

CHAPTER 19: ENFORCEMENT

SECTION 19.1 PURPOSE

The purpose of this Chapter is to provide a process for enforcing the provisions of the Dodge County Zoning Ordinance and for determining and resolving Ordinance violations pursuant to the authority granted by Minnesota Statutes Chapter 394; or successor statutes.

SECTION 19.2 VIOLATIONS

Violations include the establishment, creation, expansion, alteration, occupation, or maintenance of any Use, land development activity, or structure, that violates or is inconsistent with any provision of the Dodge County Zoning Ordinance or any permit, order, agreement, approval, or other authorization issued there under.

SECTION 19.3 VIOLATORS

A violator includes, but is not limited to, any person, firm, partnership, corporation, organization or other entity who:

- A. Violates any provision of this Ordinance, or
- B. Fails, neglects, or refuses to comply with the provisions of this Ordinance, or
- C. Fails, neglects, or refuses to comply with any permit, order, agreement, approval, or other authorization issued pursuant to this Ordinance, or
- D. Provides any false information or misrepresents any project in any document required to be submitted under the provisions of this Ordinance.

A violation may be charged against more than one violator.

SECTION 19.4 MISDEMEANOR

A violation of the provisions of the Dodge County Zoning Ordinance or any permit, order, agreement, approval or other authorization issued pursuant to this Ordinance is a misdemeanor. A misdemeanor is punishable by a fine not to exceed one thousand dollars (\$1,000.00) or by imprisonment not to exceed ninety (90) days, or both. Each day that a violation continues shall constitute a separate and distinct offense and shall be punishable according to state law.

SECTION 19.5 RESPECTIVE DUTIES FOR IMPLEMENTATION

19.5.1 ADMINISTRATION & INITIATION OF ACTION

The Zoning Administrator or other designated Environmental Services staff shall administer and enforce this Ordinance in a manner consistent with the powers and duties described in Chapter 18, Section 18.2, Minnesota Statutes 394 and the provisions of this Chapter.

19.5.2 ISSUANCE OF MISDEMEANOR CITATION

In the event that the Zoning Administrator is not able to obtain resolution of a violation utilizing the extent of the powers described in Section 18.2 of this Ordinance under the process of Section 19.6 of this Chapter, and remedies are sought through the criminal process, the Dodge County Sheriff's Office shall issue the misdemeanor citation when called upon by the Dodge County Board of Commissioners.

19.5.3 INSTITUTION OF ENFORCEMENT ACTION (REMEDIES)

Pursuant to Minnesota Statutes Chapter 394.37; or successor statutes, in the event of a violation or threatened violation of Minnesota Statutes Chapter 394.21 to 394.37 or any ordinance regulation or other official control adopted there under, it is the duty of the County Attorney, when called upon by the County Board, to institute such legal actions or other remedies as may be necessary to prevent, restrain, correct or abate such violations or threatened violations.

SECTION 19.6 ENFORCEMENT PROCESS

In the event of a violation of this Ordinance, the County may institute appropriate actions or proceedings to resolve such violations. Enforcement may be by any one, all, or a combination of the remedies described in this Chapter or otherwise authorized by Minnesota State Statutes.

19.6.1 INVESTIGATION

Alleged ordinance violations shall be referred to the Environmental Services Department. The Zoning Administrator, or other designated Environmental Services staff, shall make a reasonable investigation and determine whether or not a violation exists.

19.6.2 INSPECTIONS

A. AUTHORIZATION OF INSPECTION PROGRAM

Inspections and investigations to determine compliance with the zoning ordinance and orders, plans, permits, and authorizations issued under the ordinance are hereby authorized. Inspections and investigations shall be conducted under the general authority of the Environmental Services Department, and shall be carried out by the Zoning Administrator or other designated Environmental Services staff.

B. INSPECTIONS OF PRIVATE PROPERTY

Inspections on private property to determine compliance may be made at any reasonable time with consent of the property owner.

The property owner's signature on any application or license request for any land use permit or other approval authorizes Environmental Services staff to enter the property to perform needed site review, inspections and to verify compliance with Ordinance and/or permit provisions.

