

Section 19 Violations and Penalties

1901. Misdemeanor Penalty

Any person, firm or corporation who shall violate any of the provisions hereof or who shall fail to comply with any of the provisions hereof or who shall make any false statement in any document required to be submitted under the provisions hereof, shall be guilty of a misdemeanor. Each day that a violation continues shall constitute a separate offense and shall be punishable according to state law.

1902. Injunctive Relief and Other Remedies

In the event of a violation of this Ordinance, the County may institute appropriate actions or proceedings, including requesting injunctive relief, to prevent, restrain, correct or abate such violations. 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 applicant, permittee, installer, or other responsible person either in addition to or separate from other enforcement actions.

1903. Violations; Violators

Amended 2/22/00

1. Violation

It is unlawful and a violation of this ordinance to establish, create, expand, alter, occupy, or maintain any use, land development activity, or structure, including but not limited to signs and buildings, that violates or is inconsistent with any provision of this zoning ordinance or any order, approval, or authorization issued pursuant to this ordinance. Approvals and authorizations include, but are not limited to, conditional use permits, sign permits, zoning permits, certificates of compliance, variances, development plans, site plans, planting plans, and conditions of such permits, variances, and plans. It is also a violation to engage in any construction, land development activity, or use without all approvals and authorizations required by this ordinance.

Each day of a violation is a separate and distinct violation.

2. Violator

Violators include any person who owns, leases, occupies, manages, designs, or builds any structure or land development activity in violation of this ordinance and any person who owns, leases, or occupies a use in violation of this ordinance. A violation may be charged against more than one violator.

3. Responsibility
The Director shall enforce this ordinance and the remedies authorized under this section. The Director shall have the authority to settle any violations that involve the payment of money to the County of Dodge in exchange for a written release from actual or potential claims.
4. For the purposes of this Section "Director" shall mean the Planning Director of the Dodge County Planning Department and/or a sworn Zoning Enforcement Officer, except for Section 1906.5.

1904 Determination of Violation

1. Notice of Violation

When a violation is discovered, and is not remedied through informal means, written notice of the violation shall be given. This notice shall be delivered by hand delivery or certified mail to the violator's last known address, or by certified mail or hand delivery to or posting the notice at the property in violation.

The notice will include a description of the violation and its location, the measures necessary to correct it, the possibility of civil penalties and judicial enforcement action, and notice of the right to appeal. The notice will also state the time period allowed, if any, to correct the violation, which time period may vary depending on the nature of the violation and knowledge of the violator.

This notice is an administrative determination subject to appeal as provided below.

A notice of violation is not required where a notice of the same violation has been issued to the same violator at the same property within the previous two years. In such cases, the violator may be charged with a continuing violation without further notice, as provided in 1906.6 below. A notice is also not required where action is taken under 1905.5 or 1905.6.

2. Appeal to County Planning Commission and County Board of Commissioners

A violator who has received a notice of violation may appeal the Director's determination that a violation has occurred to the Dodge County Planning Commission by making a written request and paying the appropriate fee within 30 days of receipt of the notice of violation. Citations that follow the original notice of violation may not be appealed to the Planning Commission. The County Planning Commission shall hear the appeal and may affirm, modify, or revoke the determination of a violation. The Planning Commission recommends their decision to the Dodge County Board for final action. If there is no appeal, the Director's determination of the nature and degree of violation are final.

3. Failure to Comply with Notice or County Board

If the violator does not comply with a notice of violation which has not been appealed, or with a final decision of the County Board, the violator shall be subject to enforcement action as prescribed in State law or by this ordinance.

1905 Remedies; Enforcement Action

1. General

Enforcement may be by any one, all, or a combination of the remedies described below or in Section 1906 or otherwise authorized by state statute.

2. 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.

3. Criminal Penalties

A violation shall constitute a misdemeanor or infraction, as provided by state law subject to a maximum fine of \$700 and imprisonment of up to 90 days for each violation.

4. Judicial Action to Collect Civil 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 1906 below.

5. Permit Denial, Conditions, or Revocation

Any permit, certificate, or other authorization that has 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. Such permit, certificate or other authorization may also be revoked upon a written determination by the Director or his/her designee, that the violation is substantial. 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 without such written determination.

6. Stop Work Order

When the violation pertains to construction or alteration of a structure, a stop work order may be issued. All zoning requirements pertaining to the location and siting of structures are considered local zoning laws. Appeal of an order relating to a local zoning law shall initially be to the Director or his/her designee who shall conduct a

hearing within 30 days of the issuance of the order. Further appeal may be made to the County Planning Commission as provided in 1904.2 above.

1906. Civil Penalty

1. General

The Director may issue one or more citations and impose one or more civil penalties for a violation, as provided below. If the violator does not pay the penalty, the County of Dodge may collect it in court through a civil action in the nature of debt.

2. Citation

The Director may issue a citation and civil penalty for a violation.

3. Notice

Notice of the citation and penalty will be given in the same manner as provided in 1904.2 above. The notice shall include a copy of the notice of violation, the amount of the penalty, information about where to pay the penalty, the deadline for payment, which shall be 30 days from the date of the notice, and the possibility of civil and/or criminal enforcement.

4. Amount

The Director or his or her designee may impose a penalty of up to \$300 per violation. If a violator has remedied the violation prior to imposition of the penalty, but not within the deadlines given in the notice of violation, and if the violator is not guilty of previous violations then the penalty shall not exceed \$100. A late payment penalty of \$50 per day per violation may also be imposed for penalties not paid within 15 days of the date of the notice of citation and penalty.

The Director shall formulate written guidelines to use in assessing penalties. Criteria for assessing penalties shall include, but not be limited to, the violator's knowledge of legal requirements, whether the violator has been guilty of past violations, the possible profit to the violator in continuing the violation, the impact of the violation on the community, the degree of noncompliance, and the cost and time required to remedy the violation.

5. Settlement of Claims

The Director is authorized to determine the amount of payment that will be accepted in full and final settlement of some or all of the claims the governing body may have in connection with the violation. The Director shall indicate in writing the claims from which the violator is released. 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.

6. Continuing Violations

The Director may issue a citation for a violation which continues without being corrected. The violator(s) in such cases may be assessed a penalty for each day

of the continuing violation. An initial citation for a single violation must be issued before a citation for a continuing violation is issued. If the violator has failed to pay the penalty and correct the violation after the initial citation the violator is subject to a citation for a continuing violation with a daily penalty. An initial citation is not required if the Department has previously issued a citation to the violator for the same violation at the same location within the previous two years, or if the violator has been specifically warned concerning the violation.

The Director may give a single notice of a citation for a continuing violation. The notice must contain a copy of the notice of violation and must state the violation is continuing, that a daily penalty of a specified amount is being imposed, and that the penalty is cumulative.

1907. Inspections and Investigations

1. Authorization of Inspection Program

A program of inspection and investigations to determine compliance with the zoning ordinance and orders, plans, permits, and authorizations issued under the ordinance is hereby authorized. This program shall be conducted under the general authority of the Director, and shall be carried out by zoning enforcement officers designated by the Planning Director or County Board.

2. Inspections of Private Property

Inspections on private property to determine compliance may be made at any reasonable time with the consent of the occupant of the property. Inspections may also be made when a search and warrant has been issued pursuant to state statutes by a proper judicial official. To obtain a warrant, the enforcement officer must show through facts supplied in a sworn affidavit that either: 1) the inspection is being conducted as part of an administrative plan to inspect all properties of a certain type, and the determination of the properties to inspect was made in accordance with neutral criteria; or 2) that there is probable cause for believing that a violation may exist.