

# CHAPTER

# 12



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## 12.1 APPLICABILITY

Any of the following persons may be held jointly or individually accountable for violating the provisions of these regulations.

- A) Any owner of property upon which a violation of these regulations occurs.
- B) Any architect, engineer, builder, contractor, agent, or any other person who knowingly participates in, assists, directs, creates, or maintains a situation that constitutes a violation of these regulations.
- C) Any tenant or occupant who has control over, or responsibility for, the use or development of the subject property.
- D) The provision of 12.1.A., B., and C. above shall apply to any Part 1 zoning district established prior to the adoption of these regulations that references these regulations.

## 12.2 TYPES OF VIOLATIONS

Any of the following actions governed by these regulations shall be a violation subject to the enforcement remedies and penalties provided in this chapter and state law.

- A) **Development Without Approvals or Permits.** Any action to engage in any development, use, construction, remodeling, or other activity of any nature upon land or improvements to land subject to the jurisdiction of these regulations without all required development application permits, certificates, or other forms of authorization established by these regulations is a violation.

- B) **Development Inconsistent with Approvals or Permits.** Any action to engage in any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with any approved plan, permit, certificate, or other form or authorization granted for such activity is a violation.
- C) **Submitting False or Incomplete Information.** Knowingly submitting false or incomplete information either in writing, such as in an application, or in testimony regarding a permit or a request or item before a board is a violation.
- D) **Acts of Omission.** The omission of any term, variance, modification, condition, or qualification placed by the Board of Commissioners, Planning Board, Board of Adjustment, or staff upon any required plan, permit, certificate, or other form of authorization for the use, development, or other activity upon land or improvements to land is a violation.
- E) **Use Violation.** Any use of land or structures in violation of these regulations as well as any action to construct, reconstruct, alter, or convert any structure to allow such illegal use is a violation.
- F) **Failure to Act.** Failing to comply with any lawful order related to these regulations is a violation. Failing to comply also means disobeying, omitting, neglecting, or refusing to comply with or resisting the enforcement of any provision.
- G) **Damage to Required Postings.** Obscuring, obstructing, removing, or destroying any notice required to be posted or otherwise given under these regulations is a violation.

### 12.3 VIOLATIONS CONTINUE

- A) Nothing in these regulations will be interpreted to prohibit the continuation of previous enforcement actions undertaken by the County under previously valid laws.
- B) The adoption of these regulations does not affect nor prevent pending or future prosecution of or action to abate violations of previous regulations.

### 12.4 INITIATION OF ENFORCEMENT ACTION

#### A) Complaints.

1. Whenever a violation of these regulations occurs or is alleged to have occurred, any person may file a written complaint with the Compliance Official. The written complaint must clearly state the alleged violation and may be submitted anonymously.
2. Suspected violations of these regulations may be referred to the Compliance Official for investigation by any county official by any means.

- B) **Duty to Act.** If, in the course of other duties, the Compliance Official is made aware of a violation or suspected violation, the Compliance Official has a duty to investigate and act as needed and warranted by these regulations regardless of whether or not a complaint has been filed.

### 12.5 INSPECTION AND INVESTIGATION

In order to determine violations of these regulations, the Compliance Official shall have the following authority.

- A) **Investigations.** The Compliance Official shall conduct such investigations as deemed necessary to carry out their duties as prescribed in these regulations. For this purpose, the Compliance Official is authorized to enter public or private property at reasonable times, with the consent of the owner, to investigate and inspect the sites of any complaints or alleged violations of these regulations. The decision to investigate anonymous complaints shall be at the discretion of the Zoning Officer.
- B) **Record of Inspection.** The Compliance Official shall keep a record of inspection and investigation activities and may submit a written investigation report to the County Attorney's office.
- C) **Supporting Documentation.** The Compliance Official may require written statements, certifications, or additional information to be submitted by the complainant to clarify or support a report of an alleged violation.

### 12.6 VOLUNTARY COMPLIANCE

Pursuant to §76-2-210 (2) MCA, the County shall attempt to obtain voluntary compliance with these regulations for a period of 30 days before issuing a notice of violation. Actions to facilitate voluntary compliance shall include but not be limited to communicating verbally and in writing to the property owner of the complaint received and making them aware of all regulations and standards that apply to the property, use, or activity that triggered the complaint.



