zoning violations	
Overview of change	Added Language / Revisions to subsection <i>* Italicized words below indicate added language</i>
28.113 (A): Any use of a building or land in violation of Ch 28 is a public nuisance	<i>Any use of buildings or land in violation of this chapter, including any use of buildings or land which has not been authorized in the manner required by this chapter, is prohibited and is declared to be a public nuisance.</i>
28.113 (B): Any violation of terms or permit conditions is a violation of Chapter 28	<i>Any violation of the terms or conditions of any permit or entitlement issued by the Zoning Administrator, Planning Commission, or Board of Supervisors pursuant to this chapter shall constitute a violation of this chapter.</i>
28.113 (D): County can choose to not issue a permit, license, variance or entitlement if the property has a building or use in violation of Ch 28	<i>The County may refuse to issue any discretionary or ministerial permit, license, variance or other entitlement, which is sought pursuant to this chapter, including zoning clearance for a building permit, where the property upon which the use or structure is proposed is in violation of this chapter.</i>
28.113 (E): Provides details on the issuance of a Notice of Violation (NOV) and the information to be included in the NOV. Authority for the Zoning Administrator to resolve violations informally is also provided.	<i>The Zoning Administrator shall issue a notice of violation to any person who has erected, constructed, reconstructed, moved, converted, altered, or added to any building or structure in violation of this chapter, or who is using or allowing the use of that person's property in violation of this chapter, when such enforcement would protect the public health, safety, or general welfare. The notice of violation shall specify the nature of the alleged violation, what corrective action is required, and when the corrective action shall be completed. The Zoning Administrator may, but is not required to, attempt to resolve the matter informally or provide a written warning of violation prior to issuing a notice of violation.</i>
28.113 (F): Provides appeal rights to NOV, corrective actions and deadlines. Provides that the allegations in a NOV become the County's final determination of a violation if not appealed, or as upheld or modified on appeal.	<i>The notice of violation, including the allegations concerning nature of the violation, the required corrective action, and the deadline for corrective action, may be appealed in accordance with Section 28.112. If the notice of violation is not timely appealed, the allegations in the notice are deemed admitted, and the specified corrective action, including the time for completion, is deemed accepted as reasonable and appropriate. The allegations in the notice of violation, either as originally issued and not timely appealed or as upheld or modified on appeal, shall constitute the County's final determination that the buildings or use of property are in violation of this chapter.</i>
28.113 (G): Specifies process for imposing administrative penalties in accordance with Chapter 10 – Public Nuisance Abatement	<i>If the violation is not corrected as specified in the notice of violation, or if corrections are not completed within the time specified in the notice, the County may impose administrative penalties as provided in Chapter 10 and in the amounts specified in Chapter 10.</i>

<p>28.113 (H): Specifies that corrective actions in a NOV, or as upheld or modified on appeal, become an abatement order subject to abatement by County under Ch10</p>	<p><i>For purposes of Chapter 10, the corrective actions specified in the notice of violation, either as originally issued and not timely appealed or as upheld or modified on appeal, shall constitute a confirmed order to abate and the violation shall be subject to abatement by the County pursuant to Chapter 10.</i></p>
<p>28.113 (I): Clarifies process for Chapter 28 fines by the District Attorney</p>	<p>Notwithstanding Section 1-17 of this code, any violation of this chapter shall be an infraction punishable by a fine not exceeding <i>the limits imposed by state law, including the amounts specified in Section 25132 of the Government Code. Each day a violation continues is a separate and distinct offense.</i></p>
<p>28.113 (K): Adds that a permit revocation issued by Planning Commission or upheld on appeal by the Board is a final NOV that cannot be appealed.</p>	<p>All remedies listed in this chapter, including permit revocation, shall be cumulative and not exclusive. <i>An order of permit revocation issued by the Planning Commission pursuant to subdivision (J) of Section 28.106 and not timely appealed, or as upheld or modified by the Board of Supervisors on appeal, shall constitute a notice of violation that is final and not subject to appeal.</i></p>