

ORDINANCE NO. 586
CASE NO. ORA23-0001
CODE ENFORCEMENT AMENDMENTS

AN ORDINANCE OF KOOTENAI COUNTY, IDAHO, A POLITICAL SUBDIVISION OF THE STATE OF IDAHO, RELATING TO LAND USE REGULATION; AMENDING SECTION 8.8.601, KOOTENAI COUNTY CODE, TO REVISE THE PROCEDURE FOR MAILING NOTICES OF VIOLATION AND STOP WORK ORDERS TO PROPERTY OWNERS, AND AMENDING SECTION 8.8.603, KOOTENAI COUNTY CODE, TO AUTHORIZE THE DIRECTOR OF COMMUNITY DEVELOPMENT TO IMPOSE A CIVIL PENALTY IN AN AMOUNT NOT TO EXCEED \$1,000.00 PER VIOLATION PER DAY, WITH A MAXIMUM PENALTY OF \$20,000.00 PER VIOLATION, FOR ANY VIOLATION OF THE PROVISIONS OF THE KOOTENAI COUNTY LAND USE AND DEVELOPMENT CODE (LUDC) OR FOR FAILURE TO COMPLY WITH ANY OF ITS REQUIREMENTS, TO PROVIDE THAT THE COUNTY MAY SEEK TO COMPEL PAYMENT OF ANY PREVIOUSLY IMPOSED PENALTIES IN ANY CIVIL ACTION TO ENFORCE COMPLIANCE WITH THE PROVISIONS OF THE LUDC, AND TO MAKE MISCELLANEOUS TECHNICAL CORRECTIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR NON-WAIVER OF ACTIONS OCCURRING WHILE PRIOR ORDINANCES WERE IN EFFECT; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF KOOTENAI COUNTY, IDAHO:

SECTION 1. That Section 8.8.601, Kootenai County Code, shall be, and the same is hereby amended as follows:

8.8.601: ENFORCEMENT:

A. It shall be the duty of the Director to enforce the provisions of this title. The Department shall not issue permits unless existing and intended structures, the parcel of land, and uses of the buildings and land, conform in all respects with the provisions of this title and other applicable provisions of this code, with the following exceptions:

1. When the purpose of the permit is to correct a violation of this title or other county ordinances.
2. To allow for the repair or replacement of structures damaged as a result of a natural disaster pursuant to resolution of the Board, but only to the extent necessary to remedy damage actually or proximately caused by the natural disaster. This shall not constitute a waiver or estoppel of the County's ability to enforce any violations of this title, or of or of any other provision of this code, existing on any parcel.

B. Whenever any construction or site work is not in compliance with this title, specific Conditions of Approval, or other related laws, ordinances or requirements, the Director may issue a Notice of Violation and order any work stopped by written notice. Such Notice of Violation or Stop Work

Order shall be served on any persons engaged in doing or causing such work to be done, and persons shall forthwith stop such work until authorized by the Director to proceed.

C. A copy of the Notice of Violation or Stop Work Order, if applicable, shall be mailed to the property owner of record and any other known holder of any legal interest in the property as follows; ~~if applicable~~,

1. Notices of Violation and Stop Work Orders shall be mailed as follows:

a. Initial Notices of Violation in which no Stop Work Order has been issued may be mailed via first class mail.

b. Stop Work Orders and associated initial Notices of Violation shall be mailed via certified mail, return receipt requested.

c. All Notices of Violation recorded in the Office of the Kootenai County Recorder shall be sent via certified mail, return receipt requested.

2. The notification shall include:

a1. The property owner and the legal description of the parcel;

b2. A detailed description of the nature of the violation;

c3. A detailed description of all remedial actions that must be undertaken to resolve the violation; and

d4. The length of time allotted to resolve the violation.

D. The property owner shall have 45 days from the date the Notice of Violation was mailed to resolve the violation. If resolution does not occur within those 45 days, the Notice of Violation shall be filed in the Office of the County Recorder, with a copy mailed to the Owner via certified mail.

E. The Notice of Violation or Stop Work Order shall also advise the owner of the process for appeals of Notices of Violation and Stop Work Orders. An owner or a holder of any legal interest in the property may appeal a Notice of Violation or Stop Work Order pursuant to section 8.8.503 of this chapter. The appeal shall be heard in accordance with article 8.5 of this chapter. If the appeal is denied (i.e., the action is affirmed), the Board shall specify an exact number of days to gain compliance with this title before the Notice of Violation is recorded, and may add or remove conditions of remedial action. If the appeal is approved (i.e., the action is reversed), the Board shall specify actions to be taken by the Director to release the violation.

F. Prior to or at such time as a violation is resolved, the owner shall pay the fee specified in the current adopted fee schedule unless the enforcement action was reversed by the County or a court of competent jurisdiction. Upon payment of such fees or a determination that payment of fees is not necessary, the Director shall cause a Release of Notice of Violation to be recorded in the Office of the County Recorder. The Release shall contain all of the information contained in the Notice

of Violation, as well as the corrective action taken to resolve the violation. A copy of the Release shall be mailed to the owner, via certified mail, return receipt requested.

