

Enforcement and Penalties is as follows:

10.01 Authority

The Plan Commission, Board of Zoning Appeals, Common Council, City Attorney, Building Commissioner, or the Zoning Administrator shall be designated to enforce the provisions of this Unified Development Ordinance.

10.02 Violations

- A. Identification: Reports made to the Department of Building, Planning and Development about potential violations of this Unified Development Ordinance may be investigated by the Plan Commission, Board of Zoning Appeals, Common Council, City Attorney, Building Commissioner, or Zoning Administrator. Action may or may not be taken depending on the findings. If a violation is identified, the degree of action will be at the discretion of the investigating person and should reflect what is warranted by the violation.*
- B. Responsibility: The owner, tenant, and/or occupant of any property or structure, or a part of any property or structure, shall be responsible for the violation. Architects, engineers, builders, developers, or agents may also be found responsible for the violation if evidence of their involvement or negligence is found. Ultimately, if fault is not clearly found in whole or in part in persons other than the owner, the owner shall be held fully responsible.*
- C. Liability: A structure that is erected or converted, or land used in violation of this Unified Development Ordinance may be deemed a common nuisance and the owner of the structure or land shall be held liable for the nuisance.*
- D. Types: The following items shall be deemed zoning violations, enforceable by the Plan Commission, Board of Zoning Appeals, Common Council, City Attorney, Building Commissioner, or Zoning Administrator. Penalties may be imposed based on the provisions set forth in this Article.*
 - a. Permits: Failure to obtain an Improvement Location Permit or any other required permit under this Unified Development Ordinance when required prior to the initiation of improvements, change of land use, or other modifications regulated under this Unified Development Ordinance.*
 - b. Improper Placement: The placement or erection of a primary structure, accessory structure, sign, landscaping, fences, structures or any other element that does not conform with the provisions or explicit intent of this Unified Development Ordinance as determined by the Zoning Administrator.*
 - c. Maintenance: Failure to maintain a property, primary structure, accessory structure, sign, or any other element as determined by the Zoning Administrator.*
 - d. Occupancy: Failure to obtain a Certificate of Occupancy prior to the utilization of a structure.*
 - e. Use: Conducting a use or uses that do not comply with the provisions or explicit intent of this Unified Development Ordinance.*
 - f. Other: Failure to comply with any regulations of this Unified Development Ordinance, including, but not limited to development standards, design standards, development plan, planned development, or conditions of approval imposed.*
 - g. Stop Work: Proceeding with work under a Stop Work Order.*
 - h. Commitments: Any failure to comply with commitments made in connection with a rezoning, approval of a development plan, special exception, variance, or other similar or documentable commitment, including verbal agreements during official Plan Commission, Common Council, or Board of Zoning Appeals meetings.*
 - i. Address Numerals: Failure to place and maintain city-assigned address numbers on applicable structures.*
- E. Duration: Each day a zoning violation remains uncorrected constitutes a separate violation.*
- F. Inspection:*
 - a. Standard: Inspections of property may be conducted by the Zoning Administrator or the Building Commissioner from the property suspected of the violation with permission from that property owner, tenant, or occupant at the time of the inspection; from a right-of-way; or from an adjacent property with permission from that property owner.*
 - b. Warrant: In the event the inspector is denied access and unable to adequately inspect from adjacent property or right-of-way, and providing there is evidence of violation of this Unified Development*

Ordinance, the Plan Commission, Board of Zoning Appeals, Common Council, Building Commissioner, or Zoning Administrator may apply to the court of jurisdiction to invoke legal, equitable, or special remedy for the enforcement of this Unified Development Ordinance or any applicable ordinances adopted under Indiana Code. If the court determines the evidence is sufficient, the warrant issued shall order the owner, tenant, and/or occupant to permit entry by the Zoning Administrator or the Building Commissioner for the purposes documented in the application for the warrant.

