

Chapter

20.10

Enforcement and Penalties

City of Bloomington
Unified Development
Ordinance

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Enforcement and Penalties

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20.10.010 Authority

All departments, officials and public employees of the City that are vested with the duty or authority to review and/or issue permits shall conform to the provisions of this title of the Bloomington Municipal Code (BMC) and shall issue no permit for any use, building, activity or purpose which would be in conflict with the provisions of *Title 20: Unified Development Ordinance*. Any permit issued in conflict with the provisions of *Title 20: Unified Development Ordinance* shall be null and void. The Planning and Transportation Director and his or her designee are designated enforcement officials with full authority to investigate, issue notices of violation, and secure remedies, including but not limited to injunctive relief, for any violation of *Title 20: Unified Development Ordinance*.

20.10.020 Penalties and Remedies for Violations

- (a) For the purposes of *Chapter 20.10: Enforcement and Penalties*, a violation shall be defined as violation of or failure to comply with:
 - (1) Any provision or requirement of *Title 20: Unified Development Ordinance*; or
 - (2) Any condition, requirement or commitment established with the approval of a variance, Conditional Use, Site Plan, Planned Unit Development, subdivision, Certificate of Zoning Compliance, or other development approval under *Title 20: Unified Development Ordinance*; or
 - (3) The required elements of the submission on the basis of which any permit or approval has been rendered hereunder.
- (b) Any violation as defined herein is hereby declared a common and public nuisance, and any person who is a responsible party as defined in *Subsection 20.10.050(a)* with respect to such violation shall, in addition to any other penalty or remedy provided herein, be liable for maintaining a common and public nuisance.
- (c) Any violation, as defined in *Subsection 20.10.020(a)* above, shall be subject to the penalties and remedies provided in *Chapter 20.10: Enforcement and Penalties*, and the City shall have recourse to any remedy available in law or equity.
- (d) Each day that any violation continues shall be considered a separate violation for purposes of the penalties and remedies specified in *Chapter 20.10: Enforcement and Penalties*. A violation continues to exist until corrected. Correction includes, but is not limited to:
 - (1) Cessation of an unlawful practice;
 - (2) Removal of a building, structure, or other improvement;
 - (3) Faithful or otherwise-approved restoration or replacement of a building, structure, site or natural feature;
 - (4) Any other remedy specified in this Unified Development Ordinance; and/or
 - (5) Other remedy acceptable to the City.
- (e) The City Legal Department may institute appropriate action to impose and collect fines and/or other penalties; to enforce or defend any action taken pursuant to *Subsection 20.10.050(e)* of *Chapter 20.10: Enforcement and Penalties*; and to prevent, enjoin, abate, remove or correct any violation of or noncompliance with *Title 20: Unified Development Ordinance* or any condition, requirement, or commitment established in connection with *Title 20: Unified Development Ordinance* or any development approval hereunder.
- (f) In addition to all other penalties and remedies provided for herein, if a building or structure is demolished (which shall include partial demolition) in violation of *Section 20.09.230: Demolition and Demolition Delay* then, for a period of two (2) years following such demolition, no new certificate of zoning compliance authorizing any use or any release of a building or demolition permit shall be issued for any activity upon the lot of record upon which the building or structure was located, or any adjoining lot of record under common ownership or control, except for an approved restoration or replacement of the demolished building or structure, or as otherwise agreed to by the City or ordered by the Court in enforcement proceedings. The Planning and Transportation Director shall be authorized to execute and record in the County Recorder's office a sworn statement containing these restrictions upon the properties affected thereby.

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- (g) In addition to all other penalties and remedies provided for herein, where the violation is removal of one (1) or more trees contrary to *Section 20.05.044: EN-07 [Environmental Standards; Tree and Forest Preservation]*, the responsible party shall be required to meet the following requirements:
- (1) Replace the removed trees with healthy trees of similar species.
 - (A) The aggregate caliper of replacement trees shall equal the aggregate caliper of removed trees. Determination of total caliper to be replaced shall be made by the Planning and Transportation Director.
 - (B) The size of replacement trees shall be the largest reasonably available which can either be planted or transplanted from another location.
 - (C) Replacement trees shall be planted in the same location where the existing trees were removed. If all of the replacement trees cannot be planted in the area where existing trees were removed without endangering their health, an alternative planting location shall be identified, subject to the approval of the Planning and Transportation Director.
 - (2) Restore the area around the replacement trees, and the original disturbed area if applicable, by backfilling all holes and creating acceptable grade and covering.
- (h) In addition to all other penalties and remedies provided for herein, where the violation is disturbance of other environmental constraints as outlined *Chapter 20.05; §EN: Environmental Standards*, the responsible party shall be required to meet the following requirements, and no violation shall be deemed corrected for purposes of fining until all required steps are completed:
- (1) Submit a Remediation Plan to the Planning and Transportation Department indicating how the disturbed area shall be restored to its pre-disturbed condition. The Planning and Transportation Director may require the utilization of native seed mixes and native plantings to restore areas to their pre-disturbed condition.
 - (2) Remediation Plans shall be submitted by the responsible party within seven (7) days of receiving notice from the Planning and Transportation Department.
 - (3) An approved Remediation Plan must be fully carried out as soon as reasonably possible. A violation shall be deemed corrected as of the date of submission of a Remediation Plan if such plan is subsequently approved and if such plan is fully carried out as soon as reasonably possible. However, any unreasonable delay in implementation of the plan may result in each day of the period of delay being deemed an additional violation subject to the maximum fine provided for in this Unified Development Ordinance.
- (i) In addition to all other penalties and remedies provided for herein, the City may refuse to issue any Certificate of Zoning Compliance, Certificate of Occupancy, or other permit or approval for any use, development, occupancy or other activity upon or concerning any lot or parcel created in violation of *Chapter 20.06: Subdivision Regulations* of this Unified Development Ordinance. The City may further take legal action to restrain and enjoin further violations, including but not limited to sales or offers of sales of lots or parcels, in violation of *Chapter 20.06: Subdivision Regulations*.
- (j) The remedies provided for in this Unified Development Ordinance shall be cumulative, and not exclusive, and shall be in addition to any other remedies available in law or equity.