SECTION 2. That Section 8.8.603, Kootenai County Code, shall be, and the same is hereby amended as follows:

8.8.603: PENALTIES: Penalties for failure to comply with or violations of the provisions of this title shall be as follows:

A. Violation of any of the provisions of this title or failure to comply with any of its requirements shall constitute a misdemeanor punishable as set forth in section 1-4-1 of this code, with the exception of those provisions which state that a violation thereof shall constitute an infraction punishable as set forth in section 1-4-1 of this code.

B. The Director may impose a civil penalty for a recorded violation of any provision of this title or failure to comply with any of its requirements in an amount not to exceed \$1,000.00 per incident per day, with a maximum penalty of \$20,000.00 per incident. For purposes of this section, "incident" means any instance of a violation of a provision of this title or failure to comply with a requirement of this title. The Board may establish by resolution a schedule of civil penalties for specific categories of incidents consistent with the provisions of this section. Civil penalties shall be in addition to any fees imposed to recoup the cost of enforcement.

~~CB.~~ Each day on which a violation or failure to comply continues shall be considered a separate incident violation for purposes of both civil and criminal action. Any ~~The~~ landowner, tenant, subdivider, builder, or ~~any~~ other person who commits, participates in, assists in, or maintains such violation or failure to comply may be found guilty of a separate offense and may be found liable for payment of civil penalties. In cases where multiple individuals, firms, corporations or agents have participated in an incident, they may be held jointly and severally liable for any remedies, penalties or payments. ~~Nothing herein contained shall prevent the Board or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this title or of Idaho Code.~~

~~DC.~~ The Prosecuting Attorney or other attorney who represents the County may also take civil action in district court on behalf of the County to prevent, restrain, correct, or abate any action taken, or which may be taken, in violation of this title, to vacate any subdivision or condominium plat recorded in violation of this title, or to otherwise enforce the provisions of this title. In addition to other actions that may be ordered by the Court, if the County prevails, the violator shall pay to the County all fees associated with the incident violation then due and owing. Either party may also seek costs and attorney fees against the other pursuant to state laws and court rules. The County may also seek the imposition of a civil penalty in an amount not to exceed \$1,000.00 per incident violation per day, with a total maximum penalty of \$20,000.00 per incident \$10,000.00, and may also seek to compel payment of any civil penalty previously imposed by the Director. No abatement of property or foreclosure on a lien securing any civil penalty imposed pursuant to this section shall occur unless the property has been found to be a public or moral nuisance by a court of competent jurisdiction.

E. Nothing herein contained shall prevent the Board or any other public official or private citizen from taking such lawful action as is necessary to restrain or prevent any violation of this title or of Idaho Code. ~~D. In cases where multiple individuals, firms, corporations or agents participated in violating this title, they may be held jointly and severally liable for any remedies, penalties or payments.~~

~~FE.~~ The Director may withhold issuance of permits, including building permits and certificates of occupancy, for subdivisions, lots, or parcels of land that are in violation of any provision of this title. ~~Withholding of permits may be appealed in accordance with article 8.5 of this chapter.~~

~~GF.~~ Applications for approvals authorized by this title will not be scheduled for hearing until all violations of this title or title 7, chapter 1 of this code are corrected, except when the purpose of the approval is to correct the violations of this title or title 7, chapter 1 of this code then existing. If any unpermitted site disturbance or subdivision development has previously occurred (e.g. construction of roads, driveways, building pads), a site disturbance permit must be obtained, a financial guarantee must be provided, and stormwater and erosion control systems meeting the requirements of chapter 7, article 7.1 of this title, and applicable BMPs, must be installed and approved before an application will be accepted.

H. Any decision of the Director made pursuant to this section ~~These requirements~~ may be appealed in accordance with article 8.5 of this chapter.

SECTION 3. If any section, subsection, sentence, clause, phrase or portion of this chapter is, for any reason, held to be invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 4. Neither the adoption of this Ordinance nor the repeal of any ordinance shall, in any manner, affect the prosecution for violation of such ordinance committed prior to the effective date of this Ordinance or be construed as a waiver of any license or penalty due under any such ordinance or in any manner affect the validity of any action heretofore taken by the Kootenai County Board of Commissioners or the validity of any such action to be taken upon matters pending before the Kootenai County Board of Commissioners on the effective date of this Ordinance.

SECTION 5. This Ordinance shall take effect and be in full force upon its passage, approval, and publication in one (1) issue of the *Coeur d'Alene Press*.

[signature page follows]

ADOPTED this 26 day of September, 2023.

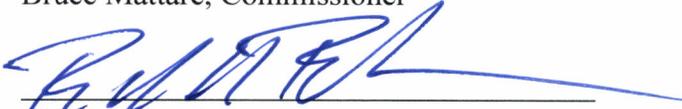
**KOOTENAI COUNTY
BOARD OF COMMISSIONERS**



Leslie Duncan, Chair



Bruce Mattare, Commissioner



Bill Brooks, Commissioner

Publication Date: September 26, 2023

ATTEST:
JENNIFER LOCKE, CLERK



By: _____
Jennifer Conner, Deputy Clerk