## 12.7 NOTICE OF VIOLATION

When any violation of these regulations is found to exist, the Compliance Official shall issue, after pursuing voluntary compliance outlined in Section 12.6, a notice of violation to the person responsible for the violation and to the owner of the premises (if different) with an order to abate or remove the violation. The notice shall be made in writing and include a description of the premises sufficient for identification, a description of the violation reported, stipulate a date by which corrective action must be completed, and state that if the violation is not corrected as directed, the County may proceed with any and all applicable enforcement remedies permitted by these regulations and state law. Service of the notice shall be by any one of the following methods:

- A) Delivering an electronic copy to the owner if an email address is known.
- B) By mailing the notice, postage paid, to the property owner at their last known address.
- C) By posting for 30 days a copy of the notice, in placard form, in a conspicuous place on or within ten feet of the premises on which the violation exists, when notice cannot be otherwise served.
- D) Delivering to any person identified as a violator in Section 12.1 or by leaving the notice at the usual residence of the violator with a household resident who is over the age of 16 years.

## 12.8 TYPES OF REMEDIES

- A) **Withholding Permits and Other Development Authorizations.** The Zoning Officer may deny or withhold all permits, certificates, or other forms of authorization on any land, structure, or improvements on the property upon which there is an uncorrected violation of a provision of these regulations or of a condition or qualification of a permit, certificate, approval or other authorization previously granted by the County. This enforcement power may be applied regardless of whether the current property owner or applicant is responsible for the existence of the violation in question. This provision may also be applied regardless of whether the property for which the permit or other approval is sought is the property in violation.
- B) **Conditioning New Permits and Other Development Authorizations.** Instead of withholding or denying a permit or other authorization, County officials may grant such authorization subject to the condition that the violation is corrected within a specified period of time. County officials are authorized to require a financial guarantee to ensure that corrective actions will be taken.
- C) **Development Application Approval Revocation.** Development application approval may be revoked by the County by notifying the holder in writing, stating the reason for the revocation. The County shall follow the same development review and approval process that is required for issuance of the development application approval, including any required notice or hearing, in consideration of revocation of that approval. Any development application approval mistakenly issued in violation

of an applicable state or local law may also be revoked. The revocation of a development application approval by the Zoning Officer may be appealed to the Board of Adjustment.

- D) Stop-work Orders.** Whenever a structure or any part of a structure is being constructed, demolished, renovated, altered, or repaired in substantial violation of any applicable provision of these regulations, the Compliance Official may order the specific part of the work that is in violation or would be when the work is completed, to be immediately stopped. The stop-work order shall be made in writing, directed to the person doing the work, and shall state the specific work to be stopped, the specific reasons for cessation, and the action(s) necessary to lawfully resume work.
- E) Stop-use Orders.** Whenever a structure or part of a structure is being used in violation of these regulations, the Compliance Official may order the use to be immediately stopped. The stop-use order shall be made in writing, directed to the property owner on which the use is occurring, and shall state the specific use to be stopped, the reasons for cessation, and the action(s) necessary to resume the use or activity lawfully.
- F) Forfeiture and Confiscation of Signs.** Any sign installed or placed on public property, except in compliance with these regulations, will be subject to forfeiture and confiscation by the agency with jurisdiction. The County has the right to remove and dispose of such signs without notice and to recover from the sign owner or person who placed the sign the full costs of sign removal and disposal.
- G) Injunctive Relief.** The County may seek an injunction or other equitable relief in court to stop any violation of these regulations.
- H) Abatement.** The County may seek a court order in the nature of mandamus, abatement, or other action or proceeding to abate or remove a violation or to otherwise restore the premises in question to the condition in which they existed before the violation.
- I) Remedial Action.** Any person who violates these regulations by alteration or modification of a structure to increase the number of dwellings or living spaces within the structure, or by allowing any such alteration or modification to continue or to be used, or any alteration or modification of a structure for a use not otherwise permitted, is required to remove all fixtures, electrical and plumbing connections, furnishings, partitions and non-load bearing walls used in the violation.
- J) Misdemeanor.** A violation of these regulations is hereby declared a misdemeanor and punishable pursuant to §76-2-211 MCA.
- K) Other Remedies and Enforcement Powers.** The County may seek other remedies and use other enforcement powers as allowed by law.

## 12.9 REMEDIES ARE CUMULATIVE

- A)** The remedies and enforcement powers established in these regulations are cumulative, and the County may exercise them in any order or combination.
- B)** Each day a violation continues shall be considered to be a separate and distinct offense.

