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## CHAPTER 15.26: ENFORCEMENT AND PENALTY

### 15.26.010 GENERAL PROVISIONS

#### 15.26.010.A. Purpose

This chapter establishes procedures through which the City seeks to ensure compliance with the provisions of this Title and obtain corrections for violations of this Title. The chapter also sets forth the remedies and penalties that apply to violations of this Title. The provisions of this chapter are intended to encourage the voluntary correction of violations, where possible.

#### 15.26.010.B. Compliance Required

No person shall develop or use any land, building, or structure within the City of Laramie in violation of this Title, regulations authorized under this Title, or the terms and conditions of entitlements issued under this Title.

#### 15.26.010.C. Entitlements

No entitlement may be issued under this Title unless all structures and uses of land and structures permitted under the entitlement conform to this Title, the regulations promulgated under this Title, and the terms and conditions of the other entitlements issued under this Title that apply to the use or structure. An entitlement issued in violation of this section is void.

#### 15.26.010.D. Continuation of Prior Enforcement Actions

Nothing in this Title shall prohibit the continuation of previous enforcement actions undertaken by the City pursuant to previous regulations.

#### 15.26.010.E. Continuing Violations

Each day that a violation occurs or remains uncorrected shall constitute a separate and distinct violation of this Title.

### 15.26.020 RESPONSIBILITY FOR ENFORCEMENT AND INSPECTIONS

#### 15.26.020.A. Primary Responsibility

Except as otherwise provided, the Department shall have primary responsibility for enforcing the provisions of this Title.

#### 15.26.020.B. Notice of Violation

1. The Department's first action for any enforcement action shall be to provide written notice to the property owner of the violation. Written notice may be served upon the property owner, agent, or applicant, or may be posted in a prominent location at the place of violation. This requirement may be suspended by the Department in emergency situations.
2. The notice shall inform the property owner that the owner has ten working days from receipt of the notice to meet with the Department to discuss the violation.

3. If the property owner wishes to appeal the Department's decision following the meeting, the property owner may do so through an appeal to the Laramie Board of Adjustment.

**15.26.020.C. Inspections**

Prior to entering upon and inspecting any land, building, or premises where the Department has reasonable cause to believe there exists a violation of this Title, the Department shall obtain an order of inspection from a court of competent jurisdiction that authorizes an inspection. As required by the order, the Department shall exhibit the order to the person in charge of the premises before conducting the inspection.

**15.26.020.D. Violations**

Each of the following activities shall constitute a violation of this Title:

**1. Activity Inconsistent with Title**

Any erection, construction, reconstruction, remodeling, alteration, maintenance, expansion, movement, or use of any building, structure, or sign, or development or subdivision of any land, in contravention of any provision of this Title or any regulation promulgated under this Title.

**2. Activity Inconsistent with Entitlement**

Any development, use, construction, remodeling, or other activity of any nature in any way inconsistent with the terms or conditions of any entitlement required to engage in such activity, whether issued under or required by this Title.

**3. Illustrative Examples**

Examples of activities inconsistent with this Title or with an entitlement issued under this Title include, but are not limited to, the following:

- a. Excavation, grading, cutting, clearing, or other land disturbance activity without obtaining all necessary approvals required by this Title or other applicable regulations;
- b. Damage to or removal of vegetation inconsistent with this Title and all other applicable regulations;
- c. Creation, expansion, replacement, or change of a nonconformity inconsistent with this Title and all other applicable regulations;
- d. Reduction or diminishment of lot area, setbacks, vegetative buffers, or open space below the minimum requirements set forth in this Title and all other applicable regulations;
- e. Increasing the density or intensity of any use of any land or structure except in accordance with the requirements of this Title and all other applicable regulations;
- f. Storage or maintenance (intentionally or otherwise) of goods, materials, products, or other items outdoors including, but not limited to operable vehicles or equipment, appliances, building materials, machine parts, abandoned vehicles, or snow, except in compliance with this Title and all other applicable regulations;

- g. Filing or recording of a subdivision plat in any public office without approval for recording by, and bearing the approval of, the platting authority under this Title;
- h. Failure to remove any sign installed, created, erected, or maintained in violation of this Title, or for which the sign permit has lapsed; and
- i. Failure to remove a temporary use once authorization for the temporary use under this Title and all other applicable regulations has lapsed.