Inspections may also be made when a search warrant has been issued pursuant to state statutes by a proper judicial official. To obtain a warrant, the Zoning Administrator or other designated Environmental Services staff must show through facts supplied in a sworn affidavit that either:

- I. The inspection is being conducted as part of an administrative action to inspect all properties of a certain type, and the determination of the properties to inspect was made in accordance with neutral criteria; or
- II. There is probable cause for believing that a violation may exist.

Where a violation is in progress and a Cease and Desist Order (CDO) may be warranted, the Zoning Administrator, or other designated Environmental Services staff when directed, in the discharge of their duties, shall have the right to enter upon any premises.

19.6.3 CEASE AND DESIST ORDER

The Zoning Administrator or other designated staff may issue a Cease and Desist Order (CDO) upon the determination by the Department that

construction, excavation or any other activity regulated by this Ordinance is taking place without authorization by the County. The CDO shall:

- A. Detail the violation;
- B. The remedies necessary to correct the violation;
- C. The time frame allowed in which to resolve the violation;
- D. Inform the violator of the appeal process. Appeal of an order relating to a local zoning law shall be processed according to the requirements of Chapter 18, Section 18.8 of this Ordinance.

Upon receipt of a CDO, the person conducting the unauthorized activity regulated by this Ordinance shall immediately cease the activity until authorization for such activity is granted by the Department. Each day that work continues shall be considered a separate violation.

19.6.4 LETTER OF WARNING (LOW)

Unless a CDO is warranted under Section 19.6.3 of this Chapter, the first notification of an alleged or confirmed violation shall be a written Letter of Warning (LOW). The LOW shall be delivered by first class mail at the address of the property owner listed in the records of the Dodge County Assessor's Office at the time of the investigation. Failure of the property owner to receive the LOW does not invalidate the enforcement process. The LOW shall include:

- A. Information of the alleged or confirmed violation
- B. A request to contact the Environmental Services Department within ten (10) days from the date of the letter.

19.6.5 NOTICE OF VIOLATION (NOV)

A. NOV REQUIRED

When a violation is discovered, and is not remedied through a LOW, a written Notice of Violation (NOV) shall be issued. This notice shall be delivered by certified mail, or served if necessary, to the address of the property owner listed in the records of the Dodge County Assessor's Office at the time of mailing. The NOV shall include the following:

- I. A description of the alleged violation;
- II. The location of the alleged violation;

- III. The applicable Ordinance provisions that have been violated;
- VI. The actions or measures necessary to correct the violation;
- VII. The time period allowed, if any, to correct the violation, which may vary depending upon the nature of the violation;
- VIII. Notification that enforcement action may be taken;
- IX. Notification of the right to appeal under Chapter 18, Section 18.8 of the Dodge County Zoning Ordinance.

B. A NOV is not required:

- I. Where a notice of the same violation has been issued to the same violator at the same property within the previous two (2) years. In such cases, a Civil Penalty Citation for a “continuing violation” may be charged without further notice, as provided in Section 19.6.6.D of this Chapter, or
- II. Where initial action is taken under Section 19.6.3 of this Chapter.

C. APPEAL OF A NOV

A NOV may be appealed to the Dodge County Board of Adjustment under the procedures of Chapter 18, Section 18.8 of the Dodge County Zoning Ordinance. An appeal must be made within thirty (30) days of a determination or the decision regarding the nature and degree of the violation is final.

D. FAILURE TO COMPLY WITH A NOV

Failure to comply with a NOV shall be subject to a Civil Penalty Citation as described in Section 19.6.6 below as an intermediate enforcement action, prior to the remedies described in Section 19.7 of this Chapter.

E. RESCINDING OF A NOV

Any NOV that has been issued in error shall be rescinded immediately when the error is discovered.

19.6.6 CIVIL PENALTY CITATION (CPC)

A. AUTHORITY

The Zoning Administrator or other designated Environmental Services staff may issue a CPC for those violations which are not corrected within the time period mandated in the NOV. Dodge County may collect the fine in court through a civil action in the nature of debt if the penalty is not paid. Fines collected shall be deposited to the general revenue fund.

