

Chapter 11 – Enforcement and Penalties

11.1 RESPONSIBILITY FOR INSPECTION AND ENFORCEMENT

The Land Use Administrator shall have primary responsibility for enforcing all provisions of this Code, pursuant to the policies and procedures set forth in this chapter. The Land Use Administrator is hereby empowered to cause any building, other structure, or tract of land to be inspected and examined for suspected or potential violations of this Code after proper notification. If permission to enter the property is withheld, the Land Use Administrator may seek a court order to require inspection of the property.

11.2 VIOLATIONS

11.2.1 Types of Violations

Any violation of this Code shall be subject to the remedies and penalties provided for in this Code. Violations shall include:

11.2.1.A Use, Structure, or Sign Without Permit or Approval

To place any use, structure, or sign upon land that is subject to this Code without all of the permits required by this Code;

11.2.1.B Development or Subdivision Without Permit or Approval

To engage in any subdividing, development, construction, or other activity of any nature upon land that is subject to this Code without all of the permits or approvals required by this Code;

11.2.1.C Development, Subdivision, Use, or Sign Inconsistent with Permit

To engage in any development, use, construction, or other activity of any nature in any way inconsistent with the terms and conditions of any permit, approval, certificate, or other form of authorization required in order to engage in such activity;

11.2.1.D Development, Subdivision, Use, or Sign Inconsistent with Conditions of Approval

To violate, by act or omission, any term, condition, or qualification placed by a Decision-Making Body upon any permit or other form of authorization;

11.2.1.E Development, Subdivision, or Sign Inconsistent with Development Code

To erect, construct, reconstruct, alter, maintain, move, or use any building, structure, or sign, or to engage in development or subdivision of any land in violation of any zoning, subdivision, sign or other regulation of this Code;

11.2.1.F Making Lots or Setbacks Nonconforming

To reduce or diminish any lot area so that the lot size, width, setbacks, or open spaces shall be smaller than prescribed by this Code;

11.2.1.G Increasing Intensity or Density of Use

To increase the intensity or density of use of any land or structure, except in accordance with the procedural requirements and substantive standards of this Code;

11.2.1.H Removing or Defacing Required Notice

To remove, deface, obscure, or otherwise interfere with any notice required by this Code;

11.2.1.I Failure to Remove Signs

To fail to remove any sign installed, created, erected, or maintained in violation of this Code, or for which the permit has lapsed; and

11.2.1.J All Other Violations

To establish or operate other activities, structures, or land uses in violation of any specific provisions, or the general purpose and intent, of this Code.

11.2.2 Continuing Violations

Each day that a violation remains uncorrected after receiving notice of the violation from the County by certified or registered mail shall constitute a separate violation of this Code.

11.3 REMEDIES AND ENFORCEMENT POWERS

11.3.1 Persons Authorized to Seek Relief

In case of any violation, Dodge County, the County Board of Supervisors, the Board of Adjustment, the Land Use Administrator, the Committee, or any owner of property affected by any violation may institute appropriate action or proceeding for relief pursuant to the procedures set forth in this chapter.

11.3.2 Types of Remedies and Enforcement Powers

The County shall have the following remedies and enforcement powers:

11.3.2.A Revoke Permits

Any development permit or other form of authorization required under this Code may be revoked when the Land Use Administrator and the Committee determine that:

11.3.2.A.1 There is departure from the plans, specifications, or conditions as required under terms of the permit;

11.3.2.A.2 The development permit was procured by false representation or was issued in error; or

11.3.2.A.3 Any of the provisions of this Code are being violated.

11.3.2.B Injunctive Relief

The County may seek an injunction or other equitable relief in court to stop any violation of this Code or of a permit, certificate, or other form of authorization granted hereunder.

11.3.2.C Abatement

The County may seek a court order in the nature of mandamus, abatement, injunction, 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 prior to the violation.

11.3.2.D Penalties

Any person, firm, or corporation who fails to comply with the provisions of this Code shall, upon conviction thereof, forfeit not less than \$50 nor more than \$500 dollars and costs of prosecution for each violation. In default of payment of such forfeiture and costs, violators shall be imprisoned in the County Jail until payment thereof, for a period not to exceed 6 months.

11.3.2.E Other Remedies

The County shall have such other remedies as are and as may be from time to time provided by Wisconsin law for the violation of zoning, subdivision, sign, or related Code provisions.