### **15.26.030 REMEDIES AND PENALTIES**

The Department shall have the following remedies and powers to enforce this Title:

#### **15.26.030.A. Civil Remedies and Enforcement Powers**

- 1. Deny/Withhold Entitlements. The Department may deny or withhold all entitlements, including certificates of occupancy, or other forms of authorization to use or develop any land, structure, or improvements, until a violation, associated civil penalty, and/or lien resulting from a previous final order related to such property, use, or development is corrected. This provision shall apply whether or not the current owner or applicant for the permit or other approval is responsible for the violation.
- 2. Revoke Entitlements. Any entitlement or other form of authorization required under this Title may be revoked when the Department determines that:
  - a. There is a departure from the approved plans, specifications, limitations, or conditions as required under the entitlement;
  - b. The entitlement was procured by false representation;
  - c. The entitlement was issued in error; or
  - d. There is a violation of any provision of this Title or other applicable regulations.

Written notice of intent to revoke shall be served upon the property owner, agent, applicant, or other person to whom the entitlement was issued, or such notice may be posted in a prominent location at the place of violation. No work or construction shall proceed after service of the revocation notice.

- 3. **Stop-Work Orders**
  - a. Whenever any building or structure or site or part thereof is being demolished, constructed, reconstructed, altered, or repaired in a hazardous manner, in substantial violation of any state or municipal building law, or in a manner that endangers life or property, the Department has the authority to issue a stop-work order for the specific part of the work that is in violation or presents the hazard.
  - b. With or without revoking permits, the Department may issue an order to stop work on any property on which there is an uncorrected violation of either a provision of this Title or a provision of an entitlement or other form of authorization issued under this Title.

- c. The stop-work order shall be in writing directed to the person doing the work if known, and a copy mailed to the owner of record of the property, and shall specify the provisions of this Title or other law allegedly in violation. After any such order has been posted, no work shall proceed on any building, other structure, or tract of land covered by such order, except to correct such violation or comply with the order.
- d. The stop-work order may be issued at the same time as an enforcement order, or subsequent to such notice. The stop-work order may also specify a shorter time for correction of the violation than the time period specified in the enforcement order. The stop-work order shall also indicate that failure to comply with the order may subject the violator to civil and/or criminal liability as penalty for the violation(s).
- e. Once conditions for resumption of the work have been met, the Department shall rescind the stop-work order and shall notify the owner in writing of the rescission.
- f. Issuance of a stop-work order may be appealed to the Zoning Board of Adjustment. The stop-work order shall remain in effect until the Board takes final action on the appeal.

**15.26.030.B. Civil Penalties**

In addition to other remedies provided in Section 15.18.030 or other sections of this Title, any person, firm or corporation, either as owner, lessee, occupant or otherwise, who violates any of the provisions of this division, or any amendment thereof, or who interferes in any manner with any person in the performance of a right or duty granted or imposed upon him by the provisions of this division, upon conviction thereof, shall be fined not more than \$750.00. Each day during which such violation shall continue shall be deemed to be a separate offense. (Ord. 194 § 11.1, 1964).

**15.26.030.C. Restoration of Disturbed Areas**

The Department may require a violator who is regulated under this Title and who failed to retain sediment generated by a land-disturbing activity to restore the waters and lands affected by the failure so as to minimize the detrimental effects of the resulting pollution by sedimentation. This authority is in addition to any other civil or criminal penalty or injunctive relief authorized under this Title or applicable law.

**15.26.030.D. Injunctive Relief**

The Department may seek injunctive relief or other appropriate relief in district court against any person who fails to comply with any provision of this Title or any requirement or condition imposed pursuant to this Title. In any court proceedings in which the City seeks a preliminary injunction, it shall be presumed that a violation of this Title is a real, immediate, and irreparable injury to the public; that the public will be irreparably injured by the continuation of the violation unless the violation is enjoined; and that there is no plain and adequate remedy at law for the subject Title violation.

**15.26.030.E. Abatement**

The City may abate the violation pursuant to this subsection.