- c. Emergency Remedy:
 - i. When, in the opinion of the Zoning Administrator or Building Commissioner, the condition of the site causes serious danger to the health, safety, or welfare of the public, the City may enter the site to remedy the dangerous condition without notice to the property owner.*
 - ii. Signs located within the right-of-way shall be deemed a violation requiring an emergency remedy. Signs located within the right-of-way may be removed at the discretion of the Zoning Administrator or Building Commissioner without notice.**

10.03 Procedure for Violations

- A. Stop Work Order: The Zoning Administrator or Building Commissioner may place a stop work order on any violation discovered during the construction process, including construction occurring without all of the necessary permits. Stop work orders shall be issued by written notice which describe the violation and orders the immediate cessation of work or illegal activity until the matter is resolved. The stop work order shall be posted in a conspicuous place on the property where the violation exists. A copy of the stop work order and a first Notice of Violation letter shall be mailed to the property owner and/or the person who is responsible, in part or in whole, for the violation if that person is not the property owner.*
- B. Notice of Violation: The Zoning Administrator or Building Commissioner may issue a Notice of Violation letter to the property owner and/or the person who is responsible, in part or in whole, for the violation if that person is not the property owner. The Notice of Violation letter shall state that a violation exists and must be corrected.
 - a. Corrected: If the violation is corrected no further action shall be taken.*
 - b. Arrangements: If arrangements are made to have the violation corrected within a reasonable time period that is agreed to and signed by the person responsible for the violation and the Zoning Administrator or Building Commissioner, no further action shall be taken. If the property owner has not been party to the violation, the property owner shall be notified of the arrangement to correct the violation.**
- C. Signs in Right-of-Way: The Zoning Administrator may remove signs located in rights-of-way without notice to the sign owner and/or adjacent property owner. Signs removed from rights-of-way may be retrieved from the Department of Building, Planning & Development within two weeks of the date of the sign's removal.*

10.04 Appeals or Trials

- A. *Initiating an Appeal: Any aggrieved person may appeal to the Board of Zoning Appeals or to the court of jurisdiction. A written statement from the property owner and/or person responsible for the violation shall be submitted to the Zoning Administrator within thirty (30) days of the date of the notice of violation letter to initiate the appeal of the violation.*

10.05 Enforcement, Remedies, and Injunctive Relief

- A. *Enforcement: All remedies and enforcement shall comply with the powers set forth in [IC 36-7-4-1000 et seq.](#) and all other applicable State Laws.*
- a. *Legal Action: The Plan Commission, Board of Zoning Appeals, Common Council, City Attorney, Building Commissioner, or Zoning Administrator may bring an action in the Circuit or Superior Court of DeKalb County for the following reasons:*
- 1. To invoke any legal, equitable, or special remedy, for the enforcement of any ordinance or regulation created under [Indiana Code 36-7-4 et seq.](#) This includes but is not limited to this Unified Development Ordinance.*
 - 2. To enforce agreements between the Plan Commission which have been recorded as covenants in connection with a subdivision plat, a development plan, or a planned development.*
 - 3. To enforce commitments made in accordance with [Indiana Code 36-7-4 et seq.](#)*
 - 4. To enforce conditions imposed in accordance with [Indiana Code 36-7-4 et seq.](#)*
 - 5. To restrain a person violating [Indiana Code 36-7-4 et seq.](#) or any ordinance adopted under [Indiana Code 36-7-4 et seq.](#) which includes but is not limited to this Unified Development Ordinance.*
 - 6. For an injunction from violating State law or local ordinance.*
 - 7. For a fine as per [Section 10.99 in Chapter 10 of the Auburn Code of Ordinances](#) for a fine. This section establishes a fine of not more than \$2,500 for each offense. For zoning violations each day of the existence of the violation shall be a separate offense.*
- B. *Enforcing a Commitment: An action to enforce a commitment made in accordance with [Indiana Code 36-7-4 et seq.](#) may be brought in the Circuit or Superior Court of DeKalb County by:*
- a. Any person who is entitled to enforce a commitment made in accordance with [Indiana Code 36-7-4 et seq.](#) under the rules of the Plan Commission or the Board of Zoning Appeals in force at the time the commitment was made; or*
 - b. Any other specially affected person who was designated in the commitment.*