11.3.2.F Other Powers

In addition to the enforcement powers specified in this Chapter, the County may exercise any and all enforcement powers granted by Wisconsin law.

11.3.2.G Continuation

Nothing in this Code shall prohibit the continuation of previous enforcement actions, undertaken by the County pursuant to previous and valid ordinances and laws.

11.3.3 Remedies Cumulative

The remedies and enforcement powers established in this chapter shall be cumulative, and the County may exercise them in any order.

11.4 ENFORCEMENT PROCEDURES

11.4.1 Non-Emergency Matters

In the case of violations of this Code that do not constitute an emergency or require immediate attention, the Land Use Administrator shall give notice of the nature of the violation to the property owner or to any other person who is party to the agreement or to any applicant for any relevant permit in the manner hereafter stated, after which the persons receiving notice shall have 30 days to correct the violation before further enforcement action shall be taken. Notice shall be given in person, by United States 1st Class Mail, by United States Registered or Certified Mail, or by posting notice on the premises. Notices of violation shall state the nature of the violation and the time period for compliance and may state the corrective steps necessary and the nature of subsequent penalties and enforcement actions should the situation not be corrected.

11.4.2 Emergency Matters

In the case of violations of this Code that constitute an emergency as a result of safety or public concerns or violations that will create increased problems or costs if not remedied immediately, the County may use the enforcement powers available under this chapter without prior notice, but the Land Use Administrator shall attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the property owner, to any other person who is party to the agreement, and to applicants for any relevant permit.

11.4.3 Complaints Regarding Approved Conditional Use Permits, Variances, and Home Occupations

Conditional Use Permits, Variances, and Home Occupations shall be subject to immediate review upon complaint from any member of the public, whether received from a nearby property owner, other members of the general public, or County enforcement personnel. The review process shall be as follows:

11.4.3.A The Land Use Administrator shall notify the property owner of each complaint.

11.4.3.B The property owner shall: (a) propose and initiate a remedy or (b) dispute the validity of the complaint.

11.4.3.C If the Land Use Administrator or Committee determines the complaint is valid, the Land Use Administrator shall monitor the effectiveness of the initiated remedy. If the remedy appears to resolve the complaint, no further action shall be required.

11.4.3.D If the remedy is ineffective, or if the property owner further disputes the validity of the complaint, the Land Use Administrator or Committee shall initiate revocation proceedings in accordance with this section.

11.4.4 Revocation

11.4.4.A Duties of Land Use Administrator

The revocation process shall be initiated by the Land Use Administrator upon a determination that there are reasonable grounds for revocation of the subject permit or development approval.

11.4.4.B Authority to Revoke

The Decision-Making Body that approved the permit or development approval shall be authorized to revoke the permit or development approval.

11.4.4.C Notices and Public Hearing

11.4.4.C.1 Notice

Notice of a revocation hearing shall be given in the same manner as required for the public hearing at which approval was granted. If no notice was required for approval, none shall be required for the revocation hearing, provided that notice shall be sent or delivered to the owner of the use or structure for which the permit was

granted at least 7 days prior to the hearing. Failure to receive notice within the specified time limit shall not constitute grounds for dismissal of the hearing.

11.4.4.C.2 Hearing

At the public hearing, the Decision-Making Body shall hear testimony of County staff, the owner of the use or structure for which the permit was granted, if present, and any other interested person.

11.4.4.D Required Findings

The Decision-Making Body shall revoke the permit upon making one or more of the following findings:

11.4.4.D.1 That the permit was issued on the basis of erroneous or misleading information or misrepresentation;

11.4.4.D.2 That the terms or conditions of approval of the permit have been violated or that other laws or regulations have been violated; or

11.4.4.D.3 That there has been a discontinuance of the exercise of the entitlement granted by the permit for 180 consecutive days.

11.4.4.E Decision and Notice

11.4.4.E.1 Matters Subject to Public Hearing

Following the hearing, the Decision-Making Body shall render a decision, and shall mail notice of the decision to the owner of the use or structure for which the permit was revoked and to any other person who has filed a written request for such notice.

11.4.4.E.2 Matters Not Subject to Public Hearing

For decisions on a revocation matter that is not the subject of a public hearing, the Decision-Making Body shall mail notice of the decision to the owner of the use or structure for which the permit was revoked and to any other person who has filed a written request for such notice.