20.10.030 Administration

The Planning and Transportation Director or his or her designee shall maintain a record and tabulation of all complaints and investigations, and the resolutions of those complaints, whether made by citizens or by staff; communicate on a regular basis with citizen complainants about the progress being made in investigating and resolving their complaints; and report to the Plan Commission on an as-needed basis as to the number and type of complaints and the outcome of each.

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20.10.040 Penalty

- (a) Any violation that is subject to *Chapter 20.10: Enforcement and Penalties* shall be subject to a civil penalty of not more than two thousand five hundred dollars (\$2,500.00) for each such violation, and not more than seven thousand five hundred dollars (\$7,500.00) for the second and any subsequent violation, in addition to any and all other remedies available to the City, except where a lesser fine is specified herein.
- (b) The following violations of *Title 20: Unified Development Ordinance* shall be subject to the fines listed in the table below for the first offense. In addition, if a responsible party commits a second or subsequent violation of the same provision of this Unified Development Ordinance within three (3) years of the first such violation, regardless of whether the second or subsequent violation is on the same property as the first such violation, the listed fine for such second or subsequent offense shall be twice the previous fine, subject to the maximum set forth in *Subsection 20.10.040(a)* above. (For example, a violation that is subject to a one hundred dollar (\$100) fine per the table will be subject to a two hundred dollar (\$200) fine for the second offense, a four hundred dollar (\$400) fine for the third offense, and so forth.) A responsible party will be deemed to have violated the same provision for purposes of this Subsection where the violations fall under the same Section of this Unified Development ordinance or under the same subject matter heading where such heading contains multiple Sections (for example, “Parking Standards (PK)”, containing *Sections 20.05.069 through 20.05.074.*)

Unified Development Ordinance Violation	Fine
Temporary Signage Without Permit	\$100
Parking On Unimproved Surface	\$50
Temporary Use Without Permit	\$500
Permanent Signage Without Permit	\$250
Change In Use Without Certificate of Zoning Compliance (CZC)	\$100
Illegal Land Use	\$2,500
Operation Of Home Occupation Without CZC	\$200
Failure To Obtain CZC	\$500
Failure To Comply With CZC	\$250
Failure To Comply With Development Standards	\$100
Violation Of Environmental Standards	\$2,500
Any Other Violation	Up to \$2,500.00

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20.10.050 Enforcement Procedures; Notices of Violation

- (a) If the Planning and Transportation Director or his or her designee finds that any violation subject to *Chapter 20.10: Enforcement and Penalties* is occurring, or has occurred, a Notice of Zoning Violation (NOV) may be issued to the responsible party. Such Notices of Zoning Violation may be further accompanied by additional warnings following the same procedures of this Chapter. For purposes of issuing a Notice of Zoning Violation, the following persons shall be considered responsible parties, with liability for fines and responsibility for remedy of the violation:
 - (1) The property owner;
 - (2) Persons with any possessory interest in the property; and
 - (3) Any person who, whether as property manager, principal agent, owner, lessee, tenant, contractor, builder, architect, engineer or otherwise who, either individually or in concert with another, causes, maintains, suffers or permits the violation to occur and/or to continue.
- (b) The Notice of Zoning Violation (NOV) shall be in writing and shall be served on all of the responsible parties in one (1) or more of the following manners: delivery in person or by first class mail. The Notice of Zoning Violation shall state:
 - (1) The location of the violation;
 - (2) The nature of the violation;
 - (3) The date the violation began;
 - (4) The daily fine assessed for the violation;
 - (5) Additional remedies the City may seek for violation;
 - (6) That the fine is paid to the City of Bloomington;
 - (7) That the Notice of Violation may be appealed to the Board of Zoning Appeals;
 - (8) That the fine may be contested in the Monroe County Circuit Courts.
- (c) Each item of noncompliance enumerated on the Notice of Violation shall be considered to be a separate violation, and each day that each such item of noncompliance continues shall be considered to be a separate violation. Fines shall accrue from the date the zoning violation commenced.
- (d) If the responsible party refuses inspection of the property, the Planning and Transportation Director or his or her designee may obtain an inspection warrant from any court of record in the county in which the property is located.
- (e) In addition to issuing a Notice of Violation (NOV), the Planning and Transportation Director or his or her designee may utilize and/or seek through legal proceedings one or more of the following remedies:
 - (1) Revoke or withhold other approvals, certificates and/or permits relevant to the development or use of the site on which the violation has occurred; and/or
 - (2) Issue a Stop Work Order; and/or
 - (3) Request the County Building Department to issue a Stop Work Order and instruct the building official to suspend and withhold all Building Code inspections relevant to the development or use of the site on which the violation has occurred; and/or
 - (4) Draw on a performance or maintenance surety, as necessary, to effect any remedial actions required to abate the violations; and/or
 - (5) Revoke the permits, certificates and/or approvals that have been violated, and/or
 - (6) Any and all penalties and remedies listed in *Section 20.10.020: Penalties and Remedies for Violations*.

20.10.060 Appeals

- (a) Appeals of Notices of Violation shall be made to the Board of Zoning Appeals as set forth in *Section 20.09.350: Administrative Appeals*.
- (b) Fines levied for zoning violations may be challenged in the Monroe County Circuit Court.