1. Before action is taken to abate a violation, a final warning notice shall be posted on the property and served personally or by certified mail with return receipt requested to the owner of record of the property.
2. Unless this notice is appealed to the zoning board of adjustment within ten days of the posting of the final warning, the Department shall proceed to abate the violation.
3. The Department shall keep an account of the cost, including incidental expenses, incurred by the City in the abatement of any violation. The Department shall forward a bill to the violator and owner of record of the property specifying the nature and costs of the work performed. For purposes of this section, the term "incidental expenses" shall include but not be limited to the actual expenses and costs to the City in the preparation of the notices, specifications and contracts, work inspection, and interest from the date of completion at the rate prescribed by law for delinquent real property taxes.
4. The responsibility for payment of the charges for abatement as set forth in this section shall rest solely upon the owners of the property upon which the abatement occurred. Such charges become a lien upon the real property upon which the violation was located. When charges for abatement remain unpaid after 30 days from billing, the Department shall record a claim of lien at the county recorder's office. The lien shall be subordinate to all existing special assessment liens previously imposed upon the same property and shall be paramount to all other liens except for state or municipal property taxes, with which it shall be at parity. The lien shall continue until the charges and all interest due and payable thereon are paid.
5. The lien created under this section may be enforced pursuant to Wyoming law. The enforcement of the lien is a cumulative remedy and does not bar the collection of the charges for abatement or costs and attorney fees through an action against the person or persons who created, maintained, utilized, authorized, or expanded the violation.

**15.26.030.F. Remedies Cumulative**

The remedies provided for violations of this Title shall be cumulative and in addition to any other remedy provided by law, and may be exercised in any order.

**15.26.040 PROCEDURES FOR ENFORCEMENT ACTIONS**

**15.26.040.A. Emergency Matters**

In the case of a violation of this Title that constitutes a public health or safety emergency, the Department may use the enforcement powers available under this chapter without prior notice, but he or she shall attempt to give notice simultaneously with beginning enforcement action or as soon thereafter as possible. Notice may be provided to the property owner, agent, occupant, or to the applicant for any relevant entitlement and shall indicate the nature of the emergency.

**15.26.040.B. Non-Emergency Matters**

**1. Enforcement Orders**

- a. In the case of a violation of this Title that does not constitute an emergency matter as described in subsection 15.20.040.A., the

Department may issue an enforcement order pursuant to this section. The Department may order:

- (i) The discontinuation of a use of land or a structure that is in violation of this Title;
  - (ii) The abatement or removal of a structure or part of a structure that is a violation of this Title;
  - (iii) The discontinuation of construction or other activity preparatory to a structure or use of land or a structure that is a violation of this Title;
  - (iv) The suspension or revocation of an entitlement issued under this Title under the authority, or purported authority, of which a violation of this Title is occupied, maintained, constructed, or established;
  - (v) The restoration of any structure, vegetation, land, water body, or other thing upon the land that is destroyed, damaged, altered, or removed in violation of this Title; or
  - (vi) Any other action necessary to prevent, abate, or discontinue a violation of this Title.
- b. No penalty shall be assessed pursuant to this Title unless and until the violator has been notified of the enforcement order in accordance with this section, with the exception of a violation of a stop-work order.
  - c. The enforcement order shall be in writing and shall describe the violation, shall identify the provision or provisions of this Title that are being violated, shall specify what actions must be taken to correct the violation (including an order to stop any and all work which violates this Title), shall direct the person to correct the violation within a specified reasonable time period (beginning on the date such notice is received) and shall warn that more severe measures (such as a civil penalty or criminal prosecution) may be assessed or brought against the violator if he or she fails to take appropriate action to cure or correct the violation. If no other violator can be ascertained, then the notice of violation shall be sent to the record owner of the land on which the violation occurs.
  - d. An enforcement order issued under subsection 15.20.040.B.1.a. above may be directed to one or more violators. An enforcement order that is served on a violator personally or by certified mail is final with respect to that violator if not appealed to the zoning board of adjustment within 30 days of its service.
  - e. An enforcement order need not be issued before other legal action is commenced with respect to a violation of this Title. The pendency of any proceeding regarding an enforcement order issued under this section does not stay any other legal action with respect to the violation that is the subject of the enforcement order.

**2. Extension of Time to Cure or Correct Violation**

Upon receipt of a written request from the alleged violator or the property owner for an extension of time to cure or correct the violation, the Department may grant a single extension of time in which the alleged violator may cure or correct the violation before the Department pursues any of the forms of relief or penalties listed in Section 15.20.030, Remedies and Penalties. Such extension of time shall not be granted unless the alleged violator or the property owner can demonstrate to the Department that the violation cannot be cured or corrected within the time period specified.

**3. Corrective Action Taken**

If the violation is cured or corrected within the time period specified in the enforcement order, or within the extension of time granted, then the City shall take no further action against the violator.

**4. Options Upon Noncompliance**

Whenever a written enforcement order has become final, as specified in subsection 15.20.040.B.1.d. above, and the violation continues to exist, the Department may:

- a. Pursue any of the forms of relief under Section 15.20.040, Remedies and Penalties; or
- b. Assess an administrative fine, not exceeding \$750.00 per day, for failure to comply with a final enforcement order.