B. NOTICE OF CIVIL PENALTY CITATION

A Notice of Civil Penalty Citation shall be delivered by certified mail or served, if necessary, at the address of the property owner listed in the records of the Dodge County Assessor's Office at the time of the mailing. The notice shall include:

- I. A copy of the NOV
- II. The amount of the penalty
- III. Information about where to pay the penalty,
- IV. The deadline for payment, which shall be thirty (30) days from the date of the citation, and
- V. The possibility of civil and/or criminal enforcement actions.

C. AMOUNT OF PENALTY

A CPC in the amount of \$300 per violation shall be imposed. If the violation is remedied prior to deadline for payment of the penalty and if the violator is not guilty of previous similar violations, then the penalty shall be reduced to \$0.

A late payment penalty of \$50 per day per violation may also be imposed for penalties not paid by the date listed on the CPC. If the violation has not been remedied, payment shall not release a

violator from potential criminal prosecution or a claim for injunctive relief and/or an order of abatement.

D. CONTINUING VIOLATIONS

A new LOW or NOV is not required if the Department has previously issued an LOW, NOV & CPC to the same violator for the same violation at the same location within the previous two (2) years. Under the above criteria, the violation is considered a “continuing violation”, subject to the process defined below.

The Zoning Administrator, or other designated Environmental Service staff, may issue a new Civil Penalty Citation for a continuing violation. The notice must:

- I. Contain a copy of the original LOW, NOV, and CPC
- II. State that the violation is “continuing”,
- III. Identify the amount of the penalty
- III. Provide information about where to pay the penalty,
- IV. List the deadline for payment, which shall be thirty (30) days from the date of the citation, and
- V. Inform of the possibility of civil and/or criminal enforcement actions.
- IV. State that the penalty is cumulative.

SECTION 19.7 FURTHER REMEDIES

In the event of a violation or threatened violation of this Ordinance, the County may institute appropriate actions or proceedings, including requesting injunctive relief, to prevent, restrain, correct or abate such violations or threatened violations. Enforcement may be by any one, all, or a combination of the remedies described below or as otherwise authorized by Minnesota State Statutes.

19.7.1 INJUNCTIVE RELIEF IN COURT

A violation may be corrected by any appropriate equitable remedy, a mandatory or prohibitory injunction, or an order of abatement. The governing entity shall have the authority to execute an order of abatement if the violator does not comply with such order, and the costs

of execution shall be a lien on the property in the nature of a mechanics lien.

19.7.2 CRIMINAL PENALTIES

A violation shall constitute a misdemeanor or infraction, as provided by state law subject to a maximum fine of one thousand dollars (\$1000) and imprisonment of up to ninety (90) days for each violation.

19.7.3 JUDICIAL ACTION TO COLLECT CIVIAL PENALTY

A civil action in the nature of debt may be filed in any court of competent jurisdiction to collect an unpaid civil penalty imposed under Section 19.6.6 of this Chapter.

19.7.4. PERMIT DENIAL, CONDITIONS, OR REVOCATAION

- A. Any request for permits, certificates, or other authorizations that have been issued for property on which there is an uncorrected violation may be withheld, or may be conditioned on the correction of the violation and/or payment of a civil penalty, and/or posting of a compliance security.
- B. Any permit or certificate mistakenly issued in violation of State law or local ordinance, or issued on the basis of misrepresentations by the applicant, owner, or owner's agent may be revoked with a written explanation of the basis of revocation.
- C. Revocations of CUPs for violations of permit conditions shall follow the process described in Chapter 18, Section 18.13.17 of this Ordinance.

SECTION 19.8 COST OF ENFORCEMENT

All costs incurred for corrective action may be recovered by the County in a civil action in any court of competent jurisdiction or, at the discretion of the County, the costs may be certified to the Assessor's Office as a special tax against the real property. These and other remedies, as determined appropriate by the County, may be imposed upon the violator in addition to or separate from other enforcement actions. Enforcement may be by any one, all, or a combination of the remedies described in this Chapter or otherwise authorized by Minnesota State Statutes.