

CHAPTER 4

ENFORCEMENT AND PENALTIES

SECTION:

- 1-4-1: Enforcement
- 1-4-2: Penalties
- 1-4-3: Application of Provisions
- 1-4-4: Liability of Officers

1-4-1: **ENFORCEMENT:** The County Prosecuting Attorney and/or the County Administrator are authorized to enforce the provisions of the Cassia County Code. It shall be deemed a violation of this code to construct any building, structure, junkyard, landfill, gravel pit, confined-animal feeding operation, subdivision, or improvement for the purpose of establishing any land use contrary to the requirements of this code, to violate any express prohibition or exceed any express limitation contained in the text or exhibits of this code or to use any land, building, or premises, contrary to the provisions of this code, contrary to the terms or conditions of a license, permit, variance or in a manner contrary to the terms and conditions established by the Planning and Zoning Commission, County Commissioners or County Administrator. Violations of this code are hereby declared to be unlawful and subject to the penalties established by this chapter and by other provisions of law.

1-4-2: **PENALTIES:**

- A. Infraction: Every offense declared to be an infraction is punishable only by a penalty not exceeding one hundred dollars (\$100.00) and no imprisonment.
- B. Misdemeanor: Except in cases where a different punishment is prescribed by the ordinances of the county, every offense declared to be a misdemeanor is punishable by imprisonment in the county jail not to exceed six (6) months or by a fine not exceeding one thousand dollars (\$1000.00), or by both such fine and imprisonment, and in addition thereto, any person so convicted shall pay such costs as the court may assess.

- C. Public Nuisance: A condition or use of property which is harmful or injurious to, or creates a danger of harm or injury to the health, safety, or welfare of the neighborhood, community, or members of the public, or which is so offensive to the senses or such an obstruction of the free use of property as to interfere with the comfortable enjoyment of life and property by the neighborhood, community, or members of the public. The term is further defined so as to include, by way of example, but not to be limited to the following:
1. The violation or contravention of any provisions or conditions contained in Titles 3, 4, 9, 10, and 11 of the Cassia County Code shall constitute a public nuisance.
 2. A condition or use of premises or property which creates a fire hazard or any traffic or safety hazard to members of the public.
 3. A condition or use of premises or property which creates a health hazard by permitting, allowing, or fostering the harboring and nesting of rodents, vermin and/or insects, or which creates any other type of health hazard to members of the public.
 4. A condition or use of premises or property which allows the open storage, deposit, or scattering of scrap lumber or wood, waste petroleum products, scrap or waste paper, trash, garbage, junk, boxes or debris of any type.
 5. A condition or use of premises or property which allows the open storage, deposit, or scattering of scrap, abandoned, discarded, or unused objects such as furniture, stoves, refrigerators, freezers, cans, containers, tires, tools, or mechanical parts.
 6. A condition or use of premises or property which allows the open storage, deposit, or scattering of dismantled or partially dismantled, wrecked, junked, scrapped, discarded and non-operating motor vehicles or parts thereof, provided that no public nuisance shall exist under this subsection unless two (2) or more motor vehicles or parts thereof not in operating condition remain standing on the property for more than thirty (30) calendar days.
 7. A condition or use of premises or property which allows the growth of weeds, grasses, bushes, shrubs, trees, or other plant life to such a size and in such a condition as to cause, or reasonably threaten to cause a fire hazard because of their dried and unkempt condition, or a traffic or safety hazard because they obstruct sight, applying the measurements and standards contained in Idaho Code section 49-221, as amended,

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at intersections or other points at which driveways, lanes, or highways come together, or a health hazard because they provide nesting areas for rodents, vermin and/or insects, or the growth of weeds to such a size or in such condition as to interfere with the free and comfortable use of adjacent and neighboring premises and property.

1-4-3:

APPLICATION OF PROVISIONS:

A. Application of Penalty:

1. The penalty provided in this code shall be applicable to every section of this code and ordinance of the county the same as though it were a part of each and every separate section or ordinance. Any person convicted of a violation of this county code or any ordinance of Cassia County where any duty is prescribed or obligation imposed, or where any action which is of a continuing nature is forbidden or is declared to be unlawful, shall unless otherwise provided within a specific ordinance of the Cassia County Code, be deemed guilty of a misdemeanor. A separate offense shall be deemed committed for each day such duty or obligation remains unperformed or such act continues, unless otherwise specifically provided by this county code.
2. Any public nuisance or failure to comply with any provisions or requirement of this code or terms or conditions of any license, permit, or variance issued pursuant to this code shall be deemed a misdemeanor punishable by a fine not to exceed one thousand dollars (\$1000.00), or imprisonment for a term not exceeding six (6) months, or by such fine and imprisonment, and in addition thereto, shall pay applicable court costs. Furthermore, the County Prosecuting Attorney and/or the County Administrator may elect to pursue enforcement of this code or any of its provisions by filing criminal charges, pursuing enforcement by revoking any license, permit, or variance issued pursuant to this code and any of its provisions, or by proceeding in any form of civil legal action related to any violation of this code deemed likely to achieve compliance. Each day a violation continues may be considered a separate offense.
3. Any person, landowner, tenant, subdivider, firm, corporation, developer, or builder who commits, participates in, assists in, or maintains such violation of this code shall be guilty of a violation of this code. Nothing contained in this code shall prevent any other public official or affected person from taking such lawful action as is necessary to restrain or prevent any violation of this code. Said actions shall be brought in any court of competent jurisdiction.

- B. **Abatement Proceedings:** The County Prosecuting Attorney and/or the County Administrator may commence action or proceedings for the abatement of any violation of this code as a nuisance in the manner provided by law, and may apply to such court or courts as may have jurisdiction to grant relief as to abate, terminate and remove unlawful uses, buildings or structures, and restrain and enjoin any person, firm, corporation, developer, or builder from setting up, erecting, building, maintaining, or using any building, structure, vehicle, or real property contrary to the provisions of this code or to any permits or authorizations issued pursuant to this code.
- C. **Imposition of Penalty:** In all cases where the same offense is made punishable or is created by different clauses or sections of this county code, the County Prosecuting Attorney and/or County Administrator may elect under which to proceed; but not more than one recovery shall be had against the same person for the same offense; provided, that the revocation of a license, permit, or variance issued pursuant to this code shall not be considered a recovery or penalty so as to bar any other penalty being enforced.
- D. **Breach of Provisions:** Whenever the doing of any act or the omission to do any act constitutes a breach of any section or provision of this county code and there shall be no fine or penalty specifically declared for such breach, the provisions of this chapter shall apply.
- E. **Right of Entry:** If either the Board of County Commissioners or the County Planning and Zoning Commission or the County Building Department issues a license, permit, or variance pursuant to this code to a licensee, permittee, or applicant, the licensee, permittee, or applicant shall allow the Board of County Commissioners, Planning and Zoning Commission, the Building Department, their agents, county employees, or other persons requested by the Board and/or the Planning and Zoning Commission, or Building Department, entry to enforce the provisions of Titles 3, 4, 9, 10, and 11 or to enforce provisions of the issued license, permit, or variance.

1-4-4: **LIABILITY OF OFFICERS.** No provision of this county code designating the duties of any officer, agent, or employee shall be so construed as to make such officer, agent, or employee liable for any fine or penalty provided for a failure to perform such duty, unless the intention of the Board of County Commissioners to impose such fine or penalty on such officer, agent, or employee is specifically and clearly expressed in the section creating the duty.
[Amd. Ord. 2009-3-1, March 2009]