

12-313 VIOLATION, PENALTIES AND ENFORCEMENT

SECTION 12-313	VIOLATION, PENALTIES, AND ENFORCEMENT
12-313-1	Responsibility for Enforcement
12-313-2	Compliance Required
12-313-3	Violations
12-313-4	Liability
12-313-5	Remedies and Enforcement Powers
12-313-6	Enforcement by Others
12-313-7	Continuation of Previous Enforcement Actions
12-313-8	Remedies Cumulative
12-313-9	Enforcement Procedures

12-313-1 RESPONSIBILITY FOR ENFORCEMENT

The Director of Zoning and Codes is responsible for enforcing the Zoning Regulations, except as otherwise expressly stated.

12-313-2 COMPLIANCE REQUIRED

All buildings and land used and all buildings and structures erected, converted, enlarged, reconstructed, moved or structurally altered shall comply with all applicable provisions of these Regulations.

12-313-3 VIOLATIONS

12-313-3.01 Types of Violations

Unless otherwise expressly stated by these Regulations or state law, any violation of the Zoning Regulations, including but not limited to the following, will be subject to the remedies and penalties provided for in this Section.

- a. to use land or buildings in any way not consistent with the requirements of the Zoning Regulations;
- b. to engage in development activity in any way not consistent with the requirements of these Regulations;
- c. to engage in the use of a building or land, the use or installation of a sign, or development activity requiring one or more permits or approvals under these Regulations without obtaining all such required permits or approvals;
- d. to engage in the use of a building or land, the use or installation of a sign, or development activity requiring one or more permits under these Regulations in any way inconsistent with any such permit or approval or any conditions imposed thereon;
- e. to obstruct or destroy any notice required to be posted or otherwise given under these Regulations; or
- f. to violate any lawful order issued by any person or entity under these Regulations.

12-313-3.02 Continuing Violations

Each day that a violation remains uncorrected after receiving notice of the violation from the County constitutes a separate violation of the Zoning Regulations for purposes of calculating cumulative penalties.

12-313-4 LIABILITY

The owner, tenant or occupant of any land or structure, shall be presumed to know of activity occurring on the premises and thus may be charged with a violation under these Regulations for any violation occurring on any premises. Where an architect, engineer, contractor, builder, land surveyor, agent or other person appears to have participated directly in a violation of these Regulations, the Director of Zoning and Codes may also charge such person with a violation of these Regulations. All persons found to be responsible for the actions or inactions leading to a violation may be charged jointly and severally with violations as a result of the same incident or circumstances.

12-313-5 REMEDIES AND ENFORCEMENT POWERS

12-313-5.01 Withhold Permits And Approvals

The Director of Zoning and Codes may deny or withhold all permits, certificates, or other forms of authorization on any land, or structure or improvements thereon:

- a. 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;
- b. owned or being developed by a person who owns, developed or otherwise caused 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.

12-313-5.02 Approval of Permits and Approval with Conditions

Instead of withholding or denying a permit or other authorization, the official with authority to approve the permit or authorization may grant such authorization only if adequate assurances are in place to ensure correction of the violation and provided that granting the permit or authorization will not compromise the public health, safety or general welfare.

12-313-5.03 Revoke Permits and Approvals

Any permit or other form of authorization required under these Regulations may be revoked by the Director of Zoning and Codes or by any County official with authority to issue such permit when the Director of Zoning and Codes or other County official determines one of the following:

- a. there is departure from the plans, specifications, or conditions as required under terms of the permit;
- b. the development permit was procured by false representation or was issued in error;
- c. or any of the provisions of these Regulations are being violated.

12-313-5.04 Stop Work

Whenever a building or land development, or part thereof, is being constructed, reconstructed, altered or repaired in violation of these Regulations, the Director of Zoning and Codes may order

the work to be immediately stopped.

- a. The stop-work order shall be in writing and directed at the person doing the work. The stop-work order shall state the specific work to be stopped, the specific reasons for the stoppage, and the conditions under which the work may be resumed.
- b. Violation of a stop-work order constitutes a violation of these Regulations and is subject to the remedies provided in this Section.

12-313-5.05 Revoke Plans or Related Approvals

Where a violation of these Regulations involves a failure to comply with approved plans, or conditions to which the approval of such plans was made subject, the County may, upon notice to the applicant and other known parties in interest (including any holders of building permits affected), revoke the plan or other approval or condition its continuance on strict compliance with these Regulations, the provisions of financial security to ensure that construction is completed in compliance with approved plans, or such other conditions as the County may reasonably impose. Any required financial security shall be in a form approved by the County.

12-313-5.06 Forfeiture and Confiscation of Signs

Any sign installed or placed on public property, except in compliance with the applicable regulations of the County resolutions and regulations, will be subject to forfeiture to the County and to confiscation. In addition to other remedies and penalties of this Section, the County has the right to recover from the sign owner, or person who placed the sign, the full costs of sign removal and disposal.

12-313-5.07 Legal Relief

The County may commence a civil action or proceeding in District Court to stop any violation of these Regulations or of a permit, certificate or other form of authorization granted hereunder, to remove a violation, or to restore the premises in question to the condition in which they existed prior to violation. The relief sought may include:

- a. an injunction or other equitable relief;
- b. an order in the nature of mandamus or abatement;
- c. a judgment or order enforcing any requirement of, or under, these Regulations to pay a fee or reimburse, or compensate the County, including when the County is required or authorized to take specified action at the expense of the landowner; or
- d. any other judgment or order available under Kansas law.

12-313-5.08 Criminal Penalties

Any person, firm, or corporation who shall violate any of the provisions of these Regulations, or fail to comply with any order or regulation thereunder, or who shall engage in development activity in violation of any specifications or plans submitted and approved thereunder, or any certificate or permit issued thereunder, shall, of each and every violation and non-compliance respectively be deemed guilty of a misdemeanor, and upon conviction therefore shall be, for each offense:

- a. fined a sum not less than \$10 nor more than \$500;
- b. imprisoned for not more than 6 months; or
- c. both fined and imprisoned.

12-313-5.09 Other Penalties and Remedies

The County may seek such other penalties and remedies, and employ such other enforcement powers, as are provided by Kansas law for violations of zoning, subdivision, sign or related provisions.

12-313-6 ENFORCEMENT BY OTHERS

12-313-6.01 Citizens

Pursuant to K.S.A. 12-761(b), any person, the value or use of whose property is or may be affected by a violation of these Regulations, is authorized to maintain a suit or action in any court of competent jurisdiction to enforce the provisions of these Regulations and to abate nuisances maintained in violation thereof.

12-313-6.02 State Officials

Pursuant to K.S.A. 12-761(c) and in the case of violations to the flood protection regulations, Section 12-312, the Attorney General and the Chief Engineer of the Division of Water Resources of the Kansas Board of Agriculture are authorized, in addition to other remedies, to institute injunction, mandamus, or other appropriate action or proceeding to prevent, correct or abate the violation.

12-313-7 CONTINUATION OF PREVIOUS ENFORCEMENT ACTIONS

Nothing in these Regulations prohibits the County's continuation of previous enforcement actions, undertaken by the County pursuant to previous and valid resolutions, regulations and laws.

12-313-8 REMEDIES CUMULATIVE

The remedies and enforcement powers established in these Regulations are cumulative, and the County may exercise them in any order.

12-313-9 ENFORCEMENT PROCEDURES

12-313-9.01 Non-Emergency Matters

In the case of violations of these Regulations that do not constitute an emergency or require immediate attention, the County shall give notice of the nature of the violation to the landowner or to any other person who is violating these Regulations or to any applicant for any relevant permit, after which the persons receiving notice will have 10 days to correct the violation before further enforcement action will be taken. Notice shall be given in person, by United States 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.

12-313-9.02 Emergency Matters

In the case of violations of these Regulations that constitute an emergency situation as a result of public health or safety issues 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 these Regulations without prior notice, but the County shall attempt to give notice simultaneously with beginning enforcement action. Notice may be provided to the landowner, to any other person who is violating these Regulations and to applicants for any relevant